

IN THE SUPREME COURT OF THE STATE OF NEVADA

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REZA ZANDIAN, AKA GOLAMREZA
ZANDIANJAZI, AKA GHOLAM REZA
ZANDIAN, AKA REZA JAZAI, AKA J.
REZA JAZI AKA G. REZA JAZI, AKA
GHONOREZA ZANDIAN JAZI, AN
INDIVIDUAL

No. 82559

Appellant,

vs.

JED MARGOLIN, AN INDIVIDUAL,

RECORD ON APPEAL

VOL IV

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THE SUPREME COURT OF THE STATE OF NEVADA

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1 potential purchaser of a license or other rights from OTC with respect to the
2 Patents and/or Power of Attorney will be cheated into the purchase of something
3 which it is not in fact getting; and/or

4 f. Are likely to divert the trade of Optima; and/or

5 g. Are likely to cause substantial and irreparable harm to Optima.

6 67. As a result thereof, Optima has suffered and will continue to suffer immediate and
7 ongoing harm and monetary damage in an amount to be proven at trial.

8 **COUNT 9**

9 **UNFAIR AND DECEPTIVE COMPETITION/BUSINESS PRACTICES**

10 68. The statements of all of the foregoing paragraphs are incorporated herein by reference
11 as if fully set forth herein.

12 69. This is a cause of action for unfair and deceptive competition/business practices against
13 OTC and UAS pursuant to the statutory law of Delaware, 6 Del.C. §2531 *et seq.* to the
14 extent such statutory scheme applies in this matter.

15 70. The actions of OTC and/or UAS, as alleged above:

16 a. Are/were those of a person engaged in a course of a business, vocation, or
17 occupation; and/or

18 b. Constitute a deceptive trade practice; and/or

19 c. Cause a likelihood of confusion or of misunderstanding as to affiliation,
20 connection, or association with, or certification by, another; and/or

21 d. Represent that goods or services have sponsorship, approval, characteristics,
22 ingredients, uses, benefits, or quantities that they do not have, or that a person
23 has a sponsorship, approval, status, affiliation, or connection that the person does
24 not have; and/or

25 e. Represent that goods or services are of a particular standard, quality, or grade,
26 or that goods are of a particular style or model, if they are of another; and/or

- 1 f. Disparage the goods, services, or business of another by false or misleading
2 representation of fact; and/or
3 g. Were conduct which similarly creates a likelihood of confusion or of
4 misunderstanding.

- 5 71. As a result thereof, Optima has suffered and will continue to suffer immediate and
6 ongoing harm and monetary damage in an amount to be proven at trial.
7 72. To the extent Optima is entitled to damages under Delaware common-law it is further
8 entitled to treble damages pursuant to 6 Del.C. §2533(c).
9 73. Optima is entitled to injunctive relief pursuant to 6 Del.C. §2533(a).
10 74. The acts were a willful deceptive trade practice entitling Optima to its attorneys' fees
11 and costs pursuant to 6 Del.C. §2533(b).
12 75. This matter is an "exceptional" case also entitling Optima to its attorneys fees pursuant
13 to 6 Del.C. §2533(b).

14 **COUNT 10**

15 **UNLAWFUL CONSPIRACY TO INJURE TRADE OR BUSINESS**

- 16 76. The statements of all of the foregoing paragraphs are incorporated herein by reference
17 as if fully set forth herein.
18 77. This is a cause of action for unlawful conspiracy to injure trade or business against OTC
19 and UAS pursuant to the statutory law of Virginia, Va. Code Ann. § 18.2-499 and
20 § 18.2-500, to the extent such statutory scheme applies in this matter.
21 78. The actions of OTC and UAS, as alleged above, were those of two or more persons who
22 combined, associated, agreed, mutually undertook and/or acted in concert together for
23 the purpose of willfully and maliciously injuring Optima and its trade and/or business.
24 79. As a result thereof, Optima has suffered and will continue to suffer immediate and
25 ongoing harm and monetary damage in an amount to be proven at trial.
26 80. Optima is entitled to treble damages plus attorneys' fees and costs under Va. Code

1 Ann. § 18.2-500,

2 **COUNT 11**

3 **UNFAIR AND DECEPTIVE COMPETITION/BUSINESS PRACTICES**

4 81. The statements of all of the foregoing paragraphs are incorporated herein by reference
5 as if fully set forth herein.

6 82. This is a cause of action for unfair and deceptive competition/business practices against
7 OTC and UAS pursuant to the statutory law of California, California Business and
8 Professions Code § 17200 *et. seq.*, to the extent such statutory scheme applies in this
9 matter.

10 83. The actions of OTC and/or UAS, as alleged above, constitute one or more unlawful,
11 unfair or fraudulent business acts or practices including but not limited to the following:

- 12 a. The acts/practices are/were “fraudulent” as they are/were untrue and/or are/were
13 likely to deceive the public; and/or
- 14 b. The acts/practices are/were “unfair” as they constituted conduct that significantly
15 threatens or harms competition; and/or
- 16 c. The acts/practices are/were “unfair” as they constitute conduct that offends an
17 established public policy or when the practice is immoral, unethical, oppressive,
18 unscrupulous or substantially injurious to consumers; and/or
- 19 d. The acts/practices are/were “unlawful” as they are/were in violation of the
20 common-law duties that were owed to Optima; and/or
- 21 e. The acts/practices are/were “unlawful” as they are/were in violation of the legal
22 principles expressed in the other Counts herein; and/or
- 23 f. The acts/practices are/were “unlawful” as they are/were in committed violation
24 of Va. Code Ann. § 18.2-172 (a class 5 felony); and/or
- 25 g. The acts/practices are/were “unlawful” as they are/were in committed violation
26 of Va. Code Ann. § 18.2-499 (a class 1 misdemeanor).

1 84. As a result thereof, Optima has suffered and will continue to suffer immediate and
2 ongoing harm and monetary damage.

3 85. Optima is without an adequate remedy at law.

4 86. Unless enjoined the acts of OTC and UAS will continue to cause further, great,
5 immediate and irreparable injury to Optima.

6 87. Optima is entitled to injunctive relief and restitutionary disgorgement pursuant to
7 California Business and Professions Code § 17203.

8 **COUNT 12**

9 **UAS LIABILITY**

10 88. The statements of all of the foregoing paragraphs are incorporated herein by reference
11 as if fully set forth herein.

12 89. In addition to any other liability existing as to the acts of UAS described herein UAS
13 is additionally liable under Counts 6-11 herein because:

14 a. OTC acted as the agent and/or servant of UAS; and/or

15 b. UAS aided and abetted the wrongful conduct of OTC through one or more of the
16 following:

17 i. UAS provided aid to OTC in its commission of a wrongful act that caused
18 injury to Optima; and/or

19 ii. UAS substantially assisted and/or encouraged OTC in the principal
20 violation/wrongful act; and/or

21 iii. UAS was aware of its role as part of overall illegal and/or tortious activity
22 at the time it provided the assistance; and/or

23 iv. UAS reached a conscious decision to participate in tortious activity for
24 the purpose of assisting OTC in performing a wrongful act; and/or

25 c. UAS engaged in a civil conspiracy with OTC through an agreement to
26 accomplish an unlawful purpose and/or to accomplish a lawful object by

- 1 unlawful means, one of whom committed an act in furtherance thereof, thereby
2 causing damages to Optima; and/or
- 3 d. UAS and OTC acted in concert; and/or
- 4 e. UAS provided affirmative aid and/or encouragement to the wrongful conduct of
5 OTC; and/or
- 6 f. UAS directed, ordered and/or induced the wrongful conduct of OTC while
7 knowing (or should having known) of circumstances that would have made the
8 conduct tortious if it were UAS's; and/or
- 9 g. UAS advised OTC to commit the wrongful conduct which resulted in a legal
10 wrong and/or harm to Optima; and/or
- 11 h. UAS acted together with OTC to commit the wrongful conduct pursuant to a
12 common design; and/or
- 13 i. UAS knew that the OTC's conduct would constitute a breach of duty and gave
14 substantial assistance or encouragement to OTC so to conduct itself; and/or
- 15 j. UAS gave substantial assistance to OTC in accomplishing a tortious result and
16 UAS's own conduct, separately considered, constitutes a breach of duty to
17 Optima; and/or
- 18 k. UAS knowingly participated in the wrongful action of OTC.
- 19 90. As a result thereof, UAS is jointly and severally liable for any such damages awarded
20 to Optima under Counts 6-11 herein.

21 **COUNT 13**

22 **PUNITIVE DAMAGES**

- 23 91. The statements of all of the foregoing paragraphs are incorporated herein by reference
24 as if fully set forth herein.
- 25 92. This is a claim for punitive damages against OTC and UAS pursuant to the common law
26 and/or statutory law of New York, Delaware, California, Virginia or Arizona.

- 1 93. Through their actions referenced herein, OTC and UAS:
- 2 a. Acted with an intent to injure Optima and/or consciously pursued a course of
- 3 conduct knowing that it created a substantial risk of significant harm to Optima;
- 4 and/or
- 5 b. Acted with an "evil hand" guided by an "evil mind"; and/or
- 6 c. Engaged in intentional and deliberate wrongdoing and with character of outrage
- 7 frequently associated with crime; and/or
- 8 d. Engaged in conduct that may be characterized as gross and morally reprehensible
- 9 and of such wanton dishonesty as to imply criminal indifference to civil
- 10 obligations; and/or
- 11 e. Acted with conduct so reckless and wantonly negligent as to be the equivalent
- 12 of a conscious disregard of the rights of others; and/or
- 13 f. Acted with a fraudulent and/or evil motive; and/or
- 14 g. Acted with aggravation and outrage; and/or
- 15 h. Acted with outrageous conduct with evil motive and/or reckless indifference to
- 16 rights of others; and/or
- 17 i. Acted with wilful and/or wanton disregard for the rights of others; and/or
- 18 j. Were aware of probable dangerous consequences of their conduct and willfully
- 19 and deliberately failed to avoid those consequences; and/or
- 20 k. Acted with the intent to vex, injury or annoy, or with a conscious disregard of the
- 21 right of others; and/or
- 22 l. Engaged in reprehensible and/or fraudulent conduct; and/or
- 23 m. Acted in blatant violation of law or policy; and/or
- 24 n. Acted with extreme indifference to the rights of others; and/or
- 25 o. Are guilty of oppression, fraud and/or malice, as defined by and pursuant to
- 26 Cal.Civ.Code § 3294; and/or

- 1 p. Acted with wilful and wanton conduct so as to evince a conscious disregard of
2 the rights of others; and/or
3 q. Acted with recklessness and/or negligence so as to evince a conscious disregard
4 of the rights of others; and/or
5 r. Engaged in malicious conduct; and/or
6 s. Engaged in misconduct and/or actual malice.
7 94. As a result thereof, Optima is entitled to an award of punitive damages against OTC and
8 UAS herein in an amount to be determined by a jury.

9 **EXCEPTIONAL CASE**

10 This is an exceptional case under 35 U.S.C. § 285 in which Counterclaimant and
11 Cross-Claimant Optima is entitled to its attorneys' fees and costs incurred in connection with
12 this action.

13 **JURY TRIAL DEMAND**

14 Counterclaimant Optima demands a jury trial on all claims and issues to be litigated in
15 this matter.

16 **PRAYER FOR RELIEF**

17 WHEREFORE Optima requests that the Court enter judgment in favor of Optima, and
18 against UAS, OTC, Naimer, and Hummel, on the Counterclaims, Cross-Claims and Third-Party
19 Claims, as follows:

- 20 1. Declaring that the Infringing Products, and all other of UAS's products shown to be
21 encompassed by one or more claims of the asserted Patents infringe said Patents;
22 2. Awarding Optima its monetary damages, and a doubling or trebling thereof, incurred
23 as a result of Defendants' willful infringement and unlawful conduct, as provided under
24 35 U.S.C. § 284;
25 3. Declaring that this is an exceptional case pursuant to 35 U.S.C. § 285 and awarding
26 Optima its attorneys fees incurred in having to prosecute this action;

- 1 4. Ordering that all of the Counterdefendants, Crossdefendants and Third-Party
2 Defendants and all those in active concert or privity with them be temporarily,
3 preliminarily and permanently enjoined from further infringement of U.S. Patent No.
4 5,566,073 (the '073 patent) and U.S. Patent No. 5,904,724 (the '724 patent);
- 5 5. Awarding Optima its actual, special, compensatory, economic, punitive and other
6 damages, including but not limited to:
 - 7 a. A reasonable royalty and/or lost profits attributable to defendants' past, present
8 and ongoing infringement of the Patents;
 - 9 b. The reduced value of the Patents and/or licenses with respect thereto;
 - 10 c. Optima's attorneys' fees and costs incurred in preparing and recording filings
11 with the PTO; and
 - 12 d. Optima's ongoing attorneys' fees and costs incurred in filing and prosecuting the
13 cross-claims against OTC herein to establish the invalidity, void nature, etc., of
14 its filing of the Assignment with the PTO and claim of any right or interest in the
15 Power of Attorney and/or the Patents, and to otherwise remove the cloud of title,
16 impairment of vendibility, etc., with respect to Optima's rights in the Patents
17 and/or the Power of Attorney;
- 18 6. Declaring that OTC has no interest or right in the Patents or the Power of Attorney;
- 19 7. Declaring that the Assignment OTC filed with the PTO is forged, invalid, void, of no
20 force and effect, should be struck from the records of the PTO, and that the PTO correct
21 its records with respect to any such claim made by OTC with respect to the Patents
22 and/or the Power of Attorney;
- 23 8. Enjoining OTC from asserting further rights or interests in the Patents and/or Power of
24 Attorney;
- 25 9. Enjoining UAS and OTC from further acts of unfair competition;
- 26 10. Granting Optima its attorneys' fees and costs pursuant to applicable law, including but

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not limited to A.R.S. §12-341.01 and § 12-340 and/or the laws of one or more of New York, Virginia, Delaware and/or California;

- 11. Granting Optima prejudgment and post-judgment interest at the legal rate; and
- 12. Granting Optima such other and further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED this 24th day of January, 2008.

CHANDLER & UDALL, LLP

By /s Edward Moomjian II
Edward Moomjian II
Jeanna Chandler Nash
Attorneys for Defendants Adams, Margolin
and Optima Technology Inc. a/k/a Optima
Technology Group, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2008, I electronically transmitted the attached document to the Clerk's office using the EM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/DCF registrants:

E. Jeffrey Walsh, Esquire
Greenberg Traurig, LLP
2375 East Camelback Road, Suite 700
Phoenix, Arizona 85016
Attorneys for Plaintiff

Scott Joseph Bornstein, Esquire
Paul J. Sutton, Esquire
Allan A. Kassenoff, Esquire
Greenberg Traurig, LLP
200 Park Avenue
New York, New York 10166
Attorneys for Plaintiff

_____ s/

LEGAL DIMENSIONS
800 535 7751

EXHIBIT B

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

UNIVERSAL AVIONICS SYSTEMS CORPORATION,

Plaintiff,

vs.

OPTIMA TECHNOLOGY GROUP, INC.,
OPTIMA TECHNOLOGY CORPORATION, ROBERT ADAMS and
JED MARGOLIN,

Defendants.

OPTIMA TECHNOLOGY INC. a/k/a
OPTIMA TECHNOLOGY GROUP, INC.,
a corporation,

Counterclaimant,

vs.

UNIVERSAL AVIONICS SYSTEMS CORPORATION, an Arizona corporation,

Counterdefendant,

OPTIMA TECHNOLOGY INC. a/k/a
OPTIMA TECHNOLOGY GROUP, INC.,

Cross-Claimant,

vs.

OPTIMA TECHNOLOGY CORPORATION,

Cross-Defendant.

No. CV 07-588-TUC-RCC

ORDER

761

1 This Court, having considered the Defendants' Application for Entry of Default
2 Judgment against Cross-Defendant Optima Technology Corporation, finds no just reason to
3 delay entry of final judgment.

4 Therefore, IT IS HEREBY ORDERED:

5 Final Judgment is entered against Cross-Defendants Optima Technology Corporation,
6 a California corporation, and Optima Technology Corporation, a Nevada corporation, as
7 follows:

8 1. Optima Technology Corporation has no interest in U.S. Patents Nos. 5,566,073 and
9 5,904,724 ("the Patents") or the Durable Power of Attorney from Jed Margolin dated July
10 20, 2004 ("the Power of Attorney");

11 2. The Assignment Optima Technology Corporation filed with the USPTO is forged,
12 invalid, void, of no force and effect, and is hereby struck from the records of the USPTO;

13 3. The USPTO is to correct its records with respect to any claim by Optima
14 Technology Corporation to the Patents and/or the Power of Attorney; and

15 4. OTC is hereby enjoined from asserting further rights or interests in the Patents
16 and/or Power of Attorney; and

17 5. There is no just reason to delay entry of final judgment as to Optima Technology
18 Corporation under Federal Rule of Civil Procedure 54(b).

19 DATED this 18th day of August, 2008.

20
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24 Raner C. Collins
25 United States District Judge
26
27
28

1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 Attorneys for Plaintiff Jed Margolin

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ALAN GLOVER

BY 
ALAN GLOVER

7 **In The First Judicial District Court of the State of Nevada**
8 **In and for Carson City**

9 **JED MARGOLIN, an individual,**

10 **Plaintiff,**

11 vs.

12 **OPTIMA TECHNOLOGY CORPORATION,**
13 **a California corporation, OPTIMA**
14 **TECHNOLOGY CORPORATION, a Nevada**
15 **corporation, REZA ZANDIAN aka**
16 **GOLAMREZA ZANDIANJAZI aka**
17 **GHOLAM REZA ZANDIAN aka REZA JAZI**
18 **aka J. REZA JAZI aka G. REZA JAZI aka**
19 **GHONONREZA ZANDIAN JAZI, an**
20 **individual, DOE Companies**
21 **1-10, DOE Corporations 11-20, and DOE**
22 **Individuals 21-30,**

23 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

**DECLARATION OF JED MARGOLIN
IN SUPPORT OF MOTION TO
STRIKE**

24 I, Jed Margolin do hereby declare and state as follows:

25 1. I am the named inventor on United States Patent No. 5,566,073 ("the '073
26 Patent"), United States Patent No. 5,904,724 ("the '724 Patent"), United States Patent No.
27 5,978,488 ("the '488 Patent") and United States Patent No. 6,377,436 ("the '436 Patent")
28 (collectively "the Patents").

2. Attached as Exhibit A is a true and correct copy of the Amended Answer,
Counterclaims, Cross-Claims and Third-Party Claims filed in the action captioned *Universal*

1 *Avionics Systems Corporation v. Optima Technology Group, Inc.*, No. CV 07-588-TUC-RCC
2 (the "Arizona Action").

3 3. Attached as Exhibit B is a true and correct copy of the August 18, 2008 Order
4 from the Arizona Action.

5 4. Optima Technology, Inc. a/ka/ Optima Technology Group, Inc. (hereinafter
6 "OTG") is not and never has been my company. The Power of Attorney I gave to Robert
7 Adams, then CEO of Optima Technology, Inc. (later OTG) was revoked prior to the times
8 relevant in the Arizona action and I did not litigate the Arizona action by and through OTG.
9

10 5. I have never acted as Optima Technology Corporation's (hereinafter "OTC")
11 agent and I did not litigate the same transactions and occurrences in the Arizona action through
12 OTG or OTC.

13 6. I did not file the attached Amended Answer, Counterclaims, Cross-Claims and
14 Third-Party Claims filed in the Arizona action.

15 7. OTG filed the Amended Answer, Counterclaims, Cross-Claims and Third-Party
16 Claims in the Arizona action and OTG was not my agent in the Arizona action and I did not
17 make allegations in the Arizona action by and through OTG.
18

19 8. I am not and was not the owner of OTG at all relevant times with respect to this
20 action and the Arizona action; and OTG is not and was not my agent at all relevant times as
21 well.

22 I declare under penalty of perjury that the foregoing is true and correct to the best of
23 my knowledge.

24 Dated January 20, 2012.

25 By: Jed Margolin
26 JED MARGOLIN
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **DECLARATION OF JED MARGOLIN IN SUPPORT OF MOTION TO STRIKE**, addressed as follows:

John Peter Lee
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101

Dated: January 20, 2012



Carla Ousby

EXHIBIT A

ORIGINAL

REC'D & FILED

2012 FEB -2 PM 4:13

ALAN GLOYER
BY [Signature] CLERK
DEPUTY

1 **OPPM**
JOHN PETER LEE, LTD.
2 JOHN PETER LEE, ESQ.
Nevada Bar No. 001768
3 JOHN C. COURTNEY, ESQ.
Nevada Bar No. 011092
4 830 Las Vegas Boulevard South
Las Vegas, Nevada 89101
5 (702) 382-4044 Fax: (702) 383-9950
e-mail: info@johnpeterlee.com
6 Attorneys for Defendant Reza Zandian

7 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

8 **IN AND FOR CARSON CITY**

9 JED MARGOLIN, an individual;

Case No.: 090C00579

Dept. No.: I

10 Plaintiff,

11 vs.

12 OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
13 TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN aka
14 GOLAMREZA ZANDIANJAZI aka
GHOLAM REZA ZANDIAN aka REZA
15 JAZI aka J. REZA JAZI AKA G. REZA JAZI
aka GHONONREZA ZANDIAN JAZI, an
16 individual, DOE Companies 1-10; DOE
Corporations 11-20, and DOE Individuals 21-
17 30,

18 Defendants.

1334.023382-twb

19 **OPPOSITION TO MOTION TO STRIKE**

20 COMES NOW Defendant Reza Zandian by and through his counsel John Peter Lee, Ltd.,
21 and hereby files his OPPOSITION TO MOTION TO STRIKE.

22 This Opposition is made and based upon all of the pleadings and papers on file herein,
23 exhibits attached hereto, the attached Memorandum of Points and Authorities, and oral argument,
24 if required by the Court.

25 ...

26 ...

27 ...

28 ...

JOHN PETER LEE, LTD.
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MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION.

The Motion to Strike filed by Plaintiff Margolin (hereinafter "Margolin") on or about January 20, 2012, is nothing more than a futile attempt to file a sur-reply without leave of the Court. Moreover, the Motion to Strike is untimely made and, therefore, must be denied as a matter of law. Lastly, even if the Motion to Strike was timely filed, it is entirely without merit.

II.

STATEMENT OF FACTS.

Margolin admits that the Reply in which he seeks to strike was filed on December 13, 2011. Motion to Strike, p. 3, ll. 17-19. The instant Motion to Strike was filed on or about January 20, 2012, more than 20 days after the reply sought to be stricken was filed. Because the instant action remains in the pleadings stage, the remaining pertinent facts stated in the pleadings are hereby incorporated herein as though fully stated herein.

III.

STATEMENT OF THE LAW.

"Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by [the] rules, upon motion made by a party **within 20 days** after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter [emphasis added]." NRCPC 12(f).

IV.

LEGAL ARGUMENT.

It is without question that Margolin filed the instant motion to strike more than 20 days after the reply in which he wishes to strike was filed. Thus, pursuant to NRCPC 12(f), his Motion to Strike is untimely and, therefore, must be denied.

Apparently, Margolin wishes to strike said reply because he does not believe that the statements made therein are true. The Court, however, need look no further than Margolin's

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Complaint and the documents referenced therein to ascertain whether Margolin has already tried this case in another forum. Additionally, Margolin does not countenance the arguments in said reply regarding insufficiency of service or lack of personal jurisdiction.

Ultimately, the Court now has plenty of information before it to make a determination on Defendant Zandian's pending Motion to Dismiss Plaintiff's Complaint.


V.

CONCLUSION.

For the reasons stated above, the instant Motion to Strike must be denied.

DATED this 1st day of February, 2012.

JOHN PETER LEE, LTD.

BY: 

JOHN PETER LEE, ESQ.
Nevada Bar No. 001768
JOHN C. COURTNEY, ESQ.
Nevada Bar No. 011092
830 Las Vegas Boulevard South
Las Vegas, Nevada 89101
Ph: (702) 382-4044/Fax: (702) 383-9950
Attorneys for Defendant Reza Zandian

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 1st day of February, 2012, a copy of the foregoing OPPOSITION TO MOTION TO STRIKE was served on the following parties by mailing a copy thereof, first class mail, postage prepaid, addressed to:

Adam McMillen, Esq.
Watson Rounds
5371 Kietzke Lane
Reno, NV 89511


An employee of
JOHN PETER LEE, LTD.

1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 *Attorneys for Plaintiff Jed Margolin*

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ALAN GLOVER

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11 **In The First Judicial District Court of the State of Nevada**
12 **In and for Carson City**

13 **JED MARGOLIN, an individual,**

14 **Plaintiff,**

15 **vs.**

16 **OPTIMA TECHNOLOGY CORPORATION,**
17 **a California corporation, OPTIMA**
18 **TECHNOLOGY CORPORATION, a Nevada**
19 **corporation, REZA ZANDIAN**
20 **aka GOLAMREZA ZANDIANJAZI**
21 **aka GHOLAM REZA ZANDIAN**
22 **aka REZA JAZI aka J. REZA JAZI**
23 **aka G. REZA JAZI aka GHONONREZA**
24 **ZANDIAN JAZI, an individual, DOE**
25 **Companies 1-10, DOE Corporations 11-20,**
26 **and DOE Individuals 21-30,**

27 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

REPLY IN SUPPORT OF MOTION
TO STRIKE

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COMES NOW Plaintiff Jed Margolin and hereby files this reply in support of his motion to strike Defendant Reza Zandian's ("Zandian") reply to the opposition to the motion to dismiss, which was filed in this Court on December 13, 2011, inasmuch as the reply includes information that is patently false.

This reply is based on the following Memorandum of Points and Authorities and all pleadings, motions, and papers on file herein.

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REPLY MEMORANDUM OF POINTS AND AUTHORITIES

**A. THE MOTION TO STRIKE IS PROPER PURSUANT TO THE COURT’S
INHERENT POWER TO STRIKE INAPPROPRIATE MATERIALS FROM
THE RECORD AND IS NOT MADE PURSUANT TO NRCP 12(f)**

As stated in the motion, courts have the inherent power to strike inappropriate materials that are improperly part of the public record. *See Jones v. Metropolitan Life Ins. Co. et al*, 2010 WL 4055928, *6 (N.D.Cal.). “Therefore, based on its inherent powers, a court may strike material from the docket, including portions of a document, reflecting procedural impropriety or lack of compliance with court rules or orders.” *Id.* (citing *Zep, Inc. v. Midwest Motor Supply Co.*, 2010 WL 2572129, at *2-3 (S.D.Ohio 2010)(portions of reply brief ordered stricken based on court's inherent power to control docket because they supported claim for which party had not moved for summary judgment).

Zandian improperly rests its opposition solely on NRCP 12(f), which is directed towards pleadings, such as complaints and answers. On the other hand, Mr. Margolin rests his motion on the Court’s inherent power to strike inappropriate material from its docket, not on NRCP 12(f). It is clear that Zandian’s opposition is simply calculated to try and distract the Court from the real issues in this matter.

Moreover, Mr. Margolin’s counsel did not see a copy of Zandian’s reply in support of the motion to dismiss until January 4, 2012, which is when a copy of the reply was requested from Zandian’s counsel. *See* Declaration of Adam McMillen, Exhibit A, E-Mail Transmission, dated 1/4/12, from Tiffany Duran, Assistant to John Courtney, to Carla Ousby, Assistant to Adam McMillen. Therefore, the motion to strike was timely, even if NRCP 12(f) applied.

**B. ZANDIAN DOES NOT DISPUTE THE LEGAL OR FACTUAL
ARGUMENTS MADE IN THE MOTION TO STRIKE AND THEREFORE
THE MOTION TO STRIKE SHOULD BE GRANTED**

1 FJDCR 15(5) states in pertinent part as follows: "a failure of an opposing party to file a
2 memorandum of points and authorities in opposition to any motion within the time permitted
3 shall constitute a consent to the granting of the motion." In this case, Zandian's opposition
4 does nothing to rebut the factual and legal arguments made in the motion to strike. This is not
5 surprising, as the information sought to be struck is patently false. Therefore, Zandian's non-
6 opposition to the issues raised in the motion to strike should "constitute a consent to the
7 granting of the motion."
8

9 **CONCLUSION**

10 Based upon the foregoing, Plaintiff Jed Margolin respectfully requests that this Court
11 strike Zandian's reply to the opposition to the motion to dismiss wherever it contains the
12 patently false statements, as pointed out in the motion.
13

14 **AFFIRMATION PURSUANT TO NRS 239B.030**

15 The undersigned does hereby affirm that the preceding document does not contain the
16 social security number of any person.
17

18 Dated this 13th day of February, 2012.

WATSON ROUNDS

19 BY: Adam McMillen
20 Matthew D. Francis (6978)
21 Adam P. McMillen (10678)
22 5371 Kietzke Lane
23 Reno, NV 89511
24 Telephone: 775-324-4100
25 Facsimile: 775-333-8171
26 *Attorneys for Plaintiff Jed Margolin*
27
28

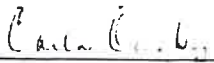
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **REPLY IN SUPPORT OF MOTION TO STRIKE**, addressed as follows:

John Peter Lee
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101

Dated: February 13, 2012



Carla Ousby

ORIGINAL

1 Matthew D. Francis (6978)
Adam P. McMillen (10678)
2 WATSON ROUNDS
5371 Kietzke Lane
3 Reno, NV 89511
Telephone: 775-324-4100
4 Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

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ALAN GLOVER
BY CLERK
DEPUTY

6
7 **In The First Judicial District Court of the State of Nevada**
8 **In and for Carson City**
9

10 **JED MARGOLIN, an individual,**

11 **Plaintiff,**

12 vs.

13 **OPTIMA TECHNOLOGY CORPORATION,**
14 **a California corporation, OPTIMA**
15 **TECHNOLOGY CORPORATION, a Nevada**
16 **corporation, REZA ZANDIAN aka**
17 **GOLAMREZA ZANDIANJAZI aka**
18 **GHOLAM REZA ZANDIAN aka REZA JAZI**
19 **aka J. REZA JAZI aka G. REZA JAZI aka**
20 **GHONONREZA ZANDIAN JAZI, an**
21 **individual, DOE Companies**
22 **1-10, DOE Corporations 11-20, and DOE**
23 **Individuals 21-30,**

24 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

DECLARATION OF ADAM P.
MCMILLEN

25 I, Adam P. McMillen, being first duly sworn, under oath, depose and say:

26 1. I am an associate at the law firm of Watson Rounds located at 5371 Kietzke
27 Lane, Reno, Nevada 89511. I represent the Plaintiff, Jed Margolin, in the above referenced
28 cause of action against the named Defendants, who are necessary parties to this action. This
declaration is based upon my personal knowledge, and is made in support of Plaintiff's reply
in support of the motion to strike.

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2. Attached as **Exhibit A** is a true and correct copy of the E-Mail Transmission, dated 1/4/12, from Tiffany Duran, Assistant to John Courtney, to Carla Ousby, Assistant to Adam McMillen, which included a copy of the Defendants' reply in support of their motion to dismiss.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: February 13, 2012

By: /s/ Adam P. McMillen
Adam P. McMillen

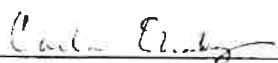
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, DECLARATION OF ADAM P. MCMILLEN, addressed as follows:

John Peter Lee
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101

Dated: February 13, 2012



Carla Ousby

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Index of Exhibits

Exhibit No.	Description	No. of Pages
1	A true and correct copy of the E-Mail Transmission, dated 1/4/12, from Tiffany Duran, Assistant to John Courtney, to Carla Ousby, Assistant to Adam McMillen.	9 Pages

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John Peter Lee, Esq.
Yvette R. Freedman, Esq.
John C. Courtney, Esq.
James J. Lee, Esq.
Carlene R. Star, Esq.
Jack Galardi, Law Clerk

E-MAIL TRANSMISSION

DATE: January 4, 2012
FROM: Tiffany Duran
Assistant to John C. Courtney, Esq.

If there is a problem with this transmission, please call Tiffany Duran at (702) 382-4044

To: Carla
E-mail: cousby@watsonrounds.com

Message: Please see attached.

If you have any questions please contact our office.

Thank you.
JOHN PETER LEE, LTD.

Tiffany Duran
Assistant to John C. Courtney, Esq.

The information contained in this e-mail is confidential and may also be attorney-client privileged. The information is intended only for the use of the individual or entity to whom it is addressed and others who have been specifically authorized to receive it. If you are not the intended recipient, or the employee responsible to deliver it to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the address above by mail. Thank you.

23382

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ALAN GLOVER

BY ~~J. G. GARDNER~~ CI. FR+

1 **REPY**
 2 JOHN PETER LEE, LTD.
 3 JOHN PETER LEE, ESQ.
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 5 830 Las Vegas Boulevard South
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 e-mail: info@johnpeterlee.com
 6 Attorneys for Defendant Reza Zandian

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

9 JED MARGOLIN, an individual;
 10 Plaintiff,

Case No.: 090C00579
 Dept. No.: I

11 vs.

12 OPTIMA TECHNOLOGY CORPORATION,
 a California corporation, OPTIMA
 13 TECHNOLOGY CORPORATION, a Nevada
 coporation, REZA ZANDIAN aka
 14 GOLAMREZA ZANDIANJAZI aka
 GHOLAM REZA ZANDIAN aka REZA
 15 JAZI aka J. REZA JAZI AKA G. REZA JAZI
 aka GHONONREZA ZANDIAN JAZI, an
 16 individual, DOE Companies 1-10; DOE
 Corporations 11-20, and DOE Individuals 21-
 17 30,

18 Defendants.

1334.023382-4d

REPLY TO OPPOSITION TO MOTION TO DISMISS

20 COMES NOW Defendant Reza Zandian by and through his counsel John Peter Lee, Ltd.,
 21 and hereby files his REPLY TO OPPOSITION TO MOTION TO DISMISS.

22 This Reply is made and based upon all of the pleadings and papers on file herein, exhibits
 23 attached hereto, the attached Memorandum of Points and Authorities, and oral argument, if required
 24 by the Court.

25 ...
 26 ...
 27 ...
 28 ...

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12/22/11

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 STATEMENT OF FACTS.

4 In 2008, before the United States District Court District of Arizona, Plaintiff Jed Margolin
5 (hereinafter "Margolin"), by and through his company, Optima Technology, Inc. a/k/a Optima
6 Technology Group, Inc. (hereinafter "OTG"), litigated the same transactions and occurrences to a
7 final judgment that he now wishes to again litigate in this case. *Compare* Am. Compl. and
8 Opposition to Motion to Dismiss (hereinafter "Opposition"), Ex. 29 (hereinafter "Ex. 29").

9 In the Arizona action, Margolin, acting as agent for OTC, alleged that Optima Technology
10 Corporation (hereinafter "OTC") unlawfully converted OTG's patents to its own dominion and
11 control. Ex. 29, pp. 12-31. In this case, Margolin alleged that OTC has converted OTG's patents
12 to its own use. Am. Compl., pp. 3-6. In the Arizona action, Margolin characterized the same facts
13 as constituting wrongdoing under the following causes of action: (1) Patent Infringement; (2) Breach
14 of Contract; (3) Breach of the Implied Covenant of Good Faith and Fair Dealing; (4) Negligence;
15 (5) Declaratory Relief; (6) Injurious Falsehood/Slander of Title; (7) Trespass to Chattels; (8) Unfair
16 Competition; (9) Unfair and Deceptive Competition/Business Practices; (10) Unlawful Conspiracy
17 to Injure Trade or Business; (11) Unfair and Deceptive Competition/Business Practices; (12) UAS
18 Liability; and (13) Punitive Damages. Ex. 29., pp. 16-30. Using the same facts pertaining to the
19 same transactions and occurrences, in this case, Margolin again alleges wrongdoing on the part of
20 OTC pursuant to slightly modified causes of action including: (1) Conversion; (2) Tortious
21 Interference with Contract; (3) Intentional Interference with Prospective Economic Advantage; (4)
22 Unjust Enrichment; and (5) Unfair and Deceptive Trade Practices. Am. Compl., pp. 2-6.

23 In the Arizona action, Margolin alleged that "Zandian executed [documents purporting to
24 assign or transfer title and/or interest in the Patents to OTC with the PTO] by (*inter alia*) utilizing
25 his signature on behalf of OTC and mis-stating that Zandian/OTC was exercising the Power of
26 Attorney as the 'attorney in fact' of Margolin." Ex. 29, p. 22, ll. 21-23. In this case, Margolin
27 alleged that "Zandian filed with the [PTO] fraudulent assignment documents allegedly assigning all
28 four of the Patents to [OTC]." Am. Compl., p. 3, ll. 25-28. Margolin even admits to bringing the

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1 instant action pursuant to the same transactions and occurrences already litigated to final judgment.
2 See Am. Compl., p. 4, ll. 5-17. The similarity between the facts in the Arizona action and the instant
3 action is absolute and separated only by the verbiage utilized in describing the same transactions and
4 occurrences and the causes of action purported to have been committed. Compare Ex. 29 and Am.
5 Compl.

6 II.

7 PROCEDURAL HISTORY.

8 Margolin filed the instant action on December 11, 2009, more than two years ago. Without
9 effecting proper service upon Defendant Zandian (hereinafter "Zandian"), Margolin took a default
10 judgment, which was later set aside on the grounds of insufficient service. On June 9, 2011, Zandian
11 filed a motion to dismiss the instant action, which was denied without prejudice to allow Margolin
12 an additional ninety (90) days to properly effectuate service. Margolin then attempted service by
13 publication in the San Diego Union-Tribune, the Reno Gazette-Journal and the Las Vegas Review
14 Journal, even though there exist no evidence in the record that Zandian resides in any of the cites,
15 or even the same country, whereby publication was made.

16 Even though Margolin alleged that Zandian's last known address was "8401 Bonita Downs
17 Road, Fair Oaks, California," Margolin never attempted service by publication in Fair Oaks,
18 California. Publication Motion, Ex. "1". Also, Margolin alleged to this Court that Zandian resided
19 in Sacramento County, California; however, Margolin did not attempt service by publication there
20 either. Id. at Ex. "2" through "4".

21 III.

22 LEGAL ANALYSIS.

23 A. The Instant Motion Need Not be Treated as a Motion for Summary Judgment 24 in Order to Grant the Relief Sought by Zandian.

25 Margolin has suggested that since documents were referenced in the Motion to Dismiss, that
26 motion must be treated as one for summary judgment. The so-called matters outside of the pleadings
27 are references to the Arizona action. These matters, however, are not outside of the pleadings, but
28 instead specifically mentioned in the Complaint. See Am. Compl., ¶¶ 17-18. Thus, Zandian

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1 referenced matters complete inside, not outside, the pleadings. Moreover, Zandian referenced a
2 court-produced docket that is worthy of judicial notice in any jurisdiction.

3 Notwithstanding, “[w]hen the complaint shows on its face that the cause of action is barred,
4 the burden falls upon the plaintiff to satisfy the court that the bar does not exist.” Kellar v. Snowden,
5 87 Nev. 488, 491, 489 P.2d 90, 92 (1971) (although affidavit accompanied motion to dismiss,
6 motion to dismiss was properly granted because “the defense of the statute of limitations appears
7 from the complaint itself.”). Here, the Amended Complaint contains an admission that the instant
8 action has already been litigated, or should have been litigated, before a United States District Court
9 in Arizona. See Am. Compl., ¶¶ 17-18. Margolin has not met his burden to show this Court why
10 the same transactions and occurrences should now be re-litigated in Nevada. Thus, the Amended
11 Complaint must be dismissed. Moreover, dismissal is proper because the defense related to
12 issue/claim preclusion or res judicata can be ascertained from the Amended Complaint itself.

13 Apparently, Margolin seeks conversion of the instant motion to one for summary judgment
14 for the sole purpose of attempting to invoke Rule 56(f) as a means to continue this two-year old
15 litigation. This argument, however, must fail because one need not go any further than the Amended
16 Complaint to ascertain that the same transactions and occurrences have been litigated before in
17 another jurisdiction. See Am. Compl., ¶¶ 17-18.

18 **B. Plaintiff Has Not Met His Burden Regarding General Personal Jurisdiction.**

19 As stated in the initiating motion, “[t]he plaintiff bears the burden of producing *some*
20 evidence in support of all facts necessary to establish personal jurisdiction [emphasis added].”
21 Trump v. District Court, 109 Nev. 687, 692-93, 857 p.2d 740, 748 (1993). At first, Margolin alleged
22 that Zandian resided in either San Diego or Las Vegas, but Plaintiff did not even attempt to serve
23 Zandian in either of these alleged places of residence. See Compl.; compare to Publication Motion.
24 Now, Margolin alleges in one paragraph of his Amended Complaint that Zandian has “at all relevant
25 times resided in Las Vegas, Nevada.” Am. Compl., ¶ 4. Margolin makes this allegation so that the
26 Court will deem that it has personal jurisdiction over Zandian without further inquiry. Three
27 paragraphs later, Margolin has alleged that Zandian and his co-defendant “at all relevant times herein
28 mentioned has been and/or is residing or currently doing business in and/or are responsible for the

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1 actions complained of herein in Storey County." Margolin makes this allegation so that the Court
2 will deem Storey County as the proper venue without further inquiry. So, Zandian has been alleged
3 to reside in Las Vegas, San Diego, and now Storey County; however, Margolin has never alleged
4 with any specificity whatsoever that any of the transactions and occurrences (on the part of Zandian,
5 as an individual) giving rise to this action took place within the State of Nevada.

6 Margolin alleged, not in the Amended Complaint, but instead in the Opposition, that because
7 business entities in which Zandian is a stockholder or member have had "substantial" or "continuous
8 and systematic" contacts with the state, then Zandian himself has had sufficient contacts with the
9 state to allow for personal jurisdiction over him in his individual capacity. See Opposition. This sort
10 of reasoning is repugnant to the principles regarding stockholder immunity. See citation and
11 additional argument, *infra*.

12 Margolin also alleged, not in the Amended Complaint, but instead in the Opposition, that
13 Zandian personally owns real property in Nevada, however, none of that property is alleged to be
14 within Carson City where the instant action is pending. Thus, this Court's jurisdiction has no alleged
15 contacts with Zandian in his personal capacity whatsoever. Notwithstanding, Zandian's alleged real
16 property ownership has no nexus whatsoever to the acts complained of in the Amended Complaint.
17 Moreover, Margolin does not reside in Carson City, but instead in Storey County, which has its own
18 jurisdiction.

19 In sum, two years into the action, there is nothing in the Amended Complaint that is
20 sufficient to allow the Court to exercise personal jurisdiction over Zandian in his individual capacity.

21 **C. Plaintiff Has Not Met His Burden Regarding Specific Personal Jurisdiction.**

22 Margolin has cited McCulloch Corp. V. O'Donnell, 83 Nev. 396, 433 P.2d 839 (1967), to
23 stand for the proposition that mere ownership in property within the forum state is adequate to allow
24 the forum state to exercise personal jurisdiction over a non-resident defendant. In McCullough, the
25 Court granted the non-resident defendant a writ of prohibition "to prevent the lower court from
26 exercising further jurisdiction" after the lower court denied the defendant's motion to dismiss.

27 Margolin highlighted in bold on of the statements in McCulloch: "In this case it must amount
28 to owning property or doing business within this states." In McCulloch, the ownership in a certain

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1 real property and a certain business were relevant to the Court's inquiry because the case was
2 centered on an injury that occurred on certain real property owned by a certain business. The Court
3 did not end its inquiry with real property ownership in the forum state. In fact, the Court stated that
4 "[t]he mere fact of stock ownership by one corporation in another does not authorize jurisdiction
5 over the stockholder corporation." *Id.* at 399. The Court also held that "[f]ormer ownership is not
6 sufficient to impose continuing answerability to jurisdiction absent other circumstances." *Id.* at 398.

7 This case, unlike McCulloch, does not involve any real property. Period. Thus, Zandian's
8 alleged ownership in real property in the forum state is irrelevant. Also, this case does not involve
9 any business owned in sole proprietorship by Zandian. The mere fact that Zandian is a stockholder
10 or membership in certain limited liability entities or corporations does give the Court jurisdiction
11 over Zandian personally. In fact, such a notion regarding personal jurisdiction on this basis is
12 specifically prohibited under the doctrine of stockholder immunity. *Id.* at 399 (Court explained that
13 "[t]o hold other wise would be to disregard the principles of stockholder immunity and would further
14 lead to the impractical result of holding stockholders of any corporation responsible in the event of
15 an injury on corporate property").

16 **D. Margolin's Claims are Barred on the Grounds of Claim Preclusion.**

17 Margolin is correct in his assessment of the test regarding claim preclusion. *See Am. Compl.*,
18 p. 14, ll. 19-23. The three-part test involves: (1) whether the parties or their privies are the same;
19 (2) whether the final judgment is valid; and (3) whether subsequent action is based on the same
20 claims or any part of them that were or could have been brought in the first case. *See Five Star*
21 *Capital Corp. v. Ruby*, 124 Nev. 1028, 194 P.3d 709, 713 (2008).

22 The parties (or their privies) are the same. Margolin was involved in the Arizona action. Ex.
23 29. Margolin's privy, OTG brought a cross-claim against OTC, and alleged that Zandian was
24 involved with OTC. *Id.* Margolin is the plaintiff in this action. *Am. Compl.* Margolin is bringing
25 claims against Zandian and OTC in this action. *Id.*

26 The judgment is final. Margolin attached as Exhibit "A" to the Amended Complaint a copy
27 of the final judgment attained in the Arizona action. *Am. Compl.*

28 The claims or any part of them were litigated or could have been litigated in the Arizona

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1 action. *Compare* Ex. 29 and Am. Compl.

2 Thus, all three parts of the test are unequivocally satisfied, and the Court need not go any
3 further than the matters alleged in the Amended Complaint to find the same. Period.

4 Margolin's apparent counterargument is without merit. Margolin alleges that the parties and
5 privies are different because Margolin, agent of OTG was not the plaintiff in Arizona, but instead
6 was a cross claimant. This argument is sufficiently self-defeating on its face without more. Margolin
7 does not even argue whether the judgment was final in the Arizona action, and Margolin has argued
8 that the claims could not have been brought in Arizona because they are now brought under different
9 banners, although alleging the same transactions and occurrences. This argument too is sufficiently
10 self-defeating without more.

11 Margolin was not required to bring a cross-claim against OTC or Zandian in the Arizona
12 action, but he did. *See Executive Management, Ltd. v. Ticor Title Ins. Co.*, 114 Nev. 823, 834-838,
13 963 P.2d 465, 473-475 (1998). That cross-claim has been litigated to a final judgment. Now,
14 Margolin brings it again. The only thing preventing Margolin from bringing the same action over
15 and over again before several different courts in several different states in which Zandian may own
16 real property is the fact that Margolin brought a cross-claim in the Arizona action against OTC,
17 alleging that Zandian was behind OTC, and that action is now closed by final judgment. Margolin,
18 therefore, is done, and it is up to this Court to tell him so.

19 The Court, accordingly, is left with no other option than to dismiss the instant action based
20 upon claim preclusion alone, notwithstanding the lack of personal jurisdiction and lack of sufficient
21 service.

22 IV.

23 CONCLUSION.

24 Whether the Court feels that Zandian should be dismissed by the instant motion to dismiss,
25 or whether the Court deems that the instant motion has been converted to one for summary judgment
26 has no real effect: either way, Zandian must be dismissed out of the instant action as a matter of law.
27 Whether the Court deems that the dismissal should be on the grounds of insufficient service, lack
28 of personal jurisdiction or claim preclusion, Zandian must be dismissed out of the action as a matter

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of law. Zandian hereby reserves his rights to attorney's fees and costs, as well as his right to bring a subsequent motion to dismiss, or motion for summary judgment, upon other grounds.


DATED this 12th day of December, 2011.

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BY: 
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JOHN C. COURTNEY, ESQ.
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830 Las Vegas Boulevard South
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Ph: (702) 382-4044/Fax: (702) 383-9950
Attorneys for Defendant Reza Zandian

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 12th day of December, 2011, a copy of the foregoing REPLY TO OPPOSITION TO MOTION TO DISMISS was served on the following parties by mailing a copy thereof, first class mail, postage prepaid, addressed to:

Adam McMillen, Esq.
Watson Rounds
5371 Kietzke Lane
Reno, NV 89511


An employee of
JOHN PETER LEE, LTD.

ORIGINA

1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
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8 *Attorneys for Plaintiff Jed Margolin*

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ALAN GLOVER
BY [Signature] CLERK
DEPUTY

9
10 **In The First Judicial District Court of the State of Nevada**
11 **In and for Carson City**

12 **JED MARGOLIN, an individual,**

13 **Plaintiff,**

14 **vs.**

15 **OPTIMA TECHNOLOGY CORPORATION,**
16 **a California corporation, OPTIMA**
17 **TECHNOLOGY CORPORATION, a Nevada**
18 **corporation, REZA ZANDIAN**
19 **aka GOLAMREZA ZANDIANJAZI**
20 **aka GHOLAM REZA ZANDIAN**
21 **aka REZA JAZI aka J. REZA JAZI**
22 **aka G. REZA JAZI aka GHONONREZA**
23 **ZANDIAN JAZI, an individual, DOE**
24 **Companies 1-10, DOE Corporations 11-20,**
25 **and DOE Individuals 21-30,**

26 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

REQUEST FOR SUBMISSION

27 It is hereby requested that the following documents be submitted to the Court for
28 decision:

- 29 1) Plaintiff's Motion to Strike, filed January 23, 2012;
- 30 2) Declaration of Jed Margolin in Support of Motion to Strike, filed January 23, 2012;
- 31 3) Defendant's Opposition to Motion to Strike, filed February 1, 2012;
- 32 4) Plaintiff's Reply in Support of Motion to Strike, filed February 13, 2012; and
- 33 5) Declaration of Adam P. McMillen, filed February 13, 2012.

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Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: February 13, 2012

WATSON ROUNDS

BY: Adam McMillen
Matthew D. Francis (6978)
Adam P. McMillen (10678)
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Reno, NV 89511
Telephone: 775-324-4100
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Attorneys for Plaintiff Jed Margolin

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Request for Submission**, addressed as follows:

John Peter Lee
John C. Courtney
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101

Dated: February 13, 2012



Carla Ousby

ORIGINAL

1 Matthew D. Francis (6978)
Adam P. McMillen (10678)
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5371 Kietzke Lane
3 Reno, NV 89511
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Attorneys for Plaintiff Jed Margolin

REC'D & FILED ✓

2012 FEB 13 PM 3: 58

ALAN GLOVER
BY: [Signature] CLFR
PITTV

7 **In The First Judicial District Court of the State of Nevada**
8 **In and for Carson City**

10 **JED MARGOLIN, an individual,**

11 **Plaintiff,**

12 **vs.**

13 **OPTIMA TECHNOLOGY CORPORATION,**
14 **a California corporation, OPTIMA**
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15 **corporation, REZA ZANDIAN**
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18 **ZANDIAN JAZI, an individual, DOE**
Companies 1-10, DOE Corporations 11-20,
19 **and DOE Individuals 21-30,**

20 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

REQUEST FOR SUBMISSION

21
22 It is hereby requested that the following documents be submitted to the Court for
23 decision:

24 1) Defendants' Motion to Dismiss Amended Complaint on a Special Appearance, filed
25 November 16, 2011;

26 2) Plaintiff's Opposition to Motion to Dismiss, filed December 5, 2011, and

27 3) Defendants' Reply in Support of the Motion to Dismiss Amended Complaint on a
28 Special Appearance, filed December 13, 2011.

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Affirmation Pursuant to NRS 239B.030

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DATED: February 13, 2012

WATSON ROUNDS

BY: Adam McMillen
Matthew D. Francis (6978)
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Attorneys for Plaintiff Jed Margolin


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Carla Ousby

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Case No. 09 0C 00579 1B

Dept. No. I

REC'D & FILED

2012 FEB 21 PM 4: 12

ALAN GLOVER
CLERK

BY *Alan Glover*
DEBITA

In The First Judicial District Court of the State of Nevada

In and for Carson City

JED MARGOLIN, an individual,

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE Companies
1-10, DOE Corporations 11-20, and DOE
Individuals 21-30,

Defendants.

**ORDER DENYING DEFENDANT'S
MOTION TO DISMISS**

This matter comes before the Court on Defendant Reza Zandian's ("Zandian" or "Defendant") Motion to Dismiss Amended Complaint on Special Appearance, dated November 16, 2011. Plaintiff filed his Opposition to Motion to Dismiss on December 5, 2011. Zandian filed his Reply to Opposition to Motion to Dismiss on December 13, 2011. A Request for Submission was filed on February 13, 2012.

Upon consideration of the foregoing documents, and the Court deeming itself fully advised of the matter, the Court hereby enters its Order Denying Defendant's Motion to Dismiss as follows:

In his Motion, Defendant argues primarily that service of the summons and complaint was never effectuated upon Defendant. Defendant further argues that Nevada does not have

1 personal jurisdiction over Defendant in this action. Finally, Defendant argues Plaintiff's claims
2 are barred by the doctrine of claim preclusion. The Court rejects these arguments as stated
3 below.

4 **I. Service of Process**

5 In opposition to Defendant's motion to dismiss, Plaintiff argues that pursuant to NRC
6 4(e)(1)(iii), Defendant has been properly served with the summons and complaint by
7 publication. NRC 4(e)(1)(iii) states as follows:

8 The order [to serve by publication] shall direct the publication to be made in a
9 newspaper, published in the State of Nevada, to be designated by the court or
10 judge thereof, for a period of 4 weeks, and at least once a week during said
11 time. In addition to in-state publication, where the present residence of the
12 defendant is unknown the order may also direct that publication be made in a
13 newspaper published outside the State of Nevada whenever the court is of the
14 opinion that such publication is necessary to give notice that is reasonably
15 calculated to give a defendant actual notice of the proceedings.

16 NRC 4(e)(1)(iii).

17 Initially, as Plaintiff was having difficulty serving Defendant, the summons and
18 complaint were mailed to Defendant's attorney on January 8, 2010 and a request for assistance
19 in serving Defendant was made. Receiving no response from Defendant's counsel, Plaintiff
20 attempted to personally serve Defendant at his last-known residential and/or business address
21 of 8401 Bonita Downs Road, Fair Oaks, California 95628.

22 However, on August 3, 2011, the Court found that personal service of process had not
23 yet been effectuated upon Defendant. Also, on August 3, 2011, the Court ordered that Plaintiff
24 shall be given ninety (90) days to effectuate proper service on Defendant.

25 On August 4, 2011, Plaintiff's counsel sent a letter to Defendant's counsel requesting
26 that defense counsel accept service on behalf of Defendant and/or provide a current address for
27 the Defendant. On August 8, 2011, Defendant's counsel declined to accept service and
28 declined to provide a current address for the Defendant.

On August 11, 2011, Plaintiff filed a motion to serve all the Defendants by publication.
No opposition was filed. On September 27, 2011, pursuant to Plaintiff's motion to serve all
Defendants by publication, this Court ordered that service of process, as against all

1 Defendants, may be made by publication by publishing the summons in the San Diego Union-
2 Tribune, the Reno Gazette-Journal and the Las Vegas Review Journal for a period of four
3 weeks and said publication to occur at least once a week during said time.

4 As reflected in the affidavits of service filed on November 7, 2011, this Court finds that
5 Defendant was properly served by publication in the San Diego Union-Tribune on September
6 23, 2011, September 30, 2011, October 7, 2011 and October 14, 2011, in the Reno Gazette-
7 Journal on September 16, 2011, September 23, 2011, September 30, 2011 and October 7,
8 2011, and in the Las Vegas Review Journal on October 7, 2011, October 14, 2011, October 21,
9 2011 and October 28, 2011.

10 II. Jurisdiction

11 Plaintiff argues that Defendant's contacts with the State of Nevada are so substantial,
12 continuous and systematic that he should be deemed present in the forum. Nevada's long arm
13 statute states as follows:

- 14 1. A court of this state may exercise jurisdiction over a party to a civil action
15 on any basis not inconsistent with the Constitution of this state or the
16 Constitution of the United States.
- 17 2. Personal service of summons upon a party outside this state is sufficient to
18 confer upon a court of this state jurisdiction over the party so served if the
19 service is made by delivering a copy of the summons, together with a copy of
20 the complaint, to the party served in the manner provided by statute or rule of
21 court for service upon a person of like kind within this state.
- 22 3. The method of service provided in this section is cumulative, and may be
23 utilized with, after or independently of other methods of service.

24 NRS 14.065(1)-(3).

25 In addition, in Nevada, "[t]here are two types of personal jurisdiction: general and
26 specific." *Baker v. Eighth Judicial Dist. Court ex rel. County of Clark*, 116 Nev. 527, 532,
27 999 P.2d 1020, 1023 (2000). "General jurisdiction is required in matters where a defendant is
28 held to answer in a forum for causes of action unrelated to his forum activities." *Baker v.*
Eighth Judicial Dist. Court ex rel. County of Clark, 116 Nev. 527, 532, 999 P.2d 1020, 1023
(2000). "General jurisdiction over a nonresident will lie where the nonresident's activities in
the forum are 'substantial' or 'continuous and systematic.'" *Id.* "General jurisdiction over the
defendant 'is appropriate where the defendant's forum activities are so "substantial" or

1 "continuous and systematic" that [he] may be deemed present in the forum.'" *Freeman v.*
2 *Second Judicial Dist. Court ex rel. County of Washoe*, 116 Nev. 550, 553, 1 P.3d 963, 965
3 (2000).

4 In this matter, it is represented that Defendant owns real property throughout Nevada,
5 that he is listed as the owner of two parcels in Clark County equaling 30 acres combined, that
6 he is listed as an owner of 10 parcels in Washoe County ((APN: 79-150-09: 560 acres)(APN:
7 079-150-10: 639 acres)(APN: 079-150-13: 560 acres)(APN: 084-040-02: 627 acres)(APN:
8 084-040-04: 640 acres)(APN: 084-040-06: 633 acres)(APN: 084-040-10: 390 acres)(APN
9 084-130-07: 275 acres)(APN: 79-150-12:160 acres)), that he is listed as an owner and/or is
10 partial owner of 6 parcels in Lyon County (330.20 acres combined), that he is listed as part
11 owner of two parcels in Churchill County (56.75 acres combined), and that he is listed as part
12 owner of one parcel in Elko County (17.6 acres).

13 With regard to doing business within Nevada, Plaintiffs assert that Defendant is a
14 managing member of and resident agent of many businesses in Nevada. For example,
15 Defendant is a managing member of Johnson Spring Water Company LLC, a Nevada LLC.
16 He is a managing member of Wendover Project L.L.C., a Nevada LLC. He is or was recently
17 a manager of 11000 Reno Highway, Fallon, LLC, a Nevada LLC, and currently, 11000 Reno
18 Highway, Fallon, LLC is listed as the owner of 640 acres of real property in Churchill County.

19 Defendant is or was recently a managing member and registered agent of Misfits
20 Development LLC, a Nevada LLC. He is or was recently a managing member and registered
21 agent of Elko North 5th Avenue, LLC, a Nevada LLC. He is a managing member and
22 registered agent for Stagecoach Valley LLC, an active Nevada LLC.

23 Defendant acted as the resident agent for a revoked Nevada limited liability company
24 named Rock and Royalty LLC, where his resident agent address was 1401 S. Las Vegas
25 Boulevard, Las Vegas, Nevada 89104. He was a managing member of Gold Canyon
26 Development LLC, a Nevada LLC that is now in default status. He was a managing member
27 of High Tech Development LLC, a Nevada LLC that has been dissolved. He was a managing
28 member of Lyon Park Development LLC, a Nevada LLC that has been dissolved. He was a

1 managing member of Churchill Park Development LLC, a Nevada LLC that has been
2 dissolved. He was a manager of Sparks Village LLC, a Nevada LLC that is in default status.
3 He was president, secretary, treasurer, director and resident agent of Optima Technology
4 Corporation, a now revoked Nevada close corporation. He was a managing member of I-50
5 Plaza LLC, a Nevada LLC in default status. He was a manager of Dayton Plaza, LLC, a
6 Nevada LLC in default status. Finally, he was a manager of Reno Highway Plaza, LLC, a
7 Nevada LLC in revoked status.

8 Also, he listed Carson City and Las Vegas addresses for his registered agent and officer
9 information for Rock and Royalty LLC, Optima Technology Corporation, High Tech
10 Development LLC, Lyon Park Development LLC, Churchill Park Development LLC, Sparks
11 Village, LLC, I-50 Plaza LLC, Dayton Plaza, LLC, 11000 Reno Highway Fallon LLC, Misfits
12 Development LLC, Elko North 5th Ave, LLC, and Stagecoach Valley LLC.

13 Thus, it appears to this Court that Defendant owns or partially owns many properties
14 within and throughout the state of Nevada and does a significant amount of business within the
15 state. His property ownership and his business dealings show that his forum activities are so
16 “substantial” or “continuous and systematic” that he should be deemed present in the forum
17 and therefore general jurisdiction is appropriate.

18 **III. Claim Preclusion and Issue Preclusion**

19 There is a three-part test for determining whether claim preclusion applies: (1) the
20 parties or their privies are the same, (2) the final judgment is valid, and (3) the subsequent
21 action is based on the same claims or any part of them that were or could have been brought in
22 the first case. *Five Star Capital Corp. v. Ruby*, 124 Nev. 1028, 194 P.3d 709, 713 (Nev.
23 2008).

24 In this case, Defendant argues that the *Universal Avionics Systems Corporation v.*
25 *Optima Technology Group, Inc.*, No. CV 07-588-TUC-RCC (the “Arizona action”) has no
26 application to him: “Because no summons was ever issued as to Zandian in the underlying
27 U.S. District Court action which forms the basis of the instant action, any domestication of the
28 U.S. District Court action as it pertains to Zandian is a clear violation of Zandian’s

1 constitutional right to notice under the Due Process clauses of the Fifth and Fourteenth
2 Amendments of the U.S. Constitution.” See Motion to Dismiss Amended Complaint on
3 Special Appearance, dated 11/17/11, 5:5-10, on file herein. Thus, Defendant correctly points
4 out that Defendant was not a party to the Arizona action and the Arizona action does not apply
5 to him.

6 In addition, the Arizona action was a declaratory judgment action brought by Universal
7 Avionics Systems Corporation (“Universal”) against Plaintiff, Optima Technology Group
8 (“OTG”), Optima Technology Corporation (“OTC”) and Robert Adams. Universal sought a
9 declaratory judgment that the ‘073 and ‘724 patents were invalid and not infringed and
10 asserted claims for breach of contract under the law of the State of Arizona, unfair competition
11 and negligent interference with prospective economic advantage under the laws of the State of
12 California.

13 In the Arizona action, OTG counterclaimed against Universal and cross-claimed
14 against OTC, Joachim Naimer, Jane Naimer, Frank Hummel and Jane Doe Hummel. OTG
15 claimed patent infringement against Universal, Naimer and Hummel. OTG claimed breach of
16 contract, breach of the implied covenant of good faith and fair dealing, and negligence against
17 Universal. OTG sought a declaratory judgment against OTC that OTC had no interest or right
18 in the durable power of attorney from Jed Margolin or the above mentioned patents, that
19 OTC’s filing and/or recording of documents with the U.S. Patent and Trademark Office
20 (“PTO”) was invalid and void, and ordering the PTO to correct and expunge its records with
21 regards to the same. Finally, OTG claimed injurious falsehood, slander of title, trespass to
22 chattels, unfair competition, unfair and deceptive competition and business practices, unlawful
23 conspiracy, joint and several liability, and punitive damages against Universal and OTC.

24 In this case, Jed Margolin is claiming conversion, tortious interference with contract,
25 intentional interference with prospective economic advantage, unjust enrichment, and unfair
26 and deceptive trade practices against all Defendants in this matter, including Zandian in his
27 personal capacity. Zandian was not a party to the Arizona action. The parties and their privies
28

1 and the claims in this matter are not the same as the parties and their privies and the claims in
2 the Arizona action.

3 Therefore, as the parties and their privies and the claims in the Arizona action are not
4 the same as the parties and their privies and the claims in this action, claim preclusion does not
5 apply.

6 Also, there is a four-part test for the application of issue preclusion: "(1) the issue
7 decided in the prior litigation must be identical to the issue presented in the current action; (2)
8 the initial ruling must have been on the merits and have become final; ... (3) the party against
9 whom the judgment is asserted must have been a party or in privity with a party to the prior
10 litigation; and (4) the issue was actually and necessarily litigated." *Five Star Capital Corp.*,
11 124 Nev. 1028, 194 P.3d at 713.

12 The only issue in the Arizona action that could be identical to an issue in this matter is
13 the fact that the Arizona court found that OTC filed a forged, invalid and void assignment with
14 the PTO and that OTC has no interest in U.S. Patents Nos. 5,566,073 and 5,904,724 ("the
15 Patents") or the Durable Power of Attorney from Jed Margolin dated July 20, 2004. *See*
16 Exhibit B to Defendant's Motion to Dismiss Amended Complaint on Special Appearance,
17 dated 11/17/11. The Arizona court also ordered that the "Assignment Optima Technology
18 Corporation filed with the USPTO is forged, invalid, void, of no force and effect, and is
19 hereby struck from the records of the USPTO." *Id.* Thus, one related issue has been decided.
20 However, that one issue only involved OTC, the California Corporation. That issue was not
21 decided with respect to OTC, the Nevada Corporation and it was not decided with respect to
22 Zandian.

23 In addition, the other claims and issues in this matter are distinct and not identical to
24 the issues raised in the Arizona action, have not been decided on the merits and become final,
25 have not been actually and necessarily litigated and the parties and their privies are not the
26 same.

27 **IV. Conclusion**

28 Therefore, good cause appearing,

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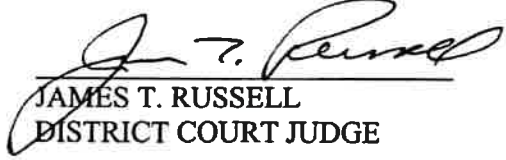
THE COURT FINDS that service of process has been properly effectuated against Defendant by publication.

THE COURT FINDS that Defendant's forum activities are so substantial and/or continuous and systematic that he should be deemed present in the forum and therefore personal jurisdiction over him is appropriate in this matter.

THE COURT FINDS that claim and issue preclusion do not bar this action.

THEREFORE, IT IS HEREBY ORDERED that Defendant Zandian's Motion to Dismiss Amended Complaint on Special Appearance is DENIED.

Dated this 21st day of February 2012.


JAMES T. RUSSELL
DISTRICT COURT JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of February, 2012, I placed a copy of the foregoing Order in the United States Mail, postage prepaid, addressed as follows:

Matthew D. Francis, Esq.
5371 Kietzke Lane
Reno, NV 89511

John Peter Lee
830 Las Vegas Blvd. South
Las Vegas, NV 89101



1 Case No. 09 OC 00579 IB

2 Dept. No. I

REC'D & FILED

2012 FEB 23 PM 2:09

ALAN GLOVER
CLERK
BY *[Signature]*
DEPUTY

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6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR CARSON CITY
8

9 JED MARGOLIN, an individual,

10 Plaintiff,

11 vs.

**ORDER DENYING
MOTION TO STRIKE**

12 OPTIMA TECHNOLOGY CORPORATION, A
13 California corporation, OPTIMA
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15 corporation, REZA ZANDIAN
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19 aka GHONONREZA ZANDIAN JAZI, an
20 individual, DOE Companies 1-10, DOE
21 Corporations 11-20 and DOE Individuals 21-30,

22 Defendants.

23
24 This matter is before the Court on a Motion to Strike filed on January 23, 2012. An
25 Opposition to Motion to Strike was filed on February 2, 2012. A Reply in Support of
26 Motion to Strike as filed on February 13, 2012. A Request for Submission was filed on
27 February 13, 2012.

28 Based on this Court's Order Denying Defendant's Motion to Dismiss entered on
February 21, 2012, the Motion to Strike is moot. Therefore, good cause appearing,

IT IS HEREBY ORDERED that the Motion to Strike is DENIED.

DATED this 23 day of February, 2012.

[Signature]
JAMES T. RUSSELL
District Court Judge

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John C. Courtney, Esq.
830 Las Vegas Blvd South
Las Vegas NV 89101


Christine Erven
Judicial Assistant, Department One

ORIGINAL

REC'D & FILED

2012 FEB 24 PM 2: 25

ALAN FLOWER
BY *[Signature]* CLERK
DEPUTY

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20 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

NOTICE OF ENTRY OF ORDER

21
22 Please take notice that the Order Denying Defendant's Motion to Dismiss, attached
23 hereto as Exhibit 1, was filed in the above-entitled Court on February 21, 2012.

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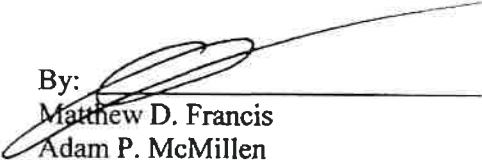
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Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: February 24, 2012

WATSON ROUNDS

By: 
Matthew D. Francis
Adam P. McMillen
Watson Rounds
5371 Kietzke Lane
Reno, NV 89511

Attorneys for Plaintiff Jed Margolin

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on
3 this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true
4 and correct copy of the foregoing document, **Notice of Entry of Order**, addressed as follows:

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6 John Peter Lee
7 John C. Courtney
8 John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101

9
10 Dated: February 24, 2012



Carla Ousby

Exhibit 1

Exhibit 1

1 Case No. 09 0C 00579 1B

2 Dept. No. I

REC'D & FILED

2012 FEB 21 PM 4: 12

3 ALAN GLOVER
4 BY *Alan Glover* CLERK
5 DEPUTY

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16 aka GHOLAM REZA ZANDIAN
17 aka REZA JAZI aka J. REZA JAZI
18 aka G. REZA JAZI aka GHONONREZA
19 ZANDIAN JAZI, an individual, DOE Companies
20 1-10, DOE Corporations 11-20, and DOE
21 Individuals 21-30,

22 Defendants.

**ORDER DENYING DEFENDANT'S
MOTION TO DISMISS**

23 This matter comes before the Court on Defendant Reza Zandian's ("Zandian" or
24 "Defendant") Motion to Dismiss Amended Complaint on Special Appearance, dated November
25 16, 2011. Plaintiff filed his Opposition to Motion to Dismiss on December 5, 2011. Zandian
26 filed his Reply to Opposition to Motion to Dismiss on December 13, 2011. A Request for
27 Submission was filed on February 13, 2012.

28 Upon consideration of the foregoing documents, and the Court deeming itself fully
advised of the matter, the Court hereby enters its Order Denying Defendant's Motion to Dismiss
as follows:

In his Motion, Defendant argues primarily that service of the summons and complaint
was never effectuated upon Defendant. Defendant further argues that Nevada does not have

1 personal jurisdiction over Defendant in this action. Finally, Defendant argues Plaintiff's claims
2 are barred by the doctrine of claim preclusion. The Court rejects these arguments as stated
3 below.

4 **I. Service of Process**

5 In opposition to Defendant's motion to dismiss, Plaintiff argues that pursuant to NRCP
6 4(e)(1)(iii), Defendant has been properly served with the summons and complaint by
7 publication. NRCP 4(e)(1)(iii) states as follows:

8 The order [to serve by publication] shall direct the publication to be made in a
9 newspaper, published in the State of Nevada, to be designated by the court or
10 judge thereof, for a period of 4 weeks, and at least once a week during said
11 time. In addition to in-state publication, where the present residence of the
12 defendant is unknown the order may also direct that publication be made in a
13 newspaper published outside the State of Nevada whenever the court is of the
14 opinion that such publication is necessary to give notice that is reasonably
15 calculated to give a defendant actual notice of the proceedings.

16 NRCP 4(e)(1)(iii).

17 Initially, as Plaintiff was having difficulty serving Defendant, the summons and
18 complaint were mailed to Defendant's attorney on January 8, 2010 and a request for assistance
19 in serving Defendant was made. Receiving no response from Defendant's counsel, Plaintiff
20 attempted to personally serve Defendant at his last-known residential and/or business address
21 of 8401 Bonita Downs Road, Fair Oaks, California 95628.

22 However, on August 3, 2011, the Court found that personal service of process had not
23 yet been effectuated upon Defendant. Also, on August 3, 2011, the Court ordered that Plaintiff
24 shall be given ninety (90) days to effectuate proper service on Defendant.

25 On August 4, 2011, Plaintiff's counsel sent a letter to Defendant's counsel requesting
26 that defense counsel accept service on behalf of Defendant and/or provide a current address for
27 the Defendant. On August 8, 2011, Defendant's counsel declined to accept service and
28 declined to provide a current address for the Defendant.

On August 11, 2011, Plaintiff filed a motion to serve all the Defendants by publication.
No opposition was filed. On September 27, 2011, pursuant to Plaintiff's motion to serve all
Defendants by publication, this Court ordered that service of process, as against all

1 Defendants, may be made by publication by publishing the summons in the San Diego Union-
2 Tribune, the Reno Gazette-Journal and the Las Vegas Review Journal for a period of four
3 weeks and said publication to occur at least once a week during said time.

4 As reflected in the affidavits of service filed on November 7, 2011, this Court finds that
5 Defendant was properly served by publication in the San Diego Union-Tribune on September
6 23, 2011, September 30, 2011, October 7, 2011 and October 14, 2011, in the Reno Gazette-
7 Journal on September 16, 2011, September 23, 2011, September 30, 2011 and October 7,
8 2011, and in the Las Vegas Review Journal on October 7, 2011, October 14, 2011, October 21,
9 2011 and October 28, 2011.

10 II. Jurisdiction

11 Plaintiff argues that Defendant's contacts with the State of Nevada are so substantial,
12 continuous and systematic that he should be deemed present in the forum. Nevada's long arm
13 statute states as follows:

- 14 1. A court of this state may exercise jurisdiction over a party to a civil action
15 on any basis not inconsistent with the Constitution of this state or the
16 Constitution of the United States.
- 17 2. Personal service of summons upon a party outside this state is sufficient to
18 confer upon a court of this state jurisdiction over the party so served if the
19 service is made by delivering a copy of the summons, together with a copy of
20 the complaint, to the party served in the manner provided by statute or rule of
21 court for service upon a person of like kind within this state.
- 22 3. The method of service provided in this section is cumulative, and may be
23 utilized with, after or independently of other methods of service.

24 NRS 14.065(1)-(3).

25 In addition, in Nevada, "[t]here are two types of personal jurisdiction: general and
26 specific." *Baker v. Eighth Judicial Dist. Court ex rel. County of Clark*, 116 Nev. 527, 532,
27 999 P.2d 1020, 1023 (2000). "General jurisdiction is required in matters where a defendant is
28 held to answer in a forum for causes of action unrelated to his forum activities." *Baker v.*
Eighth Judicial Dist. Court ex rel. County of Clark, 116 Nev. 527, 532, 999 P.2d 1020, 1023
(2000). "General jurisdiction over a nonresident will lie where the nonresident's activities in
the forum are 'substantial' or 'continuous and systematic.'" *Id.* "General jurisdiction over the
defendant 'is appropriate where the defendant's forum activities are so "substantial" or

1 "continuous and systematic" that [he] may be deemed present in the forum." *Freeman v.*
2 *Second Judicial Dist. Court ex rel. County of Washoe*, 116 Nev. 550, 553, 1 P.3d 963, 965
3 (2000).

4 In this matter, it is represented that Defendant owns real property throughout Nevada,
5 that he is listed as the owner of two parcels in Clark County equaling 30 acres combined, that
6 he is listed as an owner of 10 parcels in Washoe County ((APN: 79-150-09: 560 acres)(APN:
7 079-150-10: 639 acres)(APN: 079-150-13: 560 acres)(APN: 084-040-02: 627 acres)(APN:
8 084-040-04: 640 acres)(APN: 084-040-06: 633 acres)(APN: 084-040-10: 390 acres)(APN
9 084-130-07: 275 acres)(APN: 79-150-12:160 acres)), that he is listed as an owner and/or is
10 partial owner of 6 parcels in Lyon County (330.20 acres combined), that he is listed as part
11 owner of two parcels in Churchill County (56.75 acres combined), and that he is listed as part
12 owner of one parcel in Elko County (17.6 acres).

13 With regard to doing business within Nevada, Plaintiffs assert that Defendant is a
14 managing member of and resident agent of many businesses in Nevada. For example,
15 Defendant is a managing member of Johnson Spring Water Company LLC, a Nevada LLC.
16 He is a managing member of Wendover Project L.L.C., a Nevada LLC. He is or was recently
17 a manager of 11000 Reno Highway, Fallon, LLC, a Nevada LLC, and currently, 11000 Reno
18 Highway, Fallon, LLC is listed as the owner of 640 acres of real property in Churchill County.

19 Defendant is or was recently a managing member and registered agent of Misfits
20 Development LLC, a Nevada LLC. He is or was recently a managing member and registered
21 agent of Elko North 5th Avenue, LLC, a Nevada LLC. He is a managing member and
22 registered agent for Stagecoach Valley LLC, an active Nevada LLC.

23 Defendant acted as the resident agent for a revoked Nevada limited liability company
24 named Rock and Royalty LLC, where his resident agent address was 1401 S. Las Vegas
25 Boulevard, Las Vegas, Nevada 89104. He was a managing member of Gold Canyon
26 Development LLC, a Nevada LLC that is now in default status. He was a managing member
27 of High Tech Development LLC, a Nevada LLC that has been dissolved. He was a managing
28 member of Lyon Park Development LLC, a Nevada LLC that has been dissolved. He was a

1 managing member of Churchill Park Development LLC, a Nevada LLC that has been
2 dissolved. He was a manager of Sparks Village LLC, a Nevada LLC that is in default status.
3 He was president, secretary, treasurer, director and resident agent of Optima Technology
4 Corporation, a now revoked Nevada close corporation. He was a managing member of I-50
5 Plaza LLC, a Nevada LLC in default status. He was a manager of Dayton Plaza, LLC, a
6 Nevada LLC in default status. Finally, he was a manager of Reno Highway Plaza, LLC, a
7 Nevada LLC in revoked status.

8 Also, he listed Carson City and Las Vegas addresses for his registered agent and officer
9 information for Rock and Royalty LLC, Optima Technology Corporation, High Tech
10 Development LLC, Lyon Park Development LLC, Churchill Park Development LLC, Sparks
11 Village, LLC, I-50 Plaza LLC, Dayton Plaza, LLC, 11000 Reno Highway Fallon LLC, Misfits
12 Development LLC, Elko North 5th Ave, LLC, and Stagecoach Valley LLC.

13 Thus, it appears to this Court that Defendant owns or partially owns many properties
14 within and throughout the state of Nevada and does a significant amount of business within the
15 state. His property ownership and his business dealings show that his forum activities are so
16 “substantial” or “continuous and systematic” that he should be deemed present in the forum
17 and therefore general jurisdiction is appropriate.

18 **III. Claim Preclusion and Issue Preclusion**

19 There is a three-part test for determining whether claim preclusion applies: (1) the
20 parties or their privies are the same, (2) the final judgment is valid, and (3) the subsequent
21 action is based on the same claims or any part of them that were or could have been brought in
22 the first case. *Five Star Capital Corp. v. Ruby*, 124 Nev. 1028, 194 P.3d 709, 713 (Nev.
23 2008).

24 In this case, Defendant argues that the *Universal Avionics Systems Corporation v.*
25 *Optima Technology Group, Inc.*, No. CV 07-588-TUC-RCC (the “Arizona action”) has no
26 application to him: “Because no summons was ever issued as to Zandian in the underlying
27 U.S. District Court action which forms the basis of the instant action, any domestication of the
28 U.S. District Court action as it pertains to Zandian is a clear violation of Zandian’s

1 constitutional right to notice under the Due Process clauses of the Fifth and Fourteenth
2 Amendments of the U.S. Constitution.” See Motion to Dismiss Amended Complaint on
3 Special Appearance, dated 11/17/11, 5:5-10, on file herein. Thus, Defendant correctly points
4 out that Defendant was not a party to the Arizona action and the Arizona action does not apply
5 to him.

6 In addition, the Arizona action was a declaratory judgment action brought by Universal
7 Avionics Systems Corporation (“Universal”) against Plaintiff, Optima Technology Group
8 (“OTG”), Optima Technology Corporation (“OTC”) and Robert Adams. Universal sought a
9 declaratory judgment that the ‘073 and ‘724 patents were invalid and not infringed and
10 asserted claims for breach of contract under the law of the State of Arizona, unfair competition
11 and negligent interference with prospective economic advantage under the laws of the State of
12 California.

13 In the Arizona action, OTG counterclaimed against Universal and cross-claimed
14 against OTC, Joachim Naimer, Jane Naimer, Frank Hummel and Jane Doe Hummel. OTG
15 claimed patent infringement against Universal, Naimer and Hummel. OTG claimed breach of
16 contract, breach of the implied covenant of good faith and fair dealing, and negligence against
17 Universal. OTG sought a declaratory judgment against OTC that OTC had no interest or right
18 in the durable power of attorney from Jed Margolin or the above mentioned patents, that
19 OTC’s filing and/or recording of documents with the U.S. Patent and Trademark Office
20 (“PTO”) was invalid and void, and ordering the PTO to correct and expunge its records with
21 regards to the same. Finally, OTG claimed injurious falsehood, slander of title, trespass to
22 chattels, unfair competition, unfair and deceptive competition and business practices, unlawful
23 conspiracy, joint and several liability, and punitive damages against Universal and OTC.

24 In this case, Jed Margolin is claiming conversion, tortious interference with contract,
25 intentional interference with prospective economic advantage, unjust enrichment, and unfair
26 and deceptive trade practices against all Defendants in this matter, including Zandian in his
27 personal capacity. Zandian was not a party to the Arizona action. The parties and their privies
28

1 and the claims in this matter are not the same as the parties and their privies and the claims in
2 the Arizona action.

3 Therefore, as the parties and their privies and the claims in the Arizona action are not
4 the same as the parties and their privies and the claims in this action, claim preclusion does not
5 apply.

6 Also, there is a four-part test for the application of issue preclusion: "(1) the issue
7 decided in the prior litigation must be identical to the issue presented in the current action; (2)
8 the initial ruling must have been on the merits and have become final; ... (3) the party against
9 whom the judgment is asserted must have been a party or in privity with a party to the prior
10 litigation; and (4) the issue was actually and necessarily litigated." *Five Star Capital Corp.*,
11 124 Nev. 1028, 194 P.3d at 713.

12 The only issue in the Arizona action that could be identical to an issue in this matter is
13 the fact that the Arizona court found that OTC filed a forged, invalid and void assignment with
14 the PTO and that OTC has no interest in U.S. Patents Nos. 5,566,073 and 5,904,724 ("the
15 Patents") or the Durable Power of Attorney from Jed Margolin dated July 20, 2004. *See*
16 Exhibit B to Defendant's Motion to Dismiss Amended Complaint on Special Appearance,
17 dated 11/17/11. The Arizona court also ordered that the "Assignment Optima Technology
18 Corporation filed with the USPTO is forged, invalid, void, of no force and effect, and is
19 hereby struck from the records of the USPTO." *Id.* Thus, one related issue has been decided.
20 However, that one issue only involved OTC, the California Corporation. That issue was not
21 decided with respect to OTC, the Nevada Corporation and it was not decided with respect to
22 Zandian.

23 In addition, the other claims and issues in this matter are distinct and not identical to
24 the issues raised in the Arizona action, have not been decided on the merits and become final,
25 have not been actually and necessarily litigated and the parties and their privies are not the
26 same.

27 **IV. Conclusion**

28 Therefore, good cause appearing,

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THE COURT FINDS that service of process has been properly effectuated against Defendant by publication.

THE COURT FINDS that Defendant's forum activities are so substantial and/or continuous and systematic that he should be deemed present in the forum and therefore personal jurisdiction over him is appropriate in this matter.

THE COURT FINDS that claim and issue preclusion do not bar this action.

THEREFORE, IT IS HEREBY ORDERED that Defendant Zandian's Motion to Dismiss Amended Complaint on Special Appearance is DENIED.

Dated this 21st day of February 2012.


JAMES T. RUSSELL
DISTRICT COURT JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of February, 2012, I placed a copy of the foregoing Order in the United States Mail, postage prepaid, addressed as follows:

Matthew D. Francis, Esq.
5371 Kietzke Lane
Reno, NV 89511

John Peter Lee
830 Las Vegas Blvd. South
Las Vegas, NV 89101



JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

1 MWCN
2 JOHN PETER LEE, LTD.
3 JOHN PETER LEE, ESQ.
4 Nevada Bar No. 001768
5 JOHN C. COURTNEY, ESQ.
6 Nevada Bar No. 011092
7 830 Las Vegas Boulevard South
8 Las Vegas, Nevada 89101
9 (702) 382-4044 Fax: (702) 383-9950
10 e-mail: info@johnpeterlee.com
11 Attorneys for Defendant
12 *Reza Zandian aka Golamreza Zandianjazi*
13 *aka Gholamreza Zandianjazi aka Gholam Reza Zandian*
14 *aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka*
15 *Ghononreza Zandian Jazi*

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9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**

11 JED MARGOLIN, an individual;
12
13 Plaintiff,

Case No.: 090C00579
Dept. No.: I

14 vs.

15 OPTIMA TECHNOLOGY CORPORATION,
16 a California corporation, OPTIMA
17 TECHNOLOGY CORPORATION, a Nevada
18 coporation, REZA ZANDIAN aka
19 GOLAMREZA ZANDIANJAZI aka
20 GHOLAM REZA ZANDIAN aka REZA
21 JAZI aka J. REZA JAZI AKA G. REZA JAZI
22 aka GHONONREZA ZANDIAN JAZI, an
23 individual, DOE Companies 1-10; DOE
24 Corporations 11-20, and DOE Individuals 21-
25 30,

26 Defendants.

1334.023382-td

27 **JOHN PETER LEE, LTD.'S MOTION TO WITHDRAW FROM REPRESENTATION**
28 **OF DEFENDANT REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM**
29 **REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka**
30 **GHONONREZA ZANDIAN JAZI**

31 COMES NOW, the law firm of JOHN PETER LEE, LTD., (the Firm) and moves this
32 Honorable Court for an Order to Withdraw from representation of Defendant REZA ZANDIAN aka
33 GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA
34 JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI. This Motion is made pursuant
35 to EDCR 7.40(b)(2). This Motion is based upon the following Points and Authorities, all pleadings
36 and papers on file herein, and the Affidavit of counsel attached hereto.

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
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NOTICE OF MOTION

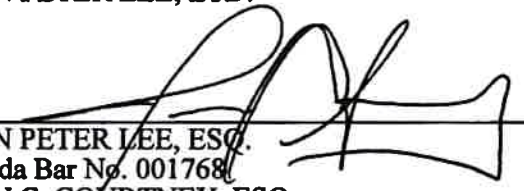
TO: JED MARGOLIN, Plaintiff;

TO: MATTHEW D. FRANCIS, ESQ., and ADAM P. MCMILLEN, Attorneys for Plaintiff;

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing JOHN PETER LEE, LTD.'S MOTION TO WITHDRAW FROM REPRESENTATION OF DEFENDANT REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI on for hearing before the above entitled Court on the _____ day of _____, 2012, at the hour of ___:00 __.m. of said date, in Department XIX or as soon thereafter as Counsel can be heard.

DATED this 6th day of March, 2012.

JOHN PETER LEE, LTD.

BY: 
JOHN PETER LEE, ESQ.
Nevada Bar No. 001768
JOHN C. COURTNEY, ESQ.
Nevada Bar No. 011092
830 Las Vegas Boulevard South
Las Vegas, Nevada 89101
Ph: (702) 382-4044
Attorneys for Defendant
Reza Zandian aka Golamreza Zandianjazi aka Gholamreza Zandianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi

DECLARATION OF COUNSEL

IN SUPPORT OF JOHN PETER LEE, LTD.'S MOTION TO WITHDRAW FROM REPRESENTATION OF DEFENDANT REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

JOHN C. COURTNEY, ESQ., states the following under the penalty of perjury:

1. Declarant has personal knowledge of the matters stated herein, except as to those matters stated upon information and belief, and as to such matters, believes such matters to be true

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1 and is competent to testify to the same. Declarant is an attorney licensed to practice law in Nevada
2 and is an associate attorney with the law firm of John Peter Lee, Ltd., which represents REZA
3 ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI
4 aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI.

5 2. The law firm of John Peter Lee, Ltd., and all of its attorneys, hereby seek to withdraw
6 as attorneys of record for REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM
7 REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA
8 ZANDIAN JAZI. Declarant files John Peter Lee, Ltd.'s Motion to Withdraw from Representation
9 of REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka
10 REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI.

11 3. To the best of Declarant's knowledge and belief the last known address and telephone
12 number at which Plaintiffs may be served or reached with notice of further proceedings taken in this
13 action is:

14 Reza Zandian
15 8775 Costa Verde Blvd.
16 San Diego, California 92122

17 4. The primary reason for requesting withdrawal is that the client no longer wishes to
18 pay fees to John Peter Lee, Ltd. for services rendered, or to be rendered, in the instant case.

19 5. There are also other reasons that the instant motion to withdraw as counsel is made;
20 however, Declarant does not wish to state said other reasons unless specifically compelled by the
21 Court, particularly because Declarant does not wish to reveal any more attorney-client privileged
22 information than that which is absolutely necessary in order for the Court to grant the instant motion
23 for withdrawal as counsel.

24 6. This Declaration is made in good faith.

25 FURTHERMORE, Declarant sayeth naught.

26 
27 JOHN C. COURTNEY, ESQ.
28

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
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LAS VEGAS, NEVADA 89101
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1 **POINTS AND AUTHORITIES**

2 Pursuant to EDCR 7.40(b)(2)(ii), Counsel in any case may be changed only ... (2) When no
3 attorney has been retained to replace the attorney withdrawing, by order of the court, granted upon
4 written motion, and

5 (i) If the application is made by the attorney, the attorney must
6 include in an affidavit the address, or last known address, at which
7 the client may be served with notice of further proceedings taken in
8 the case in the event the application for withdrawal is granted, and the
9 telephone number, or last known telephone number, at which the
10 client may be reached and the attorney must serve a copy of the
11 application upon the client and all other parties to the action or their
12 attorneys.

13 Pursuant to the above statutes and case law, John Peter Lee, Ltd. requests this Court for leave
14 to withdraw as counsel for Defendant REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka
15 GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka
16 GHONONREZA ZANDIAN JAZI, as the Firm has complied with the requirements of the local rule
17 for withdrawal, as attached and incorporated herein in the Declarant of counsel, John C. Courtney,
18 Esq., setting forth the grounds for the Firm's Motion.

19 DATED this 6th day of March, 2012.

20 JOHN PETER LEE, LTD.

21 BY: 
22 JOHN PETER LEE, ESQ.
23 Nevada Bar No. 001768
24 JOHN C. COURTNEY, ESQ.
25 Nevada Bar No. 011092
26 830 Las Vegas Boulevard South
27 Las Vegas, Nevada 89101
28 Ph: (702) 382-4044/Fax: (702) 383-9950
Attorneys for Defendant
*Reza Zandian aka Golamreza Zandianjazi
aka Gholamreza Zandianjazi aka Gholam Reza
Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza
Jazi aka Ghononreza Zandian Jazi*

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 17th day of March, 2012, I served a copy of the above and foregoing JOHN PETER LEE, LTD.'S MOTION TO WITHDRAW FROM REPRESENTATION OF DEFENDANT REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI, upon the appropriate parties hereto, by enclosing it in a sealed envelope, deposited in the United States mail, upon which first class postage was fully prepaid addressed to:

Matthew D. Francis
Adam P. McMillen
WATSON & ROUNDS
5371 Kietzke Lane
Reno, Nevada 89511


An Employee of JOHN PETER LEE, LTD.

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
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1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 *Attorneys for Plaintiff Jed Margolin*

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**In The First Judicial District Court of the State of Nevada
In and for Carson City**

JED MARGOLIN, an individual,

Plaintiff,

vs.

**OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE
Companies 1-10, DOE Corporations 11-20,
and DOE Individuals 21-30,**

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

**NOTICE OF INTENT TO
TAKE DEFAULT**

NOTICE IS HEREBY GIVEN that Plaintiff intends to take the default of Defendants Optima Technology Corporation, a California corporation, and Optima Technology Corporation, a Nevada corporation, on the 16th day of March 2012, for failure to file an Answer or otherwise respond to the First Amended Complaint on file. Each corporation was properly served by publication in The San Diego Union-Tribune, San Diego, California; The Las Vegas Review-Journal, Las Vegas, Nevada, and; The Reno Gazette-Journal, Reno, Nevada. See Affidavits of Service filed November 7, 2011.

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Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: March 9, 2012

WATSON ROUNDS

By: _____
Matthew D. Francis
Adam P. McMillen
Watson Rounds
5371 Kietzke Lane
Reno, NV 89511

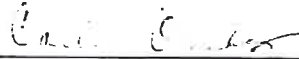
Attorneys for Plaintiff Jed Margolin

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I caused a true and correct copy of the foregoing document, **Notice of Intent to Take Default**, to be served by first-class mail through the U.S. Postal Service and by facsimile to:

John Peter Lee
John C. Courtney
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101
Facsimile, 702-383-9950

Dated: March 9, 2012



Carla Ousby

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Matthew D. Francis (6978)
Adam P. McMillen (10678)
WATSON ROUNDS
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

ORIGINAL

REC'D & FILED

2012 MAR -9 PM 1:22

ALAN GLOVER

BY *[Signature]* CLERK
DEPUTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

JED MARGOLIN, an individual,

Plaintiff,

vs.

**OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE
Companies 1-10, DOE Corporations 11-20,
and DOE Individuals 21-30,**

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

**REQUEST FOR EXEMPTION
FROM ARBITRATION**

VALUE IN EXCESS OF \$50,000

COMES NOW the Plaintiff, Jed Margolin, by and through his counsel of record,
Matthew D. Francis and Adam P. McMillen of the Law Firm of WATSON ROUNDS, P.C.,
and hereby requests that the above-entitled matter be exempt from arbitration pursuant to
Nevada Arbitration Rule 5, as this case involves an amount at issue in excess of \$50,000.00,
exclusive of interest and costs.

A summary of the facts which support this request for exemption is as follows:

///

1 **I. FACTUAL BACKGROUND**

2 Plaintiff Jed Margolin is the named inventor on numerous patents and patent
3 applications, including United States Patent No. 5,566,073 (“the ‘073 Patent”), United States
4 Patent No. 5,904,724 (“the ‘724 Patent”), United States Patent No. 5,978,488 (“the ‘488
5 Patent”) and United States Patent No. 6,377,436 (“the ‘436 Patent”) (collectively “the
6 Patents”). *See* Amended Complaint, dated 8/11/11, ¶ 9, on file herein. Mr. Margolin is the
7 legal owner and owner of record for the ‘488 and ‘436 Patents, and has never assigned those
8 patents. *Id.* at ¶ 10. In 2004, Mr. Margolin granted to Optima Technology Group (“OTG”), a
9 Cayman Islands Corporation specializing in aerospace technology, a Power of Attorney
10 regarding the ‘073 and ‘724 Patents. *Id.* at ¶ 11. Subsequently, Mr. Margolin assigned the
11 ‘073 and ‘724 Patents to OTG. *Id.* at ¶ 13.

12 In May 2006, OTG and Mr. Margolin licensed the ‘073 and ‘724 Patents to Geneva
13 Aerospace, Inc., and Mr. Margolin received a royalty payment pursuant to the royalty
14 agreement between Mr. Margolin and OTG. *Id.* at ¶ 12. In about October 2007, OTG licensed
15 the ‘073 Patent to Honeywell International, Inc., and Mr. Margolin received a royalty payment
16 pursuant to the royalty agreement between Mr. Margolin and OTG. *Id.* at ¶ 14.

17 On about December 5, 2007, Defendant Zandian filed with the U.S. Patent and
18 Trademark Office (“USPTO”) fraudulent assignment documents assigning all four of the
19 Patents to Optima Technology Corporation (“OTC”), a company apparently owned by
20 Defendant Zandian. *Id.* at ¶ 15. Upon discovery of the fraudulent filings, Mr. Margolin: (a)
21 filed a report with the Storey County Sheriff’s Department; (b) took action to regain record
22 title to the ‘488 and ‘436 Patents that he legally owned; and (c) assisted OTG in regaining
23 record title of the ‘073 and ‘724 Patents that it legally owned and upon which it contracted
24 with Mr. Margolin for royalties. *Id.* at ¶ 16.

25 Shortly before this, Mr. Margolin and OTG had been named as defendants in an action
26 for declaratory relief regarding non-infringement of the ‘073 and ‘724 Patents in the United
27 States District Court for the District of Arizona, in a case titled: *Universal Avionics Systems*
28 *Corporation v. Optima Technology Group, Inc.*, No. CV 07-588-TUC-RCC (the “Arizona

1 Action"). *Id.* at ¶ 17. Plaintiff in the Arizona Action asserted that Mr. Margolin and OTG
2 were not the owners of the '073 and '724 Patents, and Mr. Margolin and OTG filed a cross-
3 claim for declaratory relief against Optima Technology Corporation ("OTC") in order to
4 obtain legal title to the respective patents.

5 On August 18, 2008, the United States District Court for the District of Arizona
6 entered a default judgment in favor of Mr. Margolin and OTG on their declaratory relief
7 action, and ordered that OTC had no interest in the '073 or '724 Patents, and that the
8 assignment documents filed by OTC with the USPTO were "forged, invalid, void, of no force
9 and effect." *See Exhibit B to Zandian's Motion to Dismiss, on file herein.*

10 Due to Defendants' fraudulent acts, title to the Patents was clouded and interfered with
11 Plaintiff's and OTG's ability to license the Patents. Amended Complaint at ¶ 19. In addition,
12 during the period of time Mr. Margolin worked to correct record title of the Patents in the
13 Arizona Action and with the USPTO, he incurred significant litigation and other costs
14 associated with those efforts. *Id.* at ¶ 20.

15 II. PROCEDURAL BACKGROUND

16 Plaintiff filed his Complaint on December 11, 2009. Personal service on Defendant
17 Zandian was attempted on February 2, 2010. Based on that date of service, Zandian's answer
18 to the Complaint was due on or before February 22, 2010. Zandian did not answer the
19 Complaint or respond in any way. On December 2, 2010, a default was entered against
20 Zandian. Plaintiff then filed and served a Notice of Entry of Default on Zandian on December
21 7, 2010 and on his last known attorney on December 16, 2010.

22 On February 25, 2011, Plaintiff filed in this Court and served a certificate of service
23 indicating that the application for entry of default against Zandian was sent to attorney John
24 Peter Lee. On February 28, 2011, Plaintiff filed an application for default judgment against
25 Defendants Zandian, Optima Technology Corporation, a California Corporation, and Optima
26 Technology Corporation, a Nevada Corporation.

1 On March 1, 2011, a default judgment was entered against Zandian and the other
2 defendants for \$121,594.46. On March 7, 2011, notice of entry of that default was filed and
3 served by mail on Zandian and his counsel.

4 On June 9, 2011, Zandian filed a motion to dismiss and to set aside the default. On
5 August 3, 2011, this Court set aside the default, denied the motion to dismiss without prejudice
6 and granted Plaintiff ninety (90) days from August 3, 2011 to properly effectuate service of the
7 Complaint and Summons and/or an Amended Complaint.

8 On September 27, 2011, this Court ordered that service of process against Defendants
9 be made by publication in the San Diego Union-Tribune, the Reno Gazette-Journal and the Las
10 Vegas Review Journal. As reflected in the affidavits of service filed on November 7, 2011,
11 Defendants were served by publication in the San Diego Union-Tribune (09/23/2011;
12 09/30/2011; 10/07/2011; 10/14/2011), the Reno Gazette-Journal (09/16/2011; 09/23/2011;
13 09/30/2011; 10/07/2011) and the Las Vegas Review Journal (10/07/2011; 10/14/2011;
14 10/21/2011; 10/28/2011).

15 On November 16, 2011, Defendant Zandian served a motion to dismiss the amended
16 complaint. On February 21, 2012, the Court issued an order denying the motion to dismiss.
17 On March 5, 2012, Defendant Zandian served a general denial.

18 III. CONCLUSION

19 I hereby certify, pursuant to NRCP 11, that this case falls within the exemptions found
20 in Nevada Arbitration Rules 3 and 5 and that I am aware of the sanctions which may be
21 imposed against any attorney or party who without good cause or justification attempts to
22 remove a case from the court-annexed arbitration program.

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 9th day of March, 2012.

WATSON ROUNDS


BY: Adam McMillen
Matthew D. Francis (6978)
Adam P. McMillen (10678)
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I caused a true and correct copy of the foregoing document, **Request for Exemption From Arbitration**, to be served by first-class mail through the U.S. Postal Service and by facsimile to:

John Peter Lee
John C. Courtney
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101
Facsimile, 702-383-9950

Dated: March 9, 2012



Carla Ousby

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JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

1 MWCN
2 JOHN PETER LEE, LTD.
3 JOHN PETER LEE, ESQ.
4 Nevada Bar No. 001768
5 JOHN C. COURTNEY, ESQ.
6 Nevada Bar No. 011092
7 830 Las Vegas Boulevard South
8 Las Vegas, Nevada 89101
9 (702) 382-4044 Fax: (702) 383-9950
10 e-mail: info@johnpeterlee.com
11 Attorneys for Defendants
12 *Optima Technology Corporation,*
13 *Optima Technology Corporation, and*
14 *Reza Zandian aka Golamreza Zandianjazi*
15 *aka Gholamreza Zandianjazi aka Gholam Reza Zandian*
16 *aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka*
17 *Ghononreza Zandian Jazi*

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ALAN GLOVER
BY  CLERK

10 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11 IN AND FOR CARSON CITY

12 JED MARGOLIN, an individual;

13 Plaintiff,

14 vs.

15 OPTIMA TECHNOLOGY CORPORATION,
16 a California corporation, OPTIMA
17 TECHNOLOGY CORPORATION, a Nevada
18 coporation, REZA ZANDIAN aka
19 GOLAMREZA ZANDIANJAZI aka
20 GHOLAM REZA ZANDIAN aka REZA
21 JAZI aka J. REZA JAZI AKA G. REZA JAZI
22 aka GHONONREZA ZANDIAN JAZI, an
23 individual, DOE Companies 1-10; DOE
24 Corporations 11-20, and DOE Individuals 21-
25 30,

26 Defendants.

Case No.: 090C00579

Dept. No.: I

1334.023382-td

22 **JOHN PETER LEE, LTD.'S AMENDED MOTION TO WITHDRAW FROM**
23 **REPRESENTATION OF DEFENDANTS OPTIMA TECHNOLOGY CORPORATION, A**
24 **CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A**
25 **NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI**
26 **aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA**
27 **JAZI aka GHONONREZA ZANDIAN JAZI**

26 COMES NOW, the law firm of JOHN PETER LEE, LTD., (the Firm) and moves this
27 Honorable Court for an Order to Withdraw from representation of Defendants OPTIMA
28 TECHNOLOGY CORPORATION, A CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

1 CORPORATION, A NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA
2 ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G.
3 REZA JAZI aka GHONONREZA ZANDIAN JAZI.

4 This Motion is made pursuant to EDCR 7.40(b)(2). This Motion is based upon the
5 following Points and Authorities, all pleadings and papers on file herein, and the Affidavit of counsel
6 attached hereto.

7 **NOTICE OF MOTION**

8 TO: JED MARGOLIN, Plaintiff;

9 TO: MATTHEW D. FRANCIS, ESQ., and ADAM P. MCMILLEN, Attorneys for Plaintiff;

10 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing JOHN
11 PETER LEE, LTD.'S AMENDED MOTION TO WITHDRAW FROM REPRESENTATION OF
12 DEFENDANTS OPTIMA TECHNOLOGY CORPORATION, A CALIFORNIA CORPORATION;
13 OPTIMA TECHNOLOGY CORPORATION, A NEVADA CORPORATION; AND REZA
14 ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI
15 aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI on for hearing
16 before the above entitled Court on the _____ day of _____, 2012,
17 at the hour of ___:00 __.m. of said date, in Department XIX or as soon thereafter as Counsel can be
18 heard.

19 DATED this 13th day of March, 2012.

20 JOHN PETER LEE, LTD.

21 BY: 
22 JOHN PETER LEE, ESQ.
23 Nevada Bar No. 001768
24 JOHN C. COURTNEY, ESQ.
25 Nevada Bar No. 011092
26 830 Las Vegas Boulevard South
27 Las Vegas, Nevada 89101
28 Ph: (702) 382-4044
Attorneys for Defendants
*Optima Technology Corporation,
Optima Technology Corporation, and
Reza Zandian aka Golamreza Zandianjazi
aka Gholamreza Zandianjazi aka Gholam Reza
Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza
Jazi aka Ghononreza Zandian Jazi*

1 **DECLARATION OF COUNSEL**
2 **IN SUPPORT OF JOHN PETER LEE, LTD.'S AMENDED MOTION TO WITHDRAW**
3 **FROM REPRESENTATION OF DEFENDANTS OPTIMA TECHNOLOGY, A**
4 **CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A**
5 **NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI**
6 **aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA**
7 **JAZI aka GHONONREZA ZANDIAN JAZI**

8 STATE OF NEVADA)
9) ss:
10 COUNTY OF CLARK)

11 JOHN C. COURTNEY, ESQ., states the following under the penalty of perjury:

12 1. Declarant has personal knowledge of the matters stated herein, except as to those
13 matters stated upon information and belief, and as to such matters, believes such matters to be true
14 and is competent to testify to the same. Declarant is an attorney licensed to practice law in Nevada
15 and is an associate attorney with the law firm of John Peter Lee, Ltd., which represents OPTIMA
16 TECHNOLOGY, A CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY
17 CORPORATION, A NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA
18 ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G.
19 REZA JAZI aka GHONONREZA ZANDIAN JAZI.

20 2. The law firm of John Peter Lee, Ltd., and all of its attorneys, hereby seek to withdraw
21 as attorneys of record for OPTIMA TECHNOLOGY, A CALIFORNIA CORPORATION; OPTIMA
22 TECHNOLOGY CORPORATION, A NEVADA CORPORATION; AND REZA ZANDIAN aka
23 GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA
24 JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI. Declarant files JOHN PETER
25 LEE, LTD.'S AMENDED MOTION TO WITHDRAW FROM REPRESENTATION OF
26 DEFENDANTS OPTIMA TECHNOLOGY, A CALIFORNIA CORPORATION; OPTIMA
27 TECHNOLOGY CORPORATION, A NEVADA CORPORATION; AND REZA ZANDIAN aka
28 GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA
JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI.

26 ...
27 ...
28 ...

1 3. To the best of Declarant's knowledge and belief the last known address and telephone
2 number at which Plaintiffs may be served or reached with notice of further proceedings taken in this
3 action is:

4 Reza Zandian
5 8775 Costa Verde Blvd.
6 San Diego, California 92122

7 4. The primary reason for requesting withdrawal is that the client no longer wishes to
8 pay fees to John Peter Lee, Ltd. for services rendered, or to be rendered, in the instant case.

9 5. There are also other reasons that the instant motion to withdraw as counsel is made;
10 however, Declarant does not wish to state said other reasons unless specifically compelled by the
11 Court, particularly because Declarant does not wish to reveal any more attorney-client privileged
12 information than that which is absolutely necessary in order for the Court to grant the instant motion
13 for withdrawal as counsel.

14 6. This Declaration is made in good faith.

15 FURTHERMORE, Declarant sayeth naught.

16 
17 JOHN C. COURTNEY, ESQ.

18 **POINTS AND AUTHORITIES**

19 Pursuant to EDCR 7.40(b)(2)(ii), Counsel in any case may be changed only ... (2) When no
20 attorney has been retained to replace the attorney withdrawing, by order of the court, granted upon
21 written motion, and

22 (i) If the application is made by the attorney, the attorney must
23 include in an affidavit the address, or last known address, at which
24 the client may be served with notice of further proceedings taken in
25 the case in the event the application for withdrawal is granted, and the
26 telephone number, or last known telephone number, at which the
27 client may be reached and the attorney must serve a copy of the
28 application upon the client and all other parties to the action or their
attorneys.

Pursuant to the above statutes and case law, John Peter Lee, Ltd. requests this Court for leave
to withdraw as counsel for Defendants OPTIMA TECHNOLOGY, A CALIFORNIA

1 CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A NEVADA CORPORATION;
2 AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN
3 aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI,
4 as the Firm has complied with the requirements of the local rule for withdrawal, as attached and
5 incorporated herein in the Declarant of counsel, John C. Courtney, Esq., setting forth the grounds
6 for the Firm's Motion.

7 DATED this ^{24th} 12 day of March, 2012.

8 JOHN PETER LEE, LTD

9
10 BY: 
11 JOHN PETER LEE, ESQ.
12 Nevada Bar No. 001768
13 JOHN C. COURTNEY, ESQ.
14 Nevada Bar No. 011092
15 830 Las Vegas Boulevard South
16 Las Vegas, Nevada 89101
17 Ph: (702) 382-4044/Fax: (702) 383-9950
18 Attorneys for Defendants
19 *Optima Technology Corporation,*
20 *Optima Technology Corporation, and*
21 *Reza Zandian aka Golamreza Zandianjazi*
22 *aka Gholamreza Zandianjazi aka Gholam Reza*
23 *Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza*
24 *Jazi aka Ghononreza Zandian Jazi*

1 CERTIFICATE OF MAILING

2 I HEREBY CERTIFY that on the ___ day of March, 2012, I served a copy of the above and
3 foregoing JOHN PETER LEE, LTD.'S AMENDED MOTION TO WITHDRAW FROM
4 REPRESENTATION OF DEFENDANTS OPTIMA TECHNOLOGY CORPORATION, A
5 CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A NEVADA
6 CORPORATION; AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM
7 REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA
8 ZANDIAN JAZI , upon the appropriate parties hereto, by enclosing it in a sealed envelope, deposited
9 in the United States mail, upon which first class postage was fully prepaid addressed to:

10 Matthew D. Francis
11 Adam P. McMillen
12 WATSON & ROUNDS
13 5371 Kietzke Lane
14 Reno, Nevada 89511

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An Employee of JOHN PETER LEE, LTD.

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
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1 JOHN PETER LEE, LTD.
2 JOHN PETER LEE, ESQ.
3 Nevada Bar No. 001768
4 JOHN C. COURTNEY, ESQ.
5 Nevada Bar No. 011092
6 830 Las Vegas Boulevard South
7 Las Vegas, Nevada 89101
8 (702) 382-4044 Fax: (702) 383-9950
9 e-mail: info@johnpeterlee.com

Attorneys for Defendant
Optima Technology Corporation,
Reza Zandian aka Golamreza Zandianjazi
aka Gholamreza Zandianjazi aka Gholam Reza Zandian
aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka
Ghonorreza Zandian Jazi

REC'D & FILED

2012 MAR 14 PM 1:00

ALAN GLOVER

BY ALAN GLOVER CLERK
DEPUTY

10 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
11 **IN AND FOR CARSON CITY**

12 JED MARGOLIN, an individual;

13 Plaintiff,

14 vs.

15 OPTIMA TECHNOLOGY CORPORATION,
16 a California corporation, OPTIMA
17 TECHNOLOGY CORPORATION, a Nevada
18 coporation, REZA ZANDIAN aka
19 GOLAMREZA ZANDIANJAZI aka
20 GHOLAM REZA ZANDIAN aka REZA
21 JAZI aka J. REZA JAZI AKA G. REZA JAZI
22 aka GHONONREZA ZANDIAN JAZI, an
23 individual, DOE Companies 1-10; DOE
24 Corporations 11-20, and DOE Individuals 21-
25 30,

26 Defendants.

Case No.: 090C00579

Dept. No.: I

27 1334.023382-td

28 **GENERAL DENIAL**

29 COMES NOW the Defendant, OPTIMA TECHNOLOGY CORPORATION, a California
30 Corporation and OPTIMA TECHNOLOGY CORPORATION, a Nevada Corporation, by and
31 through itd attorney of record, JOHN PETER LEE, LTD., and files its General Denial as follows:

32 The Defendant denies each and every allegation contained in the Amended Complaint on file
33 herein.

34 ...

ATTORNEYS' FEES

Defendant has been required to retain the services of JOHN PETER LEE, LTD. to defend against this action, and he is entitled to reasonable attorneys' fees therefor.

WHEREFORE, Defendant(s) pray(s) judgment as follows:

1. That Plaintiff take nothing by virtue of his Complaint on file herein and that the same be forthwith dismissed with prejudice;
2. Reasonable attorneys' fees;
3. Costs incurred herein;
4. And for such other and further relief as to this Court may seem proper.

DATED this 13th day of March, 2012.

JOHN PETER LEE, LTD.

BY: 
 JOHN PETER LEE, ESQ.
 Nevada Bar No. 001768
 JOHN C. COURTNEY, ESQ.
 Nevada Bar No. 011092
 830 Las Vegas Boulevard South
 Las Vegas, Nevada 89101
 Ph: (702) 382-4044/Fax: (702) 383-9950
 Attorneys for Defendant

JOHN PETER LEE, LTD.
 ATTORNEYS AT LAW
 830 LAS VEGAS BLVD. SOUTH
 LAS VEGAS, NEVADA 89101
 Telephone (702) 382-4044
 Telecopier (702) 383-9950

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 13th day of March, 2012, I served a copy of the above and foregoing GENERAL DENIAL, upon the appropriate parties hereto, by enclosing it in a sealed envelope, deposited in the United States mail, upon which first class postage was fully prepaid addressed to:

Matthew D. Francis
Adam P. McMillen
WATSON & ROUNDS
5371 Kietzke Lane
Reno, Nevada 89511



An Employee of JOHN PETER LEE, LTD.

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
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ORIGINAL

1 Matthew D. Francis (6978)
Adam P. McMillen (10678)
2 WATSON ROUNDS
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3 Reno, NV 89511
Telephone: 775-324-4100
4 Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

REC'D & FILED

2012 MAR 16 PM 4: 01

ALAN GLOVER
BY  CLERK
DEPUTY

7 **In The First Judicial District Court of the State of Nevada**
8 **In and for Carson City**

10 **JED MARGOLIN, an individual,**

11 **Plaintiff,**

12 **vs.**

13 **OPTIMA TECHNOLOGY CORPORATION,**
14 **a California corporation, OPTIMA**
TECHNOLOGY CORPORATION, a Nevada
15 **corporation, REZA ZANDIAN**
aka GOLAMREZA ZANDIANJAZI
16 **aka GHOLAM REZA ZANDIAN**
aka REZA JAZI aka J. REZA JAZI
17 **aka G. REZA JAZI aka GHONONREZA**
ZANDIAN JAZI, an individual, DOE
18 **Companies 1-10, DOE Corporations 11-20,**
19 **and DOE Individuals 21-30,**

20 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

NOTICE OF NON-OPPOSITION
TO JOHN PETER LEE, LTD'S
MOTION TO WITHDRAW
FROM REPRESENTATION

21
22 COMES NOW plaintiff, Jed Margolin, by and through undersigned counsel of record,
23 Matthew D. Francis and Adam P. McMillen of Watson Rounds and files this non-opposition to
24 John Peter Lee, Ltd's Motion to Withdraw from Representation of Defendant Reza Zandian aka
25 Golamreza Zandianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza aka G. Reza Jazi
26 aka Ghononreza Zandian Jazi.

27 ///

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Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: March 15, 2012

WATSON ROUNDS

By: /s/ Adam P. McMillen

Matthew D. Francis
Adam P. McMillen
Watson Rounds
5371 Kietzke Lane
Reno, NV 89511

Attorneys for Plaintiff Jed Margolin

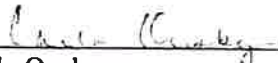
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Notice of Non-Opposition of John Peter Lee, Ltd's Motion to Withdraw from Representation**, addressed as follows:

John Peter Lee
John C. Courtney
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101
Facsimile, 702-383-9950

Dated: March 15, 2012



Carla Ousby

ORIGINAL

REC'D & FILED

2012 MAR 16 PM 4:01

BY ALAN GLOVER
DEPUTY CLERK

1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 *Attorneys for Plaintiff Jed Margolin*

9
10 **In The First Judicial District Court of the State of Nevada**
11 **In and for Carson City**

12 **JED MARGOLIN, an individual,**

13 **Plaintiff,**

14 **vs.**

15 **OPTIMA TECHNOLOGY CORPORATION,**
16 **a California corporation, OPTIMA**
17 **TECHNOLOGY CORPORATION, a Nevada**
18 **corporation, REZA ZANDIAN aka**
19 **GOLAMREZA ZANDIANJAZI aka**
20 **GHOLAM REZA ZANDIAN aka REZA JAZI**
21 **aka J. REZA JAZI aka G. REZA JAZI aka**
22 **GHONONREZA ZANDIAN JAZI, an**
23 **individual, DOE Companies**
24 **1-10, DOE Corporations 11-20, and DOE**
25 **Individuals 21-30,**

26 **Defendants.**

27 **Case No.: 090C00579 1B**

28 **Dept. No.: 1**

DECLARATION OF ADAM P.
MCMILLEN IN SUPPORT OF THE
NOTICE OF NON-OPPOSITION TO
JOHN PETER LEE, LTD'S MOTION
TO WITHDRAW FROM
REPRESENTATION

29 I, Adam P. McMillen, being first duly sworn, under oath, depose and say:

30 1. I am an associate at the law firm of Watson Rounds located at 5371 Kietzke
31 Lane, Reno, Nevada 89511. I represent the Plaintiff, Jed Margolin, in the above referenced
32 cause of action against the named Defendants. This declaration is based upon my personal
33 knowledge, and is made in support of Plaintiff's Notice of Non-opposition to John Peter Lee,
34 Ltd's Motion to Withdraw from Representation of Defendant Reza Zandian aka Golamreza

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Zandianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza aka G. Reza Jazi aka Ghononreza Zandian Jazi.

2. Attached as Exhibit A is a true and correct copy of said motion, which was delivered to Watson Rounds by the U.S. Postal Service on March 9, 2012.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: March 15, 2012

WATSON ROUNDS

By: /s/ Adam P. McMillen
Matthew D. Francis
Adam P. McMillen
Watson Rounds
5371 Kietzke Lane
Reno, NV 89511

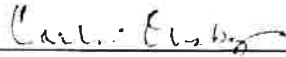
Attorneys for Plaintiff Jed Margolin

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Declaration of Adam P. McMillen in Support of the Notice of Non-Opposition of John Peter Lee, Ltd's Motion to Withdraw from Representation**, addressed as follows:

John Peter Lee
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101

Dated: March 15, 2012



Carla Ousby

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Index of Exhibits

Exhibit No.	Description	No. of Pages
1	A true and correct copy of John Peter Lee, Ltd's Motion to Withdraw from Representation of Defendant Reza Zandian aka Golamreza Zandianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza aka G. Reza Jazi aka Ghononreza Zandian Jazi	5

Exhibit A

Exhibit A

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

1 MWCN
JOHN PETER LEE, LTD.
2 JOHN PETER LEE, ESQ.
Nevada Bar No. 001768
3 JOHN C. COURTNEY, ESQ.
Nevada Bar No. 011092
4 830 Las Vegas Boulevard South
Las Vegas, Nevada 89101
5 (702) 382-4044 Fax: (702) 383-9950
e-mail: info@johnpeterlee.com
6 Attorneys for Defendant
Reza Zandian aka Golamreza Zandianjazi
7 *aka Gholamreza Zandianjazi aka Gholam Reza Zandian*
aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka
8 *Ghononreza Zandian Jazi*

9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**

11 JED MARGOLIN, an individual;
12 Plaintiff,

Case No.: 090C00579
Dept. No.: I

13 vs.

14 OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
15 TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN aka
16 GOLAMREZA ZANDIANJAZI aka
GHOLAM REZA ZANDIAN aka REZA
17 JAZI aka J. REZA JAZI AKA G. REZA JAZI
aka GHONONREZA ZANDIAN JAZI, an
18 individual, DOE Companies 1-10; DOE
Corporations 11-20, and DOE Individuals 21-
19 30,

20 Defendants.

1334.023382-td

21 **JOHN PETER LEE, LTD.'S MOTION TO WITHDRAW FROM REPRESENTATION**
22 **OF DEFENDANT REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM**
23 **REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka**
GHONONREZA ZANDIAN JAZI

24 COMES NOW, the law firm of JOHN PETER LEE, LTD., (the Firm) and moves this
25 Honorable Court for an Order to Withdraw from representation of Defendant REZA ZANDIAN aka
26 GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA
27 JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI. This Motion is made pursuant
28 to EDCR 7.40(b)(2). This Motion is based upon the following Points and Authorities, all pleadings
and papers on file herein, and the Affidavit of counsel attached hereto.

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

NOTICE OF MOTION

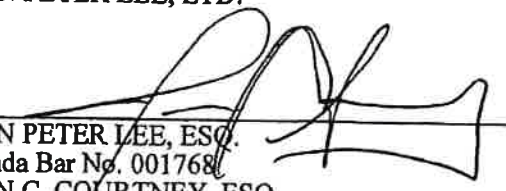
TO: JED MARGOLIN, Plaintiff;

TO: MATTHEW D. FRANCIS, ESQ., and ADAM P. MCMILLEN, Attorneys for Plaintiff;

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing JOHN PETER LEE, LTD. 'S MOTION TO WITHDRAW FROM REPRESENTATION OF DEFENDANT REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI on for hearing before the above entitled Court on the _____ day of _____, 2012, at the hour of ____:00 __.m. of said date, in Department XIX or as soon thereafter as Counsel can be heard.

DATED this 6th day of March, 2012.

JOHN PETER LEE, LTD.

BY: 
JOHN PETER LEE, ESQ.
Nevada Bar No. 001768
JOHN C. COURTNEY, ESQ.
Nevada Bar No. 011092
830 Las Vegas Boulevard South
Las Vegas, Nevada 89101
Ph: (702) 382-4044
Attorneys for Defendant
Reza Zandian aka Golamreza Zandianjazi aka Gholamreza Zandianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi

DECLARATION OF COUNSEL
IN SUPPORT OF JOHN PETER LEE, LTD.'S MOTION TO WITHDRAW FROM REPRESENTATION OF DEFENDANT REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

JOHN C. COURTNEY, ESQ., states the following under the penalty of perjury:

1. Declarant has personal knowledge of the matters stated herein, except as to those matters stated upon information and belief, and as to such matters, believes such matters to be true

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

1 and is competent to testify to the same. Declarant is an attorney licensed to practice law in Nevada
2 and is an associate attorney with the law firm of John Peter Lee, Ltd., which represents REZA
3 ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI
4 aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI.

5 2. The law firm of John Peter Lee, Ltd., and all of its attorneys, hereby seek to withdraw
6 as attorneys of record for REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM
7 REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA
8 ZANDIAN JAZI. Declarant files John Peter Lee, Ltd.'s Motion to Withdraw from Representation
9 of REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka
10 REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI.

11 3. To the best of Declarant's knowledge and belief the last known address and telephone
12 number at which Plaintiffs may be served or reached with notice of further proceedings taken in this
13 action is:


14 Reza Zandian
15 8775 Costa Verde Blvd.
16 San Diego, California 92122

17 4. The primary reason for requesting withdrawal is that the client no longer wishes to
18 pay fees to John Peter Lee, Ltd. for services rendered, or to be rendered, in the instant case.

19 5. There are also other reasons that the instant motion to withdraw as counsel is made;
20 however, Declarant does not wish to state said other reasons unless specifically compelled by the
21 Court, particularly because Declarant does not wish to reveal any more attorney-client privileged
22 information than that which is absolutely necessary in order for the Court to grant the instant motion
23 for withdrawal as counsel.

24 6. This Declaration is made in good faith.

25 FURTHERMORE, Declarant sayeth naught.

26 
27 JOHN C. COURTNEY, ESQ.
28

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

1 POINTS AND AUTHORITIES

2 Pursuant to EDCR 7.40(b)(2)(ii), Counsel in any case may be changed only ... (2) When no
3 attorney has been retained to replace the attorney withdrawing, by order of the court, granted upon
4 written motion, and

5 (i) If the application is made by the attorney, the attorney must
6 include in an affidavit the address, or last known address, at which
7 the client may be served with notice of further proceedings taken in
8 the case in the event the application for withdrawal is granted, and the
9 telephone number, or last known telephone number, at which the
10 client may be reached and the attorney must serve a copy of the
11 application upon the client and all other parties to the action or their
12 attorneys.

13 Pursuant to the above statutes and case law, John Peter Lee, Ltd. requests this Court for leave
14 to withdraw as counsel for Defendant REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka
15 GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka
16 GHONONREZA ZANDIAN JAZI, as the Firm has complied with the requirements of the local rule
17 for withdrawal, as attached and incorporated herein in the Declarant of counsel, John C. Courtney,
18 Esq., setting forth the grounds for the Firm's Motion.

19 DATED this 6th day of March, 2012.

20 JOHN PETER LEE, LTD.

21 BY: 
22 JOHN PETER LEE, ESQ.
23 Nevada Bar No. 001768
24 JOHN C. COURTNEY, ESQ.
25 Nevada Bar No. 011092
26 830 Las Vegas Boulevard South
27 Las Vegas, Nevada 89101
28 Ph: (702) 382-4044/Fax: (702) 383-9950
Attorneys for Defendant
*Reza Zandian aka Golamreza Zandianjazi
aka Gholamreza Zandianjazi aka Gholam Reza
Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza
Jazi aka Ghononreza Zandian Jazi*

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
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CERTIFICATE OF MAILING


I HEREBY CERTIFY that on the 10th day of March, 2012, I served a copy of the above and foregoing JOHN PETER LEE, LTD.'S MOTION TO WITHDRAW FROM REPRESENTATION OF DEFENDANT REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI, upon the appropriate parties hereto, by enclosing it in a sealed envelope, deposited in the United States mail, upon which first class postage was fully prepaid addressed to:

Matthew D. Francis
Adam P. McMillen
WATSON & ROUNDS
5371 Kietzke Lane
Reno, Nevada 89511


An Employee of JOHN PETER LEE, LTD.

ORIGINA

1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 Attorneys for Plaintiff Jed Margolin

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**In The First Judicial District Court of the State of Nevada
In and for Carson City**

JED MARGOLIN, an individual,

Plaintiff,

vs.

**OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE
Companies 1-10, DOE Corporations 11-20,
and DOE Individuals 21-30,**

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

**NOTICE OF NON-OPPOSITION
TO JOHN PETER LEE, LTD'S
AMENDED MOTION TO WITHDRAW
FROM REPRESENTATION**

COMES NOW plaintiff, Jed Margolin, by and through undersigned counsel of record, Matthew D. Francis and Adam P. McMillen of Watson Rounds and files this non-opposition to John Peter Lee, Ltd's Amended Motion to Withdraw from Representation of Defendants Optima Technology Corporation, a California corporation; Optima Technology Corporation, a Nevada corporation; and Reza Zandian aka Golamreza Zandianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi.

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Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: March 29, 2012

WATSON ROUNDS

By: /s/ Adam P. McMillen
Matthew D. Francis
Adam P. McMillen
Watson Rounds
5371 Kietzke Lane
Reno, NV 89511

Attorneys for Plaintiff Jed Margolin


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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Notice of Non-Opposition of John Peter Lee, Ltd's Amended Motion to Withdraw from Representation**, addressed as follows:

John Peter Lee
John C. Courtney
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101
Facsimile, 702-383-9950

Dated: March 29, 2012



Carla Ousby

ORIGINAL

REC'D & FILED
2012 MAR 30 PM 1:08
ALAN GLOVER
BY [Signature] DEPUTY CLERK

1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 Attorneys for Plaintiff Jed Margolin

9
10 **In The First Judicial District Court of the State of Nevada**
11 **In and for Carson City**

12 **JED MARGOLIN, an individual,**
13 **Plaintiff,**

Case No.: 090C00579 1B

14 vs.

Dept. No.: 1

15 **OPTIMA TECHNOLOGY CORPORATION,**
16 **a California corporation, OPTIMA**
17 **TECHNOLOGY CORPORATION, a Nevada**
18 **corporation, REZA ZANDIAN aka**
19 **GOLAMREZA ZANDIANJAZI aka**
20 **GHOLAM REZA ZANDIAN aka REZA JAZI**
21 **aka J. REZA JAZI aka G. REZA JAZI aka**
22 **GHONONREZA ZANDIAN JAZI, an**
23 **individual, DOE Companies**
24 **1-10, DOE Corporations 11-20, and DOE**
25 **Individuals 21-30,**

DECLARATION OF ADAM P.
MCMILLEN IN SUPPORT OF
THE NOTICE OF NON-OPPOSITION
TO JOHN PETER LEE, LTD'S
AMENDED MOTION TO
WITHDRAW FROM
REPRESENTATION

26 **Defendants.**

27 I, Adam P. McMillen, being first duly sworn, under oath, depose and say:
28 I am an associate at the law firm of Watson Rounds located at 5371 Kietzke Lane, Reno,
Nevada 89511. I represent the Plaintiff, Jed Margolin, in the above referenced cause of action
against the named Defendants. This declaration is based upon my personal knowledge, and is
made in support of Plaintiff's Notice of Non-opposition to John Peter Lee, Ltd's Amended
Motion to Withdraw from Representation of Defendants Optima Technology Corporation, a
California corporation; Optima Technology Corporation, a Nevada corporation; and Reza

843

1 Zandian aka Golamreza Zandianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi
2 aka G. Reza Jazi aka Ghononreza Zandian Jazi.

3 1. Attached as **Exhibit A** is a true and correct copy of said motion, which was
4 delivered to Watson Rounds by the U.S. Postal Service on March 16, 2012.

5 I declare under penalty of perjury that the foregoing is true and correct to the best of
6 my knowledge.

7 **Affirmation Pursuant to NRS 239B.030**

8 The undersigned does hereby affirm that the preceding document does not contain the
9 social security number of any person.

10 DATED: March 29, 2012

WATSON ROUNDS

11
12 By: /s/ Adam P. McMillen
13 Matthew D. Francis
14 Adam P. McMillen
15 Watson Rounds
16 5371 Kietzke Lane
17 Reno, NV 89511

Attorneys for Plaintiff Jed Margolin

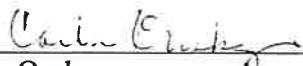
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Declaration of Adam P. McMillen in Support of the Notice of Non-Opposition of John Peter Lee, Ltd's Amended Motion to Withdraw from Representation**, addressed as follows:

John Peter Lee
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101

Dated: March 29, 2012



Carla Ousby

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Index of Exhibits

Exhibit No.	Description	No. of Pages
A	A true and correct copy of John Peter Lee, Ltd's Amended Motion to Withdraw from Representation of Defendants Optima Technology Corporation, a California corporation; Optima Technology Corporation, a Nevada corporation; and Reza Zandian aka Golamreza Zandianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi,	6

846

Exhibit A

Exhibit A

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

1 MWCN
2 JOHN PETER LEE, LTD.
3 JOHN PETER LEE, ESQ.
4 Nevada Bar No. 001768
5 JOHN C. COURTNEY, ESQ.
6 Nevada Bar No. 011092
7 830 Las Vegas Boulevard South
8 Las Vegas, Nevada 89101
9 (702) 382-4044 Fax: (702) 383-9950
10 e-mail: info@johnpeterlee.com
11 Attorneys for Defendants
12 *Optima Technology Corporation,*
13 *Optima Technology Corporation, and*
14 *Reza Zandian aka Golamreza Zandianjazi*
15 *aka Gholamreza Zandianjazi aka Gholam Reza Zandian*
16 *aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka*
17 *Ghononreza Zandian Jazi*

18 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
19 **IN AND FOR CARSON CITY**

20 JED MARGOLIN, an individual;

21 Plaintiff,

22 vs.

23 OPTIMA TECHNOLOGY CORPORATION,
24 a California corporation, OPTIMA
25 TECHNOLOGY CORPORATION, a Nevada
26 coporation, REZA ZANDIAN aka
27 GOLAMREZA ZANDIANJAZI aka
28 GHOLAM REZA ZANDIAN aka REZA
29 JAZI aka J. REZA JAZI AKA G. REZA JAZI
30 aka GHONONREZA ZANDIAN JAZI, an
31 individual, DOE Companies 1-10; DOE
32 Corporations 11-20, and DOE Individuals 21-
33 30,

34 Defendants.

Case No.: 090C00579

Dept. No.: I

1334.023382-td

35 **JOHN PETER LEE, LTD.'S AMENDED MOTION TO WITHDRAW FROM**
36 **REPRESENTATION OF DEFENDANTS OPTIMA TECHNOLOGY CORPORATION, A**
37 **CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A**
38 **NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI**
39 **aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA**
40 **JAZI aka GHONONREZA ZANDIAN JAZI**

41 COMES NOW, the law firm of JOHN PETER LEE, LTD., (the Firm) and moves this
42 Honorable Court for an Order to Withdraw from representation of Defendants OPTIMA
43 TECHNOLOGY CORPORATION, A CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

1 CORPORATION, A NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA
2 ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G.
3 REZA JAZI aka GHONONREZA ZANDIAN JAZI.

4 This Motion is made pursuant to EDCR 7.40(b)(2). This Motion is based upon the
5 following Points and Authorities, all pleadings and papers on file herein, and the Affidavit of counsel
6 attached hereto.

7 **NOTICE OF MOTION**

8 TO: JED MARGOLIN, Plaintiff;

9 TO: MATTHEW D. FRANCIS, ESQ., and ADAM P. MCMILLEN, Attorneys for Plaintiff;

10 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing JOHN
11 PETER LEE, LTD.'S AMENDED MOTION TO WITHDRAW FROM REPRESENTATION OF
12 DEFENDANTS OPTIMA TECHNOLOGY CORPORATION, A CALIFORNIA CORPORATION;
13 OPTIMA TECHNOLOGY CORPORATION, A NEVADA CORPORATION; AND REZA
14 ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAMREZA ZANDIAN aka REZA JAZI
15 aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI on for hearing
16 before the above entitled Court on the _____ day of _____, 2012,
17 at the hour of __:00 __.m. of said date, in Department XIX or as soon thereafter as Counsel can be
18 heard.

19 DATED this 13th day of March, 2012.

20 JOHN PETER LEE, LTD.

21 BY: 

22 JOHN PETER LEE, ESQ.

23 Nevada Bar No. 001768

24 JOHN C. COURTNEY, ESQ.

25 Nevada Bar No. 011092

26 830 Las Vegas Boulevard South

27 Las Vegas, Nevada 89101

28 Ph: (702) 382-4044

Attorneys for Defendants

Optima Technology Corporation,

Optima Technology Corporation, and

Reza Zandian aka Golamreza Zandianjazi

aka Gholamreza Zandianjazi aka Gholam Reza

Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza

Jazi aka Ghononreza Zandian Jazi

DECLARATION OF COUNSEL
 IN SUPPORT OF JOHN PETER LEE, LTD.'S AMENDED MOTION TO WITHDRAW
 FROM REPRESENTATION OF DEFENDANTS OPTIMA TECHNOLOGY, A
 CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A
 NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI
 aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA
 JAZI aka GHONONREZA ZANDIAN JAZI

STATE OF NEVADA)
) ss:
 COUNTY OF CLARK)

JOHN C. COURTNEY, ESQ., states the following under the penalty of perjury:

1. Declarant has personal knowledge of the matters stated herein, except as to those matters stated upon information and belief, and as to such matters, believes such matters to be true and is competent to testify to the same. Declarant is an attorney licensed to practice law in Nevada and is an associate attorney with the law firm of John Peter Lee, Ltd., which represents OPTIMA TECHNOLOGY, A CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI.

2. The law firm of John Peter Lee, Ltd., and all of its attorneys, hereby seek to withdraw as attorneys of record for OPTIMA TECHNOLOGY, A CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI. Declarant files JOHN PETER LEE, LTD.'S AMENDED MOTION TO WITHDRAW FROM REPRESENTATION OF DEFENDANTS OPTIMA TECHNOLOGY, A CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A NEVADA CORPORATION; AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI.

...

...

...

1 3. To the best of Declarant's knowledge and belief the last known address and telephone
2 number at which Plaintiffs may be served or reached with notice of further proceedings taken in this
3 action is:


4 Reza Zandian
5 8775 Costa Verde Blvd.
6 San Diego, California 92122

7 4. The primary reason for requesting withdrawal is that the client no longer wishes to
8 pay fees to John Peter Lee, Ltd. for services rendered, or to be rendered, in the instant case.

9 5. There are also other reasons that the instant motion to withdraw as counsel is made;
10 however, Declarant does not wish to state said other reasons unless specifically compelled by the
11 Court, particularly because Declarant does not wish to reveal any more attorney-client privileged
12 information than that which is absolutely necessary in order for the Court to grant the instant motion
13 for withdrawal as counsel.

14 6. This Declaration is made in good faith.

15 FURTHERMORE, Declarant sayeth naught.

16 
17 JOHN C. COURTNEY, ESQ.

18 **POINTS AND AUTHORITIES**

19 Pursuant to EDCR 7.40(b)(2)(ii), Counsel in any case may be changed only ... (2) When no
20 attorney has been retained to replace the attorney withdrawing, by order of the court, granted upon
21 written motion, and


22 (i) If the application is made by the attorney, the attorney must
23 include in an affidavit the address, or last known address, at which
24 the client may be served with notice of further proceedings taken in
25 the case in the event the application for withdrawal is granted, and the
26 telephone number, or last known telephone number, at which the
27 client may be reached and the attorney must serve a copy of the
28 application upon the client and all other parties to the action or their
29 attorneys.

30 Pursuant to the above statutes and case law, John Peter Lee, Ltd. requests this Court for leave
31 to withdraw as counsel for Defendants OPTIMA TECHNOLOGY, A CALIFORNIA

1 CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A NEVADA CORPORATION;
2 AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN
3 aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI,
4 as the Firm has complied with the requirements of the local rule for withdrawal, as attached and
5 incorporated herein in the Declarant of counsel, John C. Courtney, Esq., setting forth the grounds
6 for the Firm's Motion.

7 DATED this ^{13th} day of March, 2012.

8 JOHN PETER LEE, LTD

9
10 BY: 
11 JOHN PETER LEE, ESQ.
12 Nevada Bar No. 001768
13 JOHN C. COURTNEY, ESQ.
14 Nevada Bar No. 011092

15 830 Las Vegas Boulevard South
16 Las Vegas, Nevada 89101
17 Ph: (702) 382-4044/Fax: (702) 383-9950
18 Attorneys for Defendants
19 *Optima Technology Corporation,*
20 *Optima Technology Corporation, and*
21 *Reza Zandian aka Golamreza Zandianjazi*
22 *aka Gholamreza Zandianjazi aka Gholam Reza*
23 *Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza*
24 *Jazi aka Ghononreza Zandian Jazi*
25
26
27
28

1 CERTIFICATE OF MAILING

2 I HEREBY CERTIFY that on the ___ day of March, 2012, I served a copy of the above and
3 foregoing JOHN PETER LEE, LTD.'S AMENDED MOTION TO WITHDRAW FROM
4 REPRESENTATION OF DEFENDANTS OPTIMA TECHNOLOGY CORPORATION, A
5 CALIFORNIA CORPORATION; OPTIMA TECHNOLOGY CORPORATION, A NEVADA
6 CORPORATION; AND REZA ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM
7 REZA ZANDIAN aka REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA
8 ZANDIAN JAZI, upon the appropriate parties hereto, by enclosing it in a sealed envelope, deposited
9 in the United States mail, upon which first class postage was fully prepaid addressed to:

10 Matthew D. Francis
11 Adam P. McMillen
12 WATSON & ROUNDS
13 5371 Kietzke Lane
14 Reno, Nevada 89511

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An Employee of JOHN PETER LEE, LTD.

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Matthew D. Francis (6978)
Adam P. McMillen (10678)
WATSON ROUNDS
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

ORIGINAL

REC'D & FILED ✓
2012 APR 20 PM 12: 39
ALAN GLOVER
BY *[Signature]* CLERK
DEPUTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

JED MARGOLIN, an individual,
Plaintiff,
vs.
OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE
Companies 1-10, DOE Corporations 11-20,
and DOE Individuals 21-30,
Defendants.

Case No.: 090C00579 1B
Dept. No.: 1

**SUPPLEMENTAL REQUEST FOR
EXEMPTION FROM ARBITRATION**

VALUE IN EXCESS OF \$50,000

COMES NOW the Plaintiff, Jed Margolin, by and through his counsel of record, Matthew D. Francis and Adam P. McMillen of the Law Firm of WATSON ROUNDS, P.C., and hereby requests that the above-entitled matter be exempt from arbitration pursuant to Nevada Arbitration Rule 5, as this case involves an amount at issue in excess of \$50,000.00, exclusive of interest and costs.

A summary of the facts which support this request for exemption is as follows (**new items in bold**):

1 **I. FACTUAL BACKGROUND**

2 Plaintiff Jed Margolin is the named inventor on numerous patents and patent
3 applications, including United States Patent No. 5,566,073 (“the ‘073 Patent”), United States
4 Patent No. 5,904,724 (“the ‘724 Patent”), United States Patent No. 5,978,488 (“the ‘488
5 Patent”) and United States Patent No. 6,377,436 (“the ‘436 Patent”) (collectively “the
6 Patents”). See Amended Complaint, dated 8/11/11, ¶ 9, on file herein. Mr. Margolin is the
7 legal owner and owner of record for the ‘488 and ‘436 Patents, and has never assigned those
8 patents. *Id.* at ¶ 10. In 2004, Mr. Margolin granted to Optima Technology Group (“OTG”), a
9 Cayman Islands Corporation specializing in aerospace technology, a Power of Attorney
10 regarding the ‘073 and ‘724 Patents. *Id.* at ¶ 11. Subsequently, Mr. Margolin assigned the
11 ‘073 and ‘724 Patents to OTG. *Id.* at ¶ 13.

12 In May 2006, OTG and Mr. Margolin licensed the ‘073 and ‘724 Patents to Geneva
13 Aerospace, Inc., and Mr. Margolin received a royalty payment pursuant to the royalty
14 agreement between Mr. Margolin and OTG. *Id.* at ¶ 12. In about October 2007, OTG licensed
15 the ‘073 Patent to Honeywell International, Inc., and Mr. Margolin received a royalty payment
16 pursuant to the royalty agreement between Mr. Margolin and OTG. *Id.* at ¶ 14.

17 On about December 5, 2007, Defendant Zandian filed with the U.S. Patent and
18 Trademark Office (“USPTO”) fraudulent assignment documents assigning all four of the
19 Patents to Optima Technology Corporation (“OTC”), a company apparently owned by
20 Defendant Zandian. *Id.* at ¶ 15. Upon discovery of the fraudulent filings, Mr. Margolin: (a)
21 filed a report with the Storey County Sheriff’s Department; (b) took action to regain record
22 title to the ‘488 and ‘436 Patents that he legally owned; and (c) assisted OTG in regaining
23 record title of the ‘073 and ‘724 Patents that it legally owned and upon which it contracted
24 with Mr. Margolin for royalties. *Id.* at ¶ 16.

25 Shortly before this, Mr. Margolin and OTG had been named as defendants in an action
26 for declaratory relief regarding non-infringement of the ‘073 and ‘724 Patents in the United
27 States District Court for the District of Arizona, in a case titled: *Universal Avionics Systems*
28 *Corporation v. Optima Technology Group, Inc.*, No. CV 07-588-TUC-RCC (the “Arizona

1 Action"). *Id.* at ¶ 17. Plaintiff in the Arizona Action asserted that Mr. Margolin and OTG
2 were not the owners of the '073 and '724 Patents, and Mr. Margolin and OTG filed a cross-
3 claim for declaratory relief against Optima Technology Corporation ("OTC") in order to
4 obtain legal title to the respective patents.

5 On August 18, 2008, the United States District Court for the District of Arizona
6 entered a default judgment in favor of Mr. Margolin and OTG on their declaratory relief
7 action, and ordered that OTC had no interest in the '073 or '724 Patents, and that the
8 assignment documents filed by OTC with the USPTO were "forged, invalid, void, of no force
9 and effect." *See Exhibit B to Zandian's Motion to Dismiss, on file herein.*

10 Due to Defendants' fraudulent acts, title to the Patents was clouded and interfered with
11 Plaintiff's and OTG's ability to license the Patents. Amended Complaint at ¶ 19. In addition,
12 during the period of time Mr. Margolin worked to correct record title of the Patents in the
13 Arizona Action and with the USPTO, he incurred significant litigation and other costs
14 associated with those efforts. *Id.* at ¶ 20.

15 As a result of Defendants' fraudulent acts, Mr. Margolin was forced to spend
16 \$90,000 in attorneys' fees in the Arizona Action alone. *See Declaration of Jed Margolin*
17 *in Support of Application for Default Judgment, originally filed on February 28, 2011,*
18 *attached hereto as Exhibit A. The \$90,000 does not include prejudgment interest*
19 *pursuant to NRS 99.040(1) or costs pursuant to NRS 18.020. In addition, Mr. Margolin*
20 *is also seeking treble damages pursuant to NRS 598.0999 and punitive damages pursuant*
21 *to Nevada law. See Amended Complaint, dated 8/11/11, on file herein.*

22 II. PROCEDURAL BACKGROUND

23 Plaintiff filed his Complaint on December 11, 2009. Personal service on Defendant
24 Zandian was attempted on February 2, 2010. Based on that date of service, Zandian's answer
25 to the Complaint was due on or before February 22, 2010. Zandian did not answer the
26 Complaint or respond in any way. On December 2, 2010, a default was entered against
27 Zandian. Plaintiff then filed and served a Notice of Entry of Default on Zandian on December
28 7, 2010 and on his last known attorney on December 16, 2010.

1 On February 25, 2011, Plaintiff filed in this Court and served a certificate of service
2 indicating that the application for entry of default against Zandian was sent to attorney John
3 Peter Lee. On February 28, 2011, Plaintiff filed an application for default judgment against
4 Defendants Zandian, Optima Technology Corporation, a California Corporation, and Optima
5 Technology Corporation, a Nevada Corporation.

6 On March 1, 2011, a default judgment was entered against Zandian and the other
7 defendants for \$121,594.46. On March 7, 2011, notice of entry of that default was filed and
8 served by mail on Zandian and his counsel.

9 On June 9, 2011, Zandian filed a motion to dismiss and to set aside the default. On
10 August 3, 2011, this Court set aside the default, denied the motion to dismiss without prejudice
11 and granted Plaintiff ninety (90) days from August 3, 2011 to properly effectuate service of the
12 Complaint and Summons and/or an Amended Complaint.

13 On September 27, 2011, this Court ordered that service of process against Defendants
14 be made by publication in the San Diego Union-Tribune, the Reno Gazette-Journal and the Las
15 Vegas Review Journal. As reflected in the affidavits of service filed on November 7, 2011,
16 Defendants were served by publication in the San Diego Union-Tribune (09/23/2011;
17 09/30/2011; 10/07/2011; 10/14/2011), the Reno Gazette-Journal (09/16/2011; 09/23/2011;
18 09/30/2011; 10/07/2011) and the Las Vegas Review Journal (10/07/2011; 10/14/2011;
19 10/21/2011; 10/28/2011).

20 On November 16, 2011, Defendant Zandian served a motion to dismiss the amended
21 complaint. On February 21, 2012, the Court issued an order denying the motion to dismiss.
22 On March 5, 2012, Defendant Zandian served a general denial.

23 III. CONCLUSION

24 I hereby certify, pursuant to NRCPP 11, that this case falls within the exemptions found
25 in Nevada Arbitration Rules 3 and 5 and that I am aware of the sanctions which may be
26 imposed against any attorney or party who without good cause or justification attempts to
27 remove a case from the court-annexed arbitration program.

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 20th day of April, 2012.

WATSON ROUNDS

BY: Adam McMillen
Matthew D. Francis (6978)
Adam P. McMillen (10678)
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I caused a true and correct copy of the foregoing document, **Supplemental Request for Exemption From Arbitration**, to be served by first-class mail through the U.S. Postal Service and by facsimile to:

John Peter Lee
John C. Courtney
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101
Facsimile, 702-383-9950

Dated: April 20, 2012



Carla Ousby

Exhibit A

Declaration of Jed Margolin in Support
of Application for Default Judgment
February 28, 2011

Exhibit A

Declaration of Jed Margolin in Support
of Application for Default Judgment
February 28, 2011

1 Matthew D. Francis (6978)
2 Cassandra P. Joseph (9845)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 *Attorneys for Plaintiff Jed Margolin*

REC'D & FILED
2011 FEB 28 PM 4:45
ALAN GLOVER
BY ~~M. KALEY~~ CLERK

9
10
11 **In The First Judicial District Court of the State of Nevada**
12 **In and for Carson City**

13 JED MARGOLIN, an individual,
14
15 Plaintiff,

16 vs.

17 OPTIMA TECHNOLOGY CORPORATION,
18 a California corporation, OPTIMA
19 TECHNOLOGY CORPORATION, a Nevada
20 corporation, REZA ZANDIAN aka
21 GOLAMREZA ZANDIANJAZI aka GHOLAM
22 REZA ZANDIAN aka REZA JAZI aka J. REZA
23 JAZI aka G. REZA JAZI aka GHONONREZA
24 ZANDIAN JAZI, an individual, DOE Companies
25 1-10, DOE Corporations 11-20, and DOE
26 Individuals 21-30,

27 Defendants.

Case No.: 090C00579 1B
Dept. No.: 1

**DECLARATION OF JED MARGOLIN
IN SUPPORT OF APPLICATION FOR
DEFAULT JUDGMENT**

28 I, Jed Margolin do hereby declare and state as follows:

1. I am the inventor on United States Patent No. 5,566,073 ("the '073 Patent"),
United States Patent No. 5,904,724 ("the '724 Patent"), United States Patent No. 5,978,488
("the '488 Patent") and United States Patent No. 6,377,436 ("the '436 Patent") (collectively
"the Patents").

2. Attached as Exhibit A is a true and correct copy of the Amended Answer,
Counterclaims, Cross-Claims and Third-Party Claims filed in the action captioned *Universal*

861

1 *Avionics Systems Corporation v. Optima Technology Group, Inc.*, No. CV 07-588-TUC-RCC
2 (the "Arizona Action").

3 3. Attached as Exhibit B is a true and correct copy of the August 18, 2008 Order
4 from the Arizona Action.

5 4. After Defendant Zandian filed the forged and invalid assignment document
6 with the USPTO relating to the Patents, I was forced to spend \$90,000 in attorneys' fees in the
7 Arizona Action where the Court ordered that the USPTO correct record title to the Patents.
8 Attached as Exhibit C are records from my bank showing three transfers of \$30,000. Two
9 transfers went to Optima Technology Group and one transfer went directly to the attorneys
10 representing Optima Technology Group and myself. The three transfers were for the payment
11 of attorneys' fees in the Arizona Action.
12

13 5. I declare under penalty of perjury that the foregoing is true and correct to the
14 best of my knowledge.
15

16 Dated: 2-24-2011

17 By: Jed Margolin
18 JED MARGOLIN
19
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on
3 this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true
4 and correct copy of the foregoing document, **DECLARATION OF JED MARGOLIN IN**
5 **SUPPORT OF APPLICATION FOR DEFAULT JUDGMENT**, addressed as follows:

6
7 John Peter Lee
8 John Peter Lee, Ltd.
9 830 Las Vegas Blvd. South
10 Las Vegas, NV 89101

11
12 Reza Zandian
13 8401 Bonita Downs Road
14 Fair Oaks, CA 95628

15
16 Optima Technology Corp.
17 A California corporation
18 8401 Bonita Downs Road
19 Fair Oaks, CA 95628

20
21 Optima Technology Corp.
22 A Nevada corporation
23 8401 Bonita Downs Road
24 Fair Oaks, CA 95628

25
26 Reza Zandian
27 8775 Costa Verde Blvd. #501
28 San Diego, CA 92122

Optima Technology Corp.
A California corporation
8775 Costa Verde Blvd. #501
San Diego, CA 92122

Optima Technology Corp.
A Nevada corporation
8775 Costa Verde Blvd. #501
San Diego, CA 92122

26 Dated: February 28, 2011

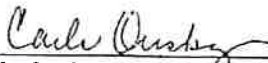

Carla Ousby

Exhibit A

Exhibit A

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1 **CHANDLER & UDALL, LLP**
2 **ATTORNEYS AT LAW**
3 **4801 E. BROADWAY BLVD., SUITE 400**
4 **TUCSON, ARIZONA 85711-3638**
5 **Telephone: (520) 623-4353**
6 **Fax: (520)792-3426**

7 Edward Moomjian II, PCC # 65050, SBN 016667
8 Jeanna Chandler Nash, PCC # 65674, SBN 022384
9 Attorneys for Defendants Adams, Margolin and Optima Technology Inc. a/k/a Optima
10 Technology Group, Inc.

11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF ARIZONA**

13 **UNIVERSAL AVIONICS SYSTEMS**
14 **CORPORATION,**

15 Plaintiff,

16 vs.

17 **OPTIMA TECHNOLOGY GROUP, INC.,**
18 **OPTIMA TECHNOLOGY CORPORATION,**
19 **ROBERT ADAMS and JED MARGOLIN,**

20 Defendants

NO. CV-00588-RC

AMENDED ANSWER,
COUNTERCLAIMS, CROSS-
CLAIMS AND THIRD-PARTY
CLAIMS OF OPTIMA
TECHNOLOGY INC. A/K/A
OPTIMA TECHNOLOGY
GROUP, INC.

21 **OPTIMA TECHNOLOGY INC. a/k/a**
22 **OPTIMA TECHNOLOGY GROUP, INC., a**
23 **corporation,**

24 Counterclaimant,

25 vs.

26 **UNIVERSAL AVIONICS SYSTEMS**
CORPORATION, an Arizona corporation,

Counterdefendant

JURY TRIAL DEMANDED

Assigned to: Hon. Raner C. Collins

OPTIMA TECHNOLOGY INC. a/k/a
OPTIMA TECHNOLOGY GROUP, INC., a
corporation,

Cross-Claimant,

vs.

OPTIMA TECHNOLOGY CORPORATION,
a corporation,

Cross-Defendant

1
2 OPTIMA TECHNOLOGY INC. a/k/a
3 OPTIMA TECHNOLOGY GROUP, INC., a
4 corporation,

Third-Party Plaintiff,

5 vs.

6 JOACHIM L. NAIMER and JANE DOE
7 NAIMER, husband and wife; and FRANK B.
8 HUMMEL and JANE DOE HUMMEL,

Third-Party Defendants.

9 Defendant/Counterclaimant/Cross-Claimant/Third-Party Plaintiff Optima Technology
10 Inc. a/k/a Optima Technology Group Inc. (hereinafter "Optima"), by and through undersigned
11 counsel, hereby submits its *Amended Answer* to the Plaintiff's *Complaint* herein, including its
12 *Counterclaims*, *Cross-Claims* and *Third-Party Claims* herein.

13 As stated in Optima's original *Answer*, due to its contemporaneously-filed *Motion to*
14 *Dismiss* asserting that Counts V, VI and VII fail to state a claim against Optima, Optima
15 answers herein the general allegations of the *Complaint*, and those of Counts I-IV, and will
16 amend this *Answer* to answer Counts V, VI and/or VII at such time, and to the extent that, the
17 Court herein denies that *Motion* in whole or in part. See Rule 12(a)(4), Fed.R.Civ.P.¹

18 The following paragraphs are in response to the allegations of the correspondingly
19 numbered paragraphs of the *Complaint*:

20 **INTRODUCTORY PARAGRAPH**

21 Deny the allegations of Plaintiff's Introductory Paragraph (page 1 line 19 through page
22

23 ¹ The District of Arizona has adopted the majority view "that even though a pending
24 motion to dismiss may only address some of the claims alleged, the motion to dismiss tolls the
25 time to respond to all claims." *Pestube Systems, Inc. v. Hometeam Pest Defense, LLC.*, 2006
26 WL 1441014 *7 (D.Ariz. 2006). However, because this is an unpublished decision, and only
to avoid any potential dispute with Plaintiff whether a failure to answer the allegations of
Counts I-IV of the *Complaint* (i.e., those claims that are not the subject of the *Motion to*
Dismiss) could be deemed a failure to defend those allegations for purposes of a default,
Optima proceeds to answer those allegations and claims herein.

1 2 line 3 of the *Complaint*).

2 **NATURE OF THE ACTION**

3 1. Admit that the *Complaint* seeks declarations of invalidity and non-infringement
4 of U.S. Patent Nos. 5,566,073 (the "'073 patent") and 5,904,724 (the "'724 patent").² Admit
5 that the *Complaint* asserts claims for breach of contract, unfair competition and negligent
6 interference. Deny validity of all such assertions and claims. Deny all remaining allegations.

7 **THE PARTIES**

8 2. Deny for lack of knowledge.

9 3. Admit. Affirmatively allege that Optima Technology Group Inc. is also known
10 and has been and does business as Optima Technology Inc.

11 4. Denied. Affirmatively allege that Optima Technology Corporation (hereinafter
12 "OTC") has no relationship whatsoever to Optima.

13 5. Denied. Affirmatively alleged that Defendant Robert Adams ("Adams") is the
14 Chief Executive Officer of Optima.

15 6. Denied.

16 7. Denied.

17 **JURISDICTION AND VENUE**

18 8. Admit that the *Complaint* seeks declarations of invalidity and non-infringement
19 of the '073 patent and the '724 patent, and asserts claims for breach of contract, unfair
20 competition and negligent interference. Deny validity of all such assertions and claims. Deny
21 all remaining allegations.

22 9. Admit that the Court has original jurisdiction over Counts I-IV of the *Complaint*
23 asserting non-infringement and invalidity of the Patents (although Optima denies the assertions
24 and validity of those claims) as to Defendant Optima. Affirmatively allege that co-Defendant
25

26 ² The '073 patent and the '724 patent are collectively referred to herein as the "Patents."

1 OTC, to the extent that it purportedly exists, does not own or have any other interest in the
2 Patents. Deny that the Court has jurisdiction over Counts V, VI and VII of the *Complaint*, and
3 affirmatively allege that Plaintiff lacks Article III standing with respect thereto. Affirmatively
4 allege that Counts V, VI and VII fail to state a claim against Optima as asserted in Optima's
5 *Motion to Dismiss*. Deny that the Court has supplemental jurisdiction over Counts V, VI and
6 VII of the *Complaint*. Deny all remaining allegations.

7 10. Deny.

8 **THE PATENTS-IN-SUIT**

9 11. Admit that the '073 patent is duly and legally issued and is valid. Admit that a
10 copy of the '073 patent is attached as Exhibit 1 to the *Complaint*. Admit the '073 patent was
11 assigned to Optima which is the current owner of the '073 patent. Deny that OTC has any right
12 or interest in the '073 patent. Deny all remaining allegations.

13 12. Admit that the '724 patent is duly and legally issued and is valid. Admit that a
14 copy of the '724 patent is attached as Exhibit 2 to the *Complaint*. Admit the '724 patent was
15 assigned to Optima which is the current owner of the '724 patent. Deny that OTC has any right
16 or interest in the '724 patent. Deny all remaining allegations.

17 13. Admit that Defendant Jed Margolin at one time granted a Power of Attorney to
18 Optima. Admit that a copy of the Power of Attorney is attached as Exhibit 3 to the *Complaint*.
19 Admit that the Power of Attorney appointed "Optima Technology Inc. - Robert Adams, CEO"
20 as Margolin's agent with respect to the Patents. Affirmatively allege that OTC has and had no
21 right or interest under the Power of Attorney. Affirmatively allege that the Power of Attorney
22 was superseded by an assignment of the Patents to Optima prior to the filing of the *Complaint*
23 herein. Affirmatively allege that the Power of Attorney was subsequently revoked and is no
24 longer valid or in force. Deny all remaining allegations.

25 **FACTS**

26 14. Admit that Adams communicated (as CEO of Optima) with Plaintiff's counsel.

1 Affirmatively allege that the text of Exhibit 4 to the *Complaint* speaks for itself. Deny all
2 remaining allegations.

3 15. Admit that Jed Margolin communicated with Adams (as CEO of Optima), and
4 that Adams (as CEO of Optima) communicated with Plaintiff's counsel. Affirmatively allege
5 that the text of Exhibit 5 to the *Complaint* speaks for itself. Deny all remaining allegations.

6 16. Admit. Affirmatively allege that Adams' alleged actions as described in
7 Paragraph 16 of the *Complaint* were in his capacity as CEO of Optima.

8 17. Admit that Plaintiff is/was infringing on the Patents. Admit that Adams (as CEO
9 of Optima) communicated with Plaintiff's counsel. Affirmatively allege that the text of
10 Exhibit 5 to the *Complaint* speaks for itself. Deny all remaining allegations.

11 18. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
12 counsel. Admit that Plaintiff is/was infringing on the Patents. Affirmatively allege that the text
13 of Exhibit 5 to the *Complaint* speaks for itself. Deny all remaining allegations.

14 19. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
15 counsel. Admit that Plaintiff is/was infringing on the Patents. Deny all remaining allegations.

16 20. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
17 counsel. Affirmatively allege that the text of Exhibit 6 to the *Complaint* speaks for itself.
18 Deny all remaining allegations.

19 21. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
20 counsel. Affirmatively allege that the text of Exhibit 7 to the *Complaint* speaks for itself.
21 Deny all remaining allegations.

22 22. Admit. Affirmatively allege that Adams' alleged actions as described in
23 Paragraph 22 of the *Complaint* were in his capacity as CEO of Optima.

24 23. Admit. Affirmatively allege that the text of Exhibit 8 to the *Complaint* speaks
25 for itself. Affirmatively allege that Plaintiff, through its actions, has waived its rights under
26 Exhibit 8 to the *Complaint*.

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1 24. Affirmatively allege that the text of Exhibit 9 to the *Complaint* speaks for itself.
2 Deny all remaining allegations.

3 25. Admit second sentence of Paragraph 25 of the *Complaint* to the extent it asserts
4 that the following persons attended the meeting on behalf of Plaintiff: Donald Berlin, Andria
5 Poe, Paul DeHerrera, Frank Hummel, Michael P. Delgado, and Scott Bornstein. Deny all
6 remaining allegations.

7 26. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
8 counsel. Deny all remaining allegations.

9 27. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
10 counsel. Deny all remaining allegations.

11 28. Deny.

12 29. Admit that Jed Margolin communicated with Plaintiff. Deny all remaining
13 allegations.

14 30. Admit that OTC, which is upon information and belief owned and controlled by
15 Reza Zandian a/k/a Gholamreza Zandianjazi, may have been involved in filing numerous
16 and/or frivolous state court lawsuits. Deny all remaining allegations. Affirmatively allege that
17 OTC, and any such lawsuits, are completely unrelated to Optima.

18 31. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
19 counsel. Affirmatively allege that the text of Exhibit 10 to the *Complaint* speaks for itself.
20 Deny all remaining allegations.

21 32. Deny for lack of knowledge.

22 33. Deny Plaintiff's "conclusion" for lack of knowledge. Deny all remaining
23 allegations.

24 34. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
25 counsel. Affirmatively allege that the text of Exhibits 11 and 12 to the *Complaint* speak for
26 themselves. Deny all remaining allegations.

1 35. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
2 counsel. Affirmatively allege that the text of Exhibit 13 to the *Complaint* speaks for itself.
3 Deny all remaining allegations.

4 36. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
5 counsel. Deny allegations regarding communications to which Optima was not a party for lack
6 of knowledge. Deny all remaining allegations.

7 37. Deny for lack of knowledge.

8 38. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
9 counsel. Affirmatively allege that the text of Exhibit 14 to the *Complaint* speaks for itself.
10 Deny all remaining allegations.

11 39. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
12 counsel. Affirmatively allege that the text of Exhibit 15 to the *Complaint* speaks for itself.
13 Deny all remaining allegations.

14 40. Admit that Adams communicated (as CEO of Optima) with Plaintiff and its
15 counsel. Affirmatively allege that the text of Exhibit 16 to the *Complaint* speaks for itself.
16 Deny all remaining allegations.

17 41. Admit. Affirmatively allege that the text of Exhibit 17 to the *Complaint* speaks
18 for itself.

19 42. Admit. Affirmatively allege that the text of Exhibit 17 to the *Complaint* speaks
20 for itself.

21 43. Admit.

22 **CLAIMS FOR RELIEF**

23 **COUNT ONE**

24 **Declaratory Judgment of Non-Infringement of the '073 Patent**

25 44. Optima repeats and restates the statements of paragraphs 1-43 above as if fully
26 set forth herein.

1 45. Deny that Optima made an "unreasonable" licensing demand of Plaintiff.
2 Otherwise admit with respect to Optima. Deny that OTC has any right or interest in the
3 Patents. Deny all remaining allegations.

4 46. Deny.

5 47. Admit that Plaintiff seeks a declaration as described in Paragraph 47 of the
6 *Complaint*. Deny that Plaintiff is entitled to such a declaration. Deny all remaining allegations.

7 **COUNT TWO**

8 **Declaratory Judgment of Invalidity of the '073 Patent**

9 48. Optima repeats and restates the statements of paragraphs 1-47 above as if fully
10 set forth herein.

11 49. Deny that Optima made an "unreasonable" licensing demand of Plaintiff. Admit
12 with respect to Optima. Deny that OTC has any right or interest in the Patents. Deny all
13 remaining allegations.

14 50. Deny.

15 51. Admit that Plaintiff seeks a declaration as described in Paragraph 51 of the
16 *Complaint*. Deny that Plaintiff is entitled to such a declaration. Deny all remaining allegations.

17 **COUNT THREE**

18 **Declaratory Judgment of Non-Infringement of the '724 Patent**

19 52. Optima repeats and restates the statements of paragraphs 1-51 above as if fully
20 set forth herein.

21 53. Deny that Optima made an "unreasonable" licensing demand of Plaintiff.
22 Otherwise admit with respect to Optima. Deny that OTC has any right or interest in the
23 Patents. Deny all remaining allegations.

24 54. Deny.

25 55. Admit that Plaintiff seeks a declaration as described in Paragraph 55 of the
26 *Complaint*. Deny that Plaintiff is entitled to such a declaration. Deny all remaining allegations.

1 **COUNT FOUR**

2 **Declaratory Judgment of Invalidity of the '724 Patent**

3 56. Optima repeats and restates the statements of paragraphs 1-55 above as if fully
4 set forth herein.

5 57. Deny that Optima made an "unreasonable" licensing demand of Plaintiff. Admit
6 with respect to Optima. Deny that OTC has any right or interest in the Patents. Deny all
7 remaining allegations.

8 58. Deny.

9 59. Admit that Plaintiff seeks a declaration as described in Paragraph 59 of the
10 *Complaint*. Deny that Plaintiff is entitled to such a declaration. Deny all remaining allegations.

11 **COUNTS FIVE THROUGH SEVEN**

12 Defendant Optima has contemporaneously filed a *Motion to Dismiss* seeking to dismiss
13 Counts Five through Seven of the *Complaint* against it for failure to state a claim. As such,
14 Defendant Optima will amend this *Answer* and respond to Counts V, VI and/or VII of the
15 *Complaint* at such time, and to the extent that, the Court herein denies that *Motion* in whole or
16 in part. See Rule 12(a)(4), Fed.R.Civ.P.

17 **GENERAL DENIAL**

18 Defendant Optima denies each allegation of Plaintiff's *Complaint* not specifically
19 admitted herein.

20 **EXCEPTIONAL CASE**

21 This is an exceptional case under 35 U.S.C. § 285 in which Defendant Optima is entitled
22 to its attorneys' fees and costs incurred in connection Plaintiff's stated claims in bringing this
23 action.

24 **AFFIRMATIVE DEFENSES**

25 Defendant Optima asserts all available affirmative defenses under Rule 8(c),
26 Fed.R.Civ.P., including but not limited to those specifically designated as follows (Defendant

1 Optima hereby reserves the right to amend this *Answer* at any time that discovery, disclosure
2 or additional events reveal the existence of additional affirmative defenses):

3 1. With respect to Counts V, VI and VII of the *Complaint*, Defendant Optima
4 asserts those Rule 12(b)(6) defenses raised in its contemporaneously filed *Motion to Dismiss*
5 including but not limited to: waiver; failure to plead in accordance with the standards
6 expressed under *Bell Atlantic Corp. v. Twombly*, ___ U.S. ___, 127 S.Ct. 1955 (2007); failure
7 to establish Article III standing; lack of jurisdiction; inapplicability of California law to
8 Optima; and failure to establish "unlawful" or "fraudulent" conduct as a predicate act to a claim
9 of California statutory Unfair Competition (California Business and Professions code § 17200
10 *et seq*);

11 2. Laches;

12 3. Waiver; and,

13 4. Estoppel.

14 **JURY TRIAL DEMAND**

15 Defendant Optima demands a jury trial on all claims and issues to be litigated in this
16 matter.

17 **PRAYER FOR RELIEF**

18 WHEREFORE Defendant Optima requests that the Court enter judgment in its favor on
19 Plaintiff's claims, deny Plaintiff any relief herein, grant Optima its attorneys' fees and costs
20 pursuant to applicable law, including but not limited to 35 U.S.C. § 285, and grant Optima such
21 other and further relief as the Court deems reasonable and just.

22 **COUNTERCLAIMS, CROSS-CLAIMS & THIRD-PARTY CLAIMS³**

23 Counterclaimant/Cross-Claimant/Third-Party Plaintiff Optima brings this civil action
24 against Counterdefendant Universal Avionics Systems Corporation ("UAS"), against
25

26 ³ Except where otherwise noted, all capitalized terms herein are as defined in the
foregoing *Amended Answer*.

1 Cross-Defendant Optima Technology Corporation, a corporation ("OTC"), and against
2 Third-Party Defendants Joachim L. Naimer and Jane Doe Naimer, husband and wife, and Frank
3 E. Hummel and Jane Doe Hummel.

4 THE PARTIES

- 5 1. Counterclaimant Optima is, and at all times relevant hereto has been, a Delaware
6 corporation engaged in the business of the design, conception and invention of synthetic
7 vision systems. Optima is the owner of the '073 patent and '724 patent.
- 8 2. Counterdefendant UAS is, upon information and belief, an Arizona corporation who is
9 headquartered and does business in Arizona.
- 10 3. Cross-Defendant Optima Technology Corporation ("OTC") is, upon information and
11 belief, a California corporation.
- 12 4. Third-Party Defendants Joachim L. Naimer and Jane Doe Naimer (individually and
13 collectively "Naimer") are, upon information and belief, husband and wife who reside
14 in California. At all times relevant hereto, Naimer was acting for the benefit of his
15 marital community, and was acting as an agent, employee, servant and/or authorized
16 representative of UAS, and within the course and scope of such agency, employment,
17 service and/or representation. Upon information and belief Naimer is the President and
18 Chief Executive Officer of UAS.
- 19 5. Third-Party Defendants Frank E. Hummel and Jane Doe Hummel (individually and
20 collectively "Hummel") are, upon information and belief, husband and wife who reside
21 in Washington. At all times relevant hereto, Hummel was acting for the benefit of his
22 marital community, and was acting as an agent, employee, servant and/or authorized
23 representative of UAS, and within the course and scope of such agency, employment,
24 service and/or representation. Upon information and belief, Hummel is an officer or
25 managing agent of UAS. Upon information and belief, Hummel is the Vice
26 President/General Manager of Engineering Research and Development for UAS.

- 1 6. Upon information and belief, UAS, Naimor, and Hummel have transacted business in
2 and/or committed one or more acts in Arizona which give rise to the claims herein.

3 **JURISDICTION AND VENUE**

- 4 7. The statements of all of the foregoing paragraphs are incorporated herein by reference
5 as if fully set forth herein.

- 6 8. The Counterclaim, Cross-Claim and Third-Party Claim include claims for patent
7 infringement and for declaratory judgment relating to ownership/rights in patents, which
8 arise under the United States Patent Laws, 35 U.S.C. §101 et seq. The amount in
9 controversy is in excess of \$1,000,000.

- 10 9. Jurisdiction of this Court is pursuant to 28 U.S.C. §§ 1331, 1367, 1338(a) and (b), and
11 2201 *et seq.*

12 **FACTS**

- 13 10. The statements of all of the foregoing paragraphs are incorporated herein by reference
14 as if fully set forth herein.

- 15 11. Upon information and belief, with actual and/or constructive knowledge of the Patents
16 UAS has sold and/or manufactured and/or used and/or advertised/promoted one or more
17 products including those products designated by UAS as the Vision-1, UNS-1 and
18 TAWS Terrain and Awareness & Warning systems all of which infringe one or the
19 other of the Patents in suit ("Infringing Products").

- 20 12. Optima informed UAS that the Infringing Products infringed upon the Patents prior to
21 the filing of the *Complaint* herein. Upon information and belief, despite such
22 notification UAS has continued to sell and/or manufacture and/or use and/or
23 advertise/promote the Infringing Products.

- 24 13. Upon information and belief:

- 25 a. Naimor was the moving force who originated UAS's concept of the Infringing
26 Products; and/or

- 1 b. Naimer was and is the Chief Executive Officer of UAS, thereby controlling UAS
2 and its actions, including UAS's decision to create, develop, manufacture,
3 market and sell the Infringing Products; and/or
4 c. Naimer knew and/or should have known of the Patents prior to this lawsuit;
5 and/or
6 d. Naimer knew of Optima's allegations that UAS infringed upon the Patents prior
7 to this lawsuit; and/or
8 e. Naimer knew of UAS's actions in the nature of those described in Paragraphs 25,
9 31 and 33 of the *Complaint* and participated in and/or directed those UAS
10 actions/efforts; and/or
11 f. It was at all times within Naimer's authority and/or ability to stop UAS's
12 continued design, development, manufacturing, marketing and selling of the
13 Infringing Products but, after Naimer knew of the Patents, the allegations that
14 UAS infringed on the Patents and/or UAS's actions in the nature of those
15 described in Paragraphs 25, 31 and 33 of the *Complaint*, he did not stop UAS's
16 continued design, development, manufacturing, marketing and selling of the
17 Infringing Products; and/or
18 g. It was at all times within Naimer's authority and/or ability to direct UAS to
19 redesign, revise and/or redevelop the Infringing Products such that they would
20 no longer infringe on the Patents but, after Naimer knew of the Patents, the
21 allegations that UAS infringed on the Patents and/or UAS's actions in the nature
22 of those described in Paragraphs 25, 31 and 33 of the *Complaint*, he did not
23 direct UAS to redesign, revise and/or redevelop the Infringing Products such that
24 they would no longer infringe on the Patents; and/or
25 h. Naimer has continued to direct UAS's design, development, manufacturing,
26 marketing and selling of the Infringing Products while knowing and/or intending

1 for UAS to infringe on the Patents.

2 14. Upon information and belief:

- 3 a. Hummel was and is the Vice President/General Manager of Engineering
4 Research and Development of UAS, thereby controlling UAS's design,
5 development and/or manufacture of the Infringing Products; and/or
6 b. Hummel was intimately involved in UAS's design and/or development of the
7 Infringing Products; and/or
8 c. Hummel knew and/or should have known of the Patents prior to this lawsuit;
9 and/or
10 d. Hummel knew of Optima's allegations that UAS infringed upon the Patents prior
11 to this lawsuit; and/or
12 c. Hummel knew of UAS's actions in the nature of those described in Paragraphs
13 25, 31 and 33 of the *Complaint* and participated in and/or directed those UAS
14 actions/efforts; and/or
15 f. It was at all times within Hummel's authority and/or ability to stop UAS's
16 continued design, development and/or manufacturing of the Infringing Products
17 but, after Hummel knew of the Patents, the allegations that UAS infringed on the
18 Patents and/or UAS's actions in the nature of those described in Paragraphs 25,
19 31 and 33 of the *Complaint*, he did not stop UAS's continued design,
20 development and/or manufacturing of the Infringing Products; and/or
21 g. It was at all times within Hummel's authority and/or ability to direct UAS to
22 redesign, revise and/or redevelop the Infringing Products such that they would
23 no longer infringe on the Patents but, after Naimer knew of the Patents, the
24 allegations that UAS infringed on the Patents and/or UAS's actions in the nature
25 of those described in Paragraphs 25, 31 and 33 of the *Complaint*, he did not
26 direct UAS to redesign, revise and/or redevelop the Infringing Products such that

1 they would no longer infringe on the Patents; and/or

2 h. Hummel has continued to direct UAS's design, development and/or
3 manufacturing of the Infringing Products while knowing and/or intending for
4 UAS to infringe on the Patents.

5 15. UAS and Optima entered into the contract attached as Exhibit 8 to the *Complaint* herein
6 (hereinafter the "Contract"). Pursuant to and under the terms of the Contract, Optima
7 provided to UAS a confidential power of attorney (hereinafter the "Power of Attorney")
8 that Jed Margolin ("Margolin"), as the inventor and then-owner of the Patents, had
9 previously executed. The Power of Attorney provided, *inter alia*, that Margolin
10 appointed "Optima Technology Inc. - Robert Adams CEO" as his attorney-in-fact with
11 respect to (*inter alia*) the Patents. Under its express terms, the Power of Attorney could
12 only be exercised by "Optima Technology Inc. - Robert Adams CEO" and could only
13 be exercised by a signature in the following form: "Jed Margolin by Optima
14 Technology, Inc., c/o Robert Adams, CEO his attorney in fact." Optima had not and has
15 not at any time placed the Power of Attorney in the public domain or otherwise provided
16 a copy of it, or made it available, to OTC.

17 16. UAS, through its duly authorized agents, employees and/or attorneys, provided the
18 Power of Attorney (or a copy thereof) to OTC principal, director, officer and/or agent
19 Gholamreza Zandianjazi a/k/a Reza Zandian ("Zandian"). As of that time, neither
20 Zandian nor OTC had ever received, been privy to, obtained or had knowledge of the
21 Power of Attorney.

22 17. OTC does not have, and has never had, any right, interest or valid claim to any right,
23 title or interest in or to either the Patents or the Power of Attorney.

24 18. UAS, by and through its authorized agents and attorneys Scott Bornstein ("Bornstein")
25 and/or Greenberg Traurig, LLP ("GT"), informed, directed, advised, assisted,
26 associated, agreed, conspired and/or engaged in a mutual undertaking with

- 1 Zandian/OTC to record the Power of Attorney with the U.S. Patent and Trademark
2 Office ("PTO") in the name of OTC.
- 3 19. UAS knew or should have known that the Power of Attorney could not be rightfully
4 exercised by OTC/Zandian and/or recorded with the PTO as:
- 5 a. UAS had been advised and/or knew that OTC was a different corporate entity
6 than "Optima Technology, Inc" as listed in the Power of Attorney; and/or
7 b. UAS had been advised and/or knew that "Robert Adams" was not an agent or
8 employee of OTC and, thus, the Power of Attorney could not be rightfully
9 exercised by Zandian on behalf of OTC; and/or
10 c. UAS had been advised and/or knew that OTC had no right or interest whatsoever
11 in the Patents or the Power of Attorney.
- 12 20. Based upon the information, direction, advice and assistance of UAS, Zandian/OTC
13 proceeded to publish and record the Power of Attorney to and with the PTO (in
14 Virginia) as a document in support of a claim of assignment of the Patents to OTC (the
15 "Assignment"). As a result thereof, the Assignment/Power of Attorney have become
16 part of the public PTO record on which the U.S. Patent Office, the public and third
17 parties rely for information regarding title to the Patents.
- 18 21. Robert Adams and Optima did not execute, record or authorize the execution or
19 recording of any documents purporting to assign or transfer title and/or any interest in
20 the Patents to OTC with the PTO.
- 21 22. Upon information and belief, Zandian executed such documents by (*inter alia*) utilizing
22 his signature on behalf of OTC and mis-stating that Zandian/OTC was exercising the
23 Power of Attorney as the "attorney in fact" of Margolin.
- 24 23. Had UAS not provided the Power of Attorney to Zandian/OTC, OTC would not have
25 been able to record it as a purported Assignment with the PTO.
- 26 24. The recording of the Assignment and Power of Attorney with the PTO:

- 1 a. Are circumstances under which reliance upon such recordings by a third person
2 is reasonably foreseeable as the open public records of the PTO are regularly and
3 normally referred to and/or relied upon by persons in determining legal rights
4 with respect to patents (including assignments, transfers of rights and licenses
5 relating thereto), and evaluating such rights with respect to valuation, negotiation
6 and purchase of rights with respect to patents (including assignments, transfers
7 of rights and licenses relating thereto); and/or
8 b. Create a cloud of title, an impairment of vendibility, and/or an appearance of
9 lessened desirability for purchase, lease, license or other dealings with respect
10 to the Patents and/or Power of Attorney; and/or
11 c. Prevent and/or impair sale and/or licensing of the Patents; and/or
12 d. Otherwise impair and/or lessen the value of the Patents and/or any licenses to be
13 issued with respect to them; and/or
14 e. Cast doubt upon the extent of Optima's interests in the Patents and/or under the
15 Power of Attorney relating thereto and/or upon Optima's power to make an
16 effective sale, assignment, license or other transfer of rights relating thereto;
17 and/or
18 f. Caused damage and harm to Optima; and/or
19 g. Reasonably necessitated and/or forced Optima to prepare and record documents
20 with the PTO attempting to correct the public record regarding Optima's rights
21 with respect to the Patents and/or the Power of Attorney for which Optima
22 incurred substantial expenses (attorneys' fees and costs) in the preparation and
23 recording thereof; and/or
24 h. Irrespective of Optima's filings with the PTO, created a continuing cloud of title,
25 impairment of vendibility, etc. (as discussed in the foregoing paragraphs) and
26 continuing harm to Optima reasonably necessitating and forcing Optima to bring

1 its declaratory judgment cross-claim against OTC herein to declare and establish
2 true and proper title to the Patents, for which Optima has incurred and will incur
3 substantial expenses (attorneys' fees and costs) in the prosecution thereof.

4 25. Upon information and belief, UAS provided additional information to Zandian/OTC
5 regarding, or of the same nature as that discussed in, Paragraph 33 of and Exhibits 14,
6 15 and 17 to the *Complaint* herein.

7 26. UAS made the disclosures (*inter alia*) as acknowledged in its *Complaint* herein.

8 27. Upon information and belief, UAS also made the disclosures alleged in Paragraph 34
9 of, and in Exhibit 12 attached to, the *Complaint*.

10 28. By filing its *Complaint* as part of the open public record in this case, UAS disclosed the
11 content thereof and the Exhibits attached thereto.

12 29. The actions of UAS and OTC herein were motivated by spite, malice and/or ill-will
13 toward Optima and were for the purpose of and/or were intended to intermeddle with,
14 interfere with, trespass upon and/or cause harm to Optima's rights in the Patents and/or
15 under the Power of Attorney, and/or with knowledge that such intermeddling,
16 interference, trespass and/or harm was substantially certain to occur.

17 30. Upon information and belief, OTC intends to continue to compete, interfere, and/or
18 attempt to compete and/or interfere with Optima regarding the Patents and/or the Power
19 of Attorney. At this time, however, Optima is unaware of any actual attempts yet made
20 by OTC to purportedly license, sell or otherwise transfer rights regarding the Patents
21 under its purported Assignment/Power of Attorney (as recorded with the PTO). If and
22 when Optima becomes aware of such actions, it will timely seek to amend and
23 supplement the Counterclaims, Cross-Claims, Third-Party Claims and/or remedies
24 herein as necessary and applicable.

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COUNT 1

PATENT INFRINGEMENT

31. The statements of all of the foregoing paragraphs are incorporated herein by reference as if fully set forth herein.

32. This is a cause of action for patent infringement under 35 U.S.C. § 271 *et seq.* At all relevant times, UAS had actual and constructive knowledge of the Patents in suit including the scope and claim coverage thereof.

33. UAS's aforesaid activities constitute a direct, contributory and/or inducement of infringement of the aforesaid patents in violation of 35 U.S.C. § 271 *et seq.* UAS's aforesaid infringement is and has, at all relevant times, been willful and knowing.

34. Naimer and Hummel, through their forgoing actions, actively aided and abetted and knowingly and/or intentionally induced, and specifically intended to induce, UAS's direct infringement despite their knowledge of the Patents.

35. Optima has suffered and will continue to suffer immediate and ongoing irreparable and actual harm and monetary damage as a result of UAS's, Naimer's and Hummel's willful patent infringement in an amount to be proven at trial.

COUNT 2

BREACH OF CONTRACT

36. The statements of all of the foregoing paragraphs are incorporated herein by reference as if fully set forth herein.

37. This is a cause of action for breach of contract against UAS pursuant to Arizona law.

38. UAS's actions constitute one or more breaches of the contract attached as Exhibit 8 to the *Complaint* herein.

39. As a result thereof, Optima has suffered and will continue to suffer immediate and ongoing harm and monetary damage in an amount to be proven at trial.

....

COUNT 3

**BREACH OF THE IMPLIED COVENANT
OF GOOD FAITH AND FAIR DEALING**

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40. The statements of all of the foregoing paragraphs are incorporated herein by reference as if fully set forth herein.
41. This is a cause of action for breach of the implied covenant of good faith and fair dealing against UAS pursuant to Arizona law.
42. Under Arizona law, every contract contains an implied covenant of good faith and fair dealing.
43. UAS's actions constitute one or more breaches of covenant of good faith and fair dealing present and implied in the contract attached as Exhibit 8 to the *Complaint* herein.
44. As a result thereof, Optima has suffered and will continue to suffer immediate and ongoing harm and monetary damage in an amount to be proven at trial.

COUNT 4

NEGLIGENCE

45. The statements of all of the foregoing paragraphs are incorporated herein by reference as if fully set forth herein.
46. This is an cause of action for negligence against UAS pursuant to the law of New York, Delaware, California, Virginia or Arizona.
47. UAS owed a duty of care to Optima as a result of Exhibit 8 to the *Complaint* herein, and the obligations created therein and/or relating thereto.
48. UAS breached these duties through its foregoing actions as alleged herein, including but not limited to:
- a. UAS's inclusion in an openly-accessible public record the allegations of its *Complaint*; and/or

1 invalid and void, and ordering the PTO to correct and expunge its records with respect
2 to any such claim made by OTC.

3 COUNT 6

4 INJURIOUS FALSEHOOD/SLANDER OF TITLE

5 56. The statements of all of the foregoing paragraphs are incorporated herein by reference
6 as if fully set forth herein.

7 57. This is a cause of action for injurious falsehood and/or slander of title against OTC and
8 UAS pursuant to the law of New York, Delaware, California, Virginia or Arizona.

9 58. The actions of OTC and/or UAS, as alleged above:

10 a. Are/were false and/or disparaging statement(s) and/or publication(s) resulting in
11 an impairment of vendibility, cloud of title and/or a casting of doubt on the
12 validity of Optima's right of ownership in the Patents and/or rights under the
13 Power of Attorney; and/or

14 b. Are/were an effort to persuade third parties from dealing with Optima, and/or to
15 harm to interests of Optima, regarding the Patents and/or the Power of Attorney;
16 and/or

17 c. Are/were actions for which OTC and UAS foresaw and/or should have
18 reasonably foreseen that the false and/or disparaging statement(s) and/or
19 publication(s) would likely determine the conduct of a third party with respect
20 to, or would otherwise cause harm to Optima's pecuniary interests with respect
21 to, the purchase, license or other business dealings regarding Optima's right in
22 the Patents and/or rights under the Power of Attorney; and/or

23 d. Are/were with knowledge that the statement(s) and/or publication(s) was/were
24 false; and/or

25 e. Are/were with knowledge of the disparaging nature of the statements; and/or

26 f. Are/were in reckless disregard of the truth or falsity of the statement(s) and/or

- 1 publication(s); and/or
2 g. Are/were in reckless disregard with being in the nature of disparagement(s);
3 and/or
4 h. Are/were motivated by ill will toward Optima; and/or
5 i. Are/were motivated by an intent to injure Optima; and/or
6 j. Are/were committed with an intent to interfere in an unprivileged manner with
7 Optima's interests; and/or
8 k. Are/were committed with negligence regarding the truth or falsity of the
9 statement and/or publication and/or with being in the nature of a disparagement.
10 59. As a result thereof, Optima has suffered and will continue to suffer immediate and
11 ongoing harm and monetary damage in an amount to be proven at trial.

12 COUNT 7

13 TRESPASS TO CHATTELS

- 14 60. The statements of all of the foregoing paragraphs are incorporated herein by reference
15 as if fully set forth herein.
16 61. This is a cause of action for trespass to chattels against OTC and UAS pursuant to the
17 law of New York, Delaware, California, Virginia or Arizona.
18 62. The actions of OTC and/or UAS, as alleged above:
19 a. Are/were intentional physical, forcible and/or unlawful interference with the use
20 and enjoyment of rights to the Patents and/or Power of Attorney possessed by
21 Optima without justification or consent; and/or
22 b. Are/were possession of and/or the exercise of dominion over rights to the Patents
23 and/or Power of Attorney possessed by Optima without justification or consent;
24 and/or
25 c. Are/were intentional use and/or intermeddling with rights to the Patents and/or
26 Power of Attorney possessed by Optima without authorization; and/or

- 1 d. Resulted in deprivation of Optima's use of and/or rights in the Patents and/or
2 Power of Attorney for a substantial time; and/or
3 e. Resulted in impairment of the condition, quality and/or value of Optima's use of
4 and/or rights in the Patents and/or Power of Attorney; and/or
5 f. Resulted in harm to the legally protected interests of Optima.
6 63. As a result thereof, Optima has suffered and will continue to suffer immediate and
7 ongoing harm and monetary damage in an amount to be proven at trial.

8 COUNT 8

9 UNFAIR COMPETITION

- 10 64. The statements of all of the foregoing paragraphs are incorporated herein by reference
11 as if fully set forth herein.
12 65. This is a cause of action for unfair competition against OTC and UAS pursuant to the
13 common law of New York, Delaware, California, Virginia or Arizona.
14 66. The actions of OTC and/or UAS, as alleged above:
15 a. Are/were an unfair invasion and/or infringement of Optima's property rights of
16 commercial value with respect to the Patents and/or the Power of Attorney;
17 and/or
18 b. Are/were a misappropriation of a benefit and/or property right belonging to
19 Optima with respect to the Patents and/or the Power of Attorney; and/or
20 c. Are/were a deceit and/or fraud upon the public with respect to the true ownership
21 and other rights of Optima relating to the Patents and/or the Power of Attorney;
22 and/or
23 d. Are/were likely to cause confusion of the public with respect to the true
24 ownership and other rights of Optima relating to the Patents and/or the Power of
25 Attorney; and/or
26 c. Will cause and/or are likely to cause an unfair diversion of trade whereby any

1 potential purchaser of a license or other rights from OTC with respect to the
2 Patents and/or Power of Attorney will be cheated into the purchase of something
3 which it is not in fact getting; and/or

4 f. Are likely to divert the trade of Optima; and/or

5 g. Are likely to cause substantial and irreparable harm to Optima.

6 67. As a result thereof, Optima has suffered and will continue to suffer immediate and
7 ongoing harm and monetary damage in an amount to be proven at trial.

8 COUNT 9

9 UNFAIR AND DECEPTIVE COMPETITION/BUSINESS PRACTICES

10 68. The statements of all of the foregoing paragraphs are incorporated herein by reference
11 as if fully set forth herein.

12 69. This is a cause of action for unfair and deceptive competition/business practices against
13 OTC and UAS pursuant to the statutory law of Delaware, 6 Del.C. §2531 *et seq.* to the
14 extent such statutory scheme applies in this matter.

15 70. The actions of OTC and/or UAS, as alleged above:

16 a. Are/were those of a person engaged in a course of a business, vocation, or
17 occupation; and/or

18 b. Constitute a deceptive trade practice; and/or

19 c. Cause a likelihood of confusion or of misunderstanding as to affiliation,
20 connection, or association with, or certification by, another; and/or

21 d. Represent that goods or services have sponsorship, approval, characteristics,
22 ingredients, uses, benefits, or quantities that they do not have, or that a person
23 has a sponsorship, approval, status, affiliation, or connection that the person does
24 not have; and/or

25 e. Represent that goods or services are of a particular standard, quality, or grade,
26 or that goods are of a particular style or model, if they are of another; and/or

- 1 f. Disparage the goods, services, or business of another by false or misleading
2 representation of fact; and/or
3 g. Were conduct which similarly creates a likelihood of confusion or of
4 misunderstanding.

- 5 71. As a result thereof, Optima has suffered and will continue to suffer immediate and
6 ongoing harm and monetary damage in an amount to be proven at trial.
7 72. To the extent Optima is entitled to damages under Delaware common-law it is further
8 entitled to treble damages pursuant to 6 Del.C. §2533(c).
9 73. Optima is entitled to injunctive relief pursuant to 6 Del.C. §2533(a).
10 74. The acts were a willful deceptive trade practice entitling Optima to its attorneys' fees
11 and costs pursuant to 6 Del.C. §2533(b).
12 75. This matter is an "exceptional" case also entitling Optima to its attorneys fees pursuant
13 to 6 Del.C. §2533(b).

14 **COUNT 10**

15 **UNLAWFUL CONSPIRACY TO INJURE TRADE OR BUSINESS**

- 16 76. The statements of all of the foregoing paragraphs are incorporated herein by reference
17 as if fully set forth herein.
18 77. This is a cause of action for unlawful conspiracy to injure trade or business against OTC
19 and UAS pursuant to the statutory law of Virginia, Va. Code Ann. § 18.2-499 and
20 § 18.2-500, to the extent such statutory scheme applies in this matter.
21 78. The actions of OTC and UAS, as alleged above, were those of two or more persons who
22 combined, associated, agreed, mutually undertook and/or acted in concert together for
23 the purpose of willfully and maliciously injuring Optima and its trade and/or business.
24 79. As a result thereof, Optima has suffered and will continue to suffer immediate and
25 ongoing harm and monetary damage in an amount to be proven at trial.
26 80. Optima is entitled to treble damages plus attorneys' fees and costs under Va. Code

1 Ann.§ 18.2-500,

2 **COUNT 11**

3 **UNFAIR AND DECEPTIVE COMPETITION/BUSINESS PRACTICES**

4 81. The statements of all of the foregoing paragraphs are incorporated herein by reference
5 as if fully set forth herein.

6 82. This is a cause of action for unfair and deceptive competition/business practices against
7 OTC and UAS pursuant to the statutory law of California, California Business and
8 Professions Code § 17200 *et. seq.*, to the extent such statutory scheme applies in this
9 matter.

10 83. The actions of OTC and/or UAS, as alleged above, constitute one or more unlawful,
11 unfair or fraudulent business acts or practices including but not limited to the following:

- 12 a. The acts/practices are/were "fraudulent" as they are/were untrue and/or are/were
13 likely to deceive the public; and/or
- 14 b. The acts/practices are/were "unfair" as they constituted conduct that significantly
15 threatens or harms competition; and/or
- 16 c. The acts/practices are/were "unfair" as they constitute conduct that offends an
17 established public policy or when the practice is immoral, unethical, oppressive,
18 unscrupulous or substantially injurious to consumers; and/or
- 19 d. The acts/practices are/were "unlawful" as they are/were in violation of the
20 common-law duties that were owed to Optima; and/or
- 21 e. The acts/practices are/were "unlawful" as they are/were in violation of the legal
22 principles expressed in the other Counts herein; and/or
- 23 f. The acts/practices are/were "unlawful" as they are/were in committed violation
24 of Va. Code Ann. § 18.2-172 (a class 5 felony); and/or
- 25 g. The acts/practices are/were "unlawful" as they are/were in committed violation
26 of Va. Code Ann. § 18.2-499 (a class 1 misdemeanor).

1 84. As a result thereof, Optima has suffered and will continue to suffer immediate and
2 ongoing harm and monetary damage.

3 85. Optima is without an adequate remedy at law.

4 86. Unless enjoined the acts of OTC and UAS will continue to cause further, great,
5 immediate and irreparable injury to Optima.

6 87. Optima is entitled to injunctive relief and restitutionary disgorgement pursuant to
7 California Business and Professions Code § 17203.

8 **COUNT 12**

9 **UAS LIABILITY**

10 88. The statements of all of the foregoing paragraphs are incorporated herein by reference
11 as if fully set forth herein.

12 89. In addition to any other liability existing as to the acts of UAS described herein UAS
13 is additionally liable under Counts 6-11 herein because:

14 a. OTC acted as the agent and/or servant of UAS; and/or

15 b. UAS aided and abetted the wrongful conduct of OTC through one or more of the
16 following:

17 i. UAS provided aid to OTC in its commission of a wrongful act that caused
18 injury to Optima; and/or

19 ii. UAS substantially assisted and/or encouraged OTC in the principal
20 violation/wrongful act; and/or

21 iii. UAS was aware of its role as part of overall illegal and/or tortious activity
22 at the time it provided the assistance; and/or

23 iv. UAS reached a conscious decision to participate in tortious activity for
24 the purpose of assisting OTC in performing a wrongful act; and/or

25 c. UAS engaged in a civil conspiracy with OTC through an agreement to
26 accomplish an unlawful purpose and/or to accomplish a lawful object by

- 1 unlawful means, one of whom committed an act in furtherance thereof, thereby
2 causing damages to Optima; and/or
- 3 d. UAS and OTC acted in concert; and/or
- 4 e. UAS provided affirmative aid and/or encouragement to the wrongful conduct of
5 OTC; and/or
- 6 f. UAS directed, ordered and/or induced the wrongful conduct of OTC while
7 knowing (or should have known) of circumstances that would have made the
8 conduct tortious if it were UAS's; and/or
- 9 g. UAS advised OTC to commit the wrongful conduct which resulted in a legal
10 wrong and/or harm to Optima; and/or
- 11 h. UAS acted together with OTC to commit the wrongful conduct pursuant to a
12 common design; and/or
- 13 i. UAS knew that the OTC's conduct would constitute a breach of duty and gave
14 substantial assistance or encouragement to OTC so to conduct itself; and/or
- 15 j. UAS gave substantial assistance to OTC in accomplishing a tortious result and
16 UAS's own conduct, separately considered, constitutes a breach of duty to
17 Optima; and/or
- 18 k. UAS knowingly participated in the wrongful action of OTC.
- 19 90. As a result thereof, UAS is jointly and severally liable for any such damages awarded
20 to Optima under Counts 6-11 herein.

21 **COUNT 13**

22 **PUNITIVE DAMAGES**

- 23 91. The statements of all of the foregoing paragraphs are incorporated herein by reference
24 as if fully set forth herein.
- 25 92. This is a claim for punitive damages against OTC and UAS pursuant to the common law
26 and/or statutory law of New York, Delaware, California, Virginia or Arizona.

- 1 93. Through their actions referenced herein, OTC and UAS:
2
3 a. Acted with an intent to injure Optima and/or consciously pursued a course of
4 conduct knowing that it created a substantial risk of significant harm to Optima;
5 and/or
6 b. Acted with an "evil hand" guided by an "evil mind"; and/or
7 c. Engaged in intentional and deliberate wrongdoing and with character of outrage
8 frequently associated with crime; and/or
9 d. Engaged in conduct that may be characterized as gross and morally reprehensible
10 and of such wanton dishonesty as to imply criminal indifference to civil
11 obligations; and/or
12 e. Acted with conduct so reckless and wantonly negligent as to be the equivalent
13 of a conscious disregard of the rights of others; and/or
14 f. Acted with a fraudulent and/or evil motive; and/or
15 g. Acted with aggravation and outrage; and/or
16 h. Acted with outrageous conduct with evil motive and/or reckless indifference to
17 rights of others; and/or
18 i. Acted with wilful and/or wanton disregard for the rights of others; and/or
19 j. Were aware of probable dangerous consequences of their conduct and willfully
20 and deliberately failed to avoid those consequences; and/or
21 k. Acted with the intent to vex, injury or annoy, or with a conscious disregard of the
22 right of others; and/or
23 l. Engaged in reprehensible and/or fraudulent conduct; and/or
24 m. Acted in blatant violation of law or policy; and/or
25 n. Acted with extreme indifference to the rights of others; and/or
26 o. Are guilty of oppression, fraud and/or malice, as defined by and pursuant to
Cal.Civ.Code § 3294; and/or

- 1 p. Acted with wilful and wanton conduct so as to evince a conscious disregard of
2 the rights of others; and/or
3 q. Acted with recklessness and/or negligence so as to evince a conscious disregard
4 of the rights of others; and/or
5 r. Engaged in malicious conduct; and/or
6 s. Engaged in misconduct and/or actual malice.
7 94. As a result thereof, Optima is entitled to an award of punitive damages against OTC and
8 UAS herein in an amount to be determined by a jury.

9 **EXCEPTIONAL CASE**

10 This is an exceptional case under 35 U.S.C. § 285 in which Counterclaimant and
11 Cross-Claimant Optima is entitled to its attorneys' fees and costs incurred in connection with
12 this action.

13 **JURY TRIAL DEMAND**

14 Counterclaimant Optima demands a jury trial on all claims and issues to be litigated in
15 this matter.

16 **PRAYER FOR RELIEF**

17 WHEREFORE Optima requests that the Court enter judgment in favor of Optima, and
18 against UAS, OTC, Naimer, and Hummel, on the Counterclaims, Cross-Claims and Third-Party
19 Claims, as follows:

- 20 1. Declaring that the Infringing Products, and all other of UAS's products shown to be
21 encompassed by one or more claims of the asserted Patents infringe said Patents;
22 2. Awarding Optima its monetary damages, and a doubling or trebling thereof, incurred
23 as a result of Defendants' willful infringement and unlawful conduct, as provided under
24 35 U.S.C. § 284;
25 3. Declaring that this is an exceptional case pursuant to 35 U.S.C. § 285 and awarding
26 Optima its attorneys fees incurred in having to prosecute this action;

- 1 4. Ordering that all of the Counterdefendants, Crossdefendants and Third-Party
2 Defendants and all those in active concert or privity with them be temporarily,
3 preliminarily and permanently enjoined from further infringement of U.S. Patent No.
4 5,566,073 (the '073 patent) and U.S. Patent No. 5,904,724 (the '724 patent);
- 5 5. Awarding Optima its actual, special, compensatory, economic, punitive and other
6 damages, including but not limited to:
 - 7 a. A reasonable royalty and/or lost profits attributable to defendants' past, present
8 and ongoing infringement of the Patents;
 - 9 b. The reduced value of the Patents and/or licenses with respect thereto;
 - 10 c. Optima's attorneys' fees and costs incurred in preparing and recording filings
11 with the PTO; and
 - 12 d. Optima's ongoing attorneys' fees and costs incurred in filing and prosecuting the
13 cross-claims against OTC herein to establish the invalidity, void nature, etc., of
14 its filing of the Assignment with the PTO and claim of any right or interest in the
15 Power of Attorney and/or the Patents, and to otherwise remove the cloud of title,
16 impairment of vendibility, etc., with respect to Optima's rights in the Patents
17 and/or the Power of Attorney;
- 18 6. Declaring that OTC has no interest or right in the Patents or the Power of Attorney;
- 19 7. Declaring that the Assignment OTC filed with the PTO is forged, invalid, void, of no
20 force and effect, should be struck from the records of the PTO, and that the PTO correct
21 its records with respect to any such claim made by OTC with respect to the Patents
22 and/or the Power of Attorney;
- 23 8. Enjoining OTC from asserting further rights or interests in the Patents and/or Power of
24 Attorney;
- 25 9. Enjoining UAS and OTC from further acts of unfair competition;
- 26 10. Granting Optima its attorneys' fees and costs pursuant to applicable law, including but

1 not limited to A.R.S. §12-341.01 and § 12-340 and/or the laws of one or more of New
2 York, Virginia, Delaware and/or California;

3 11. Granting Optima prejudgment and post-judgment interest at the legal rate; and

4 12. Granting Optima such other and further relief as the Court deems just and proper.

5 RESPECTFULLY SUBMITTED this 24th day of January, 2008.

6 CHANDLER & UDALL, LLP

7
8 By /s Edward Moomjian II

9 Edward Moomjian II
10 Jeanna Chandler Nash
11 Attorneys for Defendants Adams, Margolin
12 and Optima Technology Inc. a/k/a Optima
13 Technology Group, Inc.

14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on January 24, 2008, I electronically transmitted the attached
16 document to the Clerk's office using the EM/ECF System for filing and transmittal of a Notice
17 of Electronic Filing to the following CM/DCF registrants:

18 E. Jeffrey Walsh, Esquire
19 Greenberg Traurig, LLP
20 2375 East Camelback Road, Suite 700
21 Phoenix, Arizona 85016
22 *Attorneys for Plaintiff*

23 Scott Joseph Bornstein, Esquire
24 Paul J. Sutton, Esquire
25 Allan A. Kassenoff, Esquire
26 Greenberg Traurig, LLP
200 Park Avenue
New York, New York 10166
Attorneys for Plaintiff

_____ s/ _____

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Exhibit B

Exhibit B

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

UNIVERSAL AVIONICS SYSTEMS CORPORATION,

Plaintiff,

vs.

OPTIMA TECHNOLOGY GROUP, INC.,
OPTIMA TECHNOLOGY CORPORATION, ROBERT ADAMS and
JED MARGOLIN,

Defendants.

OPTIMA TECHNOLOGY INC. a/k/a
OPTIMA TECHNOLOGY GROUP, INC.,
a corporation,

Counterclaimant,

vs.

UNIVERSAL AVIONICS SYSTEMS CORPORATION, an Arizona corporation,

Counterdefendant,

OPTIMA TECHNOLOGY INC. a/k/a
OPTIMA TECHNOLOGY GROUP, INC.,

Cross-Claimant,

vs.

OPTIMA TECHNOLOGY CORPORATION,

Cross-Defendant.

No. CV 07-588-TUC-RCC
ORDER

901

1 This Court, having considered the Defendants' Application for Entry of Default
2 Judgment against Cross-Defendant Optima Technology Corporation, finds no just reason to
3 delay entry of final judgment.

4 Therefore, IT IS HEREBY ORDERED:

5 Final Judgment is entered against Cross-Defendants Optima Technology Corporation,
6 a California corporation, and Optima Technology Corporation, a Nevada corporation, as
7 follows:

8 1. Optima Technology Corporation has no interest in U.S. Patents Nos. 5,566,073 and
9 5,904,724 ("the Patents") or the Durable Power of Attorney from Jed Margolin dated July
10 20, 2004 ("the Power of Attorney");

11 2. The Assignment Optima Technology Corporation filed with the USPTO is forged,
12 invalid, void, of no force and effect, and is hereby struck from the records of the USPTO;

13 3. The USPTO is to correct its records with respect to any claim by Optima
14 Technology Corporation to the Patents and/or the Power of Attorney; and

15 4. OTC is hereby enjoined from asserting further rights or interests in the Patents
16 and/or Power of Attorney; and

17 5. There is no just reason to delay entry of final judgment as to Optima Technology
18 Corporation under Federal Rule of Civil Procedure 54(b).

19 DATED this 18th day of August, 2008.

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Raner C. Collins
United States District Judge

Exhibit C

Exhibit C

Section I: Requester/Originator Information					
Name <i>Jed Margolin</i>		Telephone # <i>847 7845</i>		Date Wire to be Sent <i>1/15/08</i>	
Address <i>1981 Empire Rd</i>		City <i>Reno</i>		State <i>NV</i>	
Customer ID Type 1. <i>DL</i>		ID# <i>8332</i>		Issue State/Country <i>NV</i>	
2. <i>BACC</i>		Method of Signature Verification (If Applicable) <i>Signature</i>		Issue Date <i>1-6-06</i>	
				Expiration Date <i>1-2-2010</i>	
Section II: Associate Accepting Wire					
Associate Name <i>kmazza</i>		Phone and Fax # <i>32560216034</i>		Unit Co#/CC# <i>8557</i>	
Date <i>1/15/08</i>		Time <i>11:40</i>			
Callback Required If Phone, Fax or Letter <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A		Name/Number of Person Contacted		Date/Time	
Callback Completed by:				Approval (required)/Market Approval (if required)	
Section III: Debit/Payment Information					
Amount of Wire <i>\$ 30,000</i>		Debit Account Type (circle one) <input checked="" type="checkbox"/> CHKG <input type="checkbox"/> SAV <input type="checkbox"/> ICA <input type="checkbox"/> GL		Serial # (For ICA/GL) or Repetitive ID#	
Account to Debit		State <i>NV</i>		Available Balance	
				Account Title <i>Jed Margolin</i>	
Overdraft Amount <i>\$</i>		Overdraft Approved by (Name & Signature)		Date	
				Wire Fee <i>\$ 25</i>	
Section IV: International Payment Instructions					
USD Amount of Wire <i>\$</i>		Country		Rate	
				Foreign Currency Code	
				Foreign Currency Amount	
Debit Account Type (circle one) <input checked="" type="checkbox"/> CHKG <input type="checkbox"/> SAV <input type="checkbox"/> ICA <input type="checkbox"/> GL		Serial # (For ICA/GL) or Repetitive ID#		FX Reference ID (If Applicable)	
Account to Debit		State		Available Balance	
				Account Title	
Overdraft Amount <i>\$</i>		Overdraft Approved by (Name & Signature)		Date	
				Wire Fee <i>\$</i>	
Section V: Wire Information					
Beneficiary Name <i>Merrill Lynch</i>		Beneficiary Account # OR IBAN (if IBAN, no further beneficiary bank information is required) <i>1011730</i>			
Beneficiary Address: Street		City		State Country Zip	
Beneficiary Bank Name <i>mellon Bank</i>		ABA # or SWIFT or National ID <i>043000261</i>			
Beneficiary Bank Address: Street		City		State Country Zip	
Additional Instructions (Attention To, Phone Advise, Customer Reference, Contact Upon Arrival) <i>F/C to Optima Technology acct 223-0140</i>					
Send Thru Bank/IBK (if available)				ABA # or SWIFT or National ID	
Send Thru Bank Address: Street		City		State Country Zip	
Section VII: Customer Approval					
I authorize Bank of America to transfer my funds as set forth in the instructions noted herein (including debiting my account if applicable), and agree that such transfer of funds is subject to the Bank of America standard transfer agreement (see reverse side) and applicable fees. If this is a foreign currency wire transfer, I accept the conversion rate provided in Section IV, or, if no rate is entered, the rate provided by Bank of America at the time the wire transfer is sent.					
Customer's Signature: <i>Jed Margolin</i>				Date of Request: <i>1-15-2008</i>	
Section VIII: Wire System Entry/Verification					
BAT Approval Authorization # (if applicable)					
Wire Entered by: Name/Signature (attach BFT screens prints) Print: <i>kmazza</i> Signature: <i>kmazza</i>		BFT System Time <i>124544</i>		BFT Sequence # <i>01080115005656</i>	
Date of Entry and Verification <i>1-15-08</i>		Verified By (Name/Signature) (Print Verification Screen) Print: <i>Jed Margolin</i> Signature: <i>Jed Margolin</i>		BFT System Time <i>12-49-07</i>	

Note: Purpose of Wire must be disclosed if sent to an OFAC blocked country - See OFAC in PRO

Section I: Requester/Originator Information					
Name Jed Margolin		Telephone # 847-7845		Date Wire to be Sent 3-26-08	
Address 1981 Empire Rd		City Reno		State NV	
Customer ID Type 1. Driver's Lic		ID# 8352		Issue State/Country 1. Nevada	
		Issue Date 1-6-06		Expiration Date 1-2-20/10	
Method of Signature Verification (If Applicable) 2. _____					
Section II: Associate Accepting Wire					
Associate Name Janet Saldana		Phone and Fax # 775-325-6021		Unit Co#/CC# 336/8557	
Date 3-26-08		Time			
Callback Required If Phone, Fax or Letter <input type="checkbox"/> Yes <input type="checkbox"/> N/A Name/Number of Person Contacted _____ Date/Time _____ Approval (required)/Market Approval (if required) _____					
Section III: Domestic Payment Instructions					
Amount of Wire \$ 30,000 -		Debit Account Type (circle one) CHKG SAV ICA GL		Serial # (For ICA/GL) or Repetitive ID# _____	
Source <input type="checkbox"/> Fax <input type="checkbox"/> Phone <input type="checkbox"/> Letter <input checked="" type="checkbox"/> OTC		Account to Debit State _____ Available Balance \$ _____		Account Title Jed Margolin	
Overdraft Amount \$ _____		Overdraft Approved by (Name & Signature) _____		Date _____ Wire Fee \$ 25 -	
Section IV: International Payment Instructions: <input type="checkbox"/> Check here if funds must be sent in US Dollars					
USD Amount of Wire \$ _____		Country _____ Rate _____		Foreign Currency Code _____ Foreign Currency Amount _____	
Debit Account Type (circle one) CHKG SAV ICA GL		Serial # (For ICA/GL) or Repetitive ID# _____		FX Reference ID (If Applicable) _____	
Source <input type="checkbox"/> Fax <input type="checkbox"/> Phone <input type="checkbox"/> Letter <input type="checkbox"/> OTC		Account to Debit State _____ Available Balance \$ _____		Account Title _____	
Overdraft Amount \$ _____		Overdraft Approved by (Name & Signature) _____		Date _____ Wire Fee \$ _____	
Section V: Wire Information					
Beneficiary Name Merrill Lynch			Beneficiary Account # OR IBAN (If IBAN, the further Beneficiary Bank Information is required) 1011730		
Beneficiary Address: Street _____		City _____ State _____		Country _____ Zip _____	
Beneficiary Bank Name Mellon Bank			ABA # or SWIFT or National ID 01223-07406		
Beneficiary Bank Address: Street _____		City _____		State _____ Country _____ Zip 84300261	
Additional Instructions (Attention To, Phone Advise, Customer Reference, Contact Upon Arrival) F/Cr to Optima Technology Group 223-07406					
Send Thru Bank/IBK (if available) _____			ABA # or SWIFT or National ID _____		
Send Thru Bank Address: Street _____		City _____		State _____ Country _____ Zip _____	
Section VI: Customer Approval					
I authorize Bank of America to transfer my funds as set forth in the instructions noted herein (including debiting my account if applicable), and agree that such transfer of funds is subject to the Bank of America standard transfer agreement (see reverse side) and applicable fees. If this is a foreign currency wire transfer, I accept the conversion rate provided in Section IV, or, if no rate is entered, the rate provided by Bank of America at the time the wire transfer is sent.					
Customer's Signature: Jed Margolin				Date of Request: 3-26-08	
Section VII: Wire System Entry/Verification					
Wire Entered by: Name/Signature (attach BFT screen print) Print: Janet Saldana Signature: Janet Saldana		BFT System Time 13:33:53		BFT Sequence # 01080326006579	
Date of Entry and Verification _____		Verified By (Name/Signature) (Print Verification Screen) Print: _____ Signature: _____		BFT System Time _____	

Note: Purpose of Wire must be disclosed if sent to an OFAC blocked country - See OFAC in PRO

Section I: Requester/Originator Information					
Name <i>Jed Margolin</i>		Telephone # <i>775-847-7845</i>		Date Wire to be Sent <i>6-18-08</i>	
Address <i>1981 Empire Rd</i>		City <i>Reno</i>		State <i>NV</i>	
Customer ID Type <i>1 DRIVER License</i>		ID# <i>8352</i>		Issue State/Country <i>1. Nevada</i>	
Issue Date <i>01-06-06</i>		Expiration Date <i>1.02-20-2010</i>		89521-7430	
Method of Signature Verification (If Applicable) <i>2. BofA - ATM 5124 EXP 5/2010</i>					
Section II: Associate Accepting Wire					
Associate Name <i>Janet Saldana</i>		Phone and Fax # <i>775-325-6001</i>		Unit Cof/CC# <i>336/8557</i>	
Date <i>6-18-08</i>		Time <i>9:32</i>		Callback Required if Phone, Fax or Letter <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A	
Name/Number of Person Contacted		Date/Time		Approval (required)/Market Approval (if required)	
Section III: Domestic Payment Instructions					
Amount of Wire <i>\$ 30,000.-</i>		Debit Account Type (circle one) CHKG <input type="checkbox"/> SAV <input checked="" type="checkbox"/> ICA <input type="checkbox"/> OL <input type="checkbox"/>		Serial # (For ICA/GL) or Repetitive ID#	
Source <input type="checkbox"/> Fax <input type="checkbox"/> Phone <input checked="" type="checkbox"/> Letter		Account to Debit State <i>██████████</i>		Available Balance <i>\$ 42,339.52</i>	
Account Title <i>Jed Margolin</i>		Overdraft Amount \$		Overdraft Approved by (Name & Signature) <i>Jed Margolin</i>	
Date <i>6-18-08</i>		Wire Fee <i>\$ 25.-</i>			
Section IV: International Payment Instructions: <input type="checkbox"/> Check here if funds must be sent in US Dollars					
USD Amount of Wire \$		Country		Rate	
Foreign Currency Code		Foreign Currency Amount			
Debit Account Type (circle one) CHKG SAV ICA OL		Serial # (For ICA/GL) or Repetitive ID#		FX Reference ID (If Applicable)	
Source <input type="checkbox"/> Fax <input type="checkbox"/> Phone <input type="checkbox"/> Letter		Account to Debit State		Available Balance	
Account Title		Overdraft Amount \$		Overdraft Approved by (Name & Signature)	
Date		Wire Fee \$			
Section V: Wire Information					
Beneficiary Name <i>Snell & Wilmer Trust Acct</i>		Beneficiary Account # OR IBAN (if IBAN, no further Beneficiary Bank information is required) <i>411-9025</i>			
Beneficiary Address: Street		City		State Country Zip	
Beneficiary Bank Name <i>J.P. Morgan Chase NA/Phoenix Trust Acct</i>		ABA # or SWIFT or National ID <i>021000021</i>			
Beneficiary Bank Address: Street <i>501 N. Central Ave</i>		City <i>Phoenix</i>		State Country Zip <i>AZ US 85004</i>	
Additional Instructions (Attention To, Phone Advise, Customer Reference, Contact Upon Arrival) <i>Atty: Jeff Willis Client: Optima Technology Group/Jed Margolin</i>					
Send Thru Bank/IBK (if available)		ABA # or SWIFT or National ID			
Send Thru Bank Address: Street		City		State Country Zip	
Section VI: Customer Approval					
I authorize Bank of America to transfer my funds as set forth in the instructions noted herein (including debiting my account if applicable), and agree that such transfer of funds is subject to the Bank of America standard transfer agreement (see reverse side) and applicable fees. If this is a foreign currency wire transfer, I accept the conversion rate provided in Section IV, or, if no rate is entered, the rate provided by Bank of America at the time the wire transfer is sent.					
Customer's Signature: <i>Jed Margolin</i>				Date of Request: <i>6-18-08</i>	
Section VII: Wire System Entry/Verification					
Wire Entered by: Name/Signature (attach BFT screens print) <i>Janet Saldana</i>		BFT System Time <i>12.02.51</i>		BFT Sequence # <i>01080618004513</i>	
Date of Entry and Verification		Verified By (Name/Signature) (Print Verification Screen) <i>Janet Saldana</i>		Signature: <i>Janet Saldana</i>	
Print:		Signature:		BFT System Time	

Note: Purpose of Wire must be disclosed if sent to an OFAC blocked country - See OFAC in PRO

ORIGINAL.

1 Matthew D. Francis (6978)
Adam P. McMillen (10678)
2 WATSON ROUNDS
5371 Kietzke Lane
3 Reno, NV 89511
Telephone: 775-324-4100
4 Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

REC'D & FILED ✓

2012 APR 23 PM 1:30

ALAN GLOVER
BY Alan Glover CLERK
FEDERAL

7 **In The First Judicial District Court of the State of Nevada**
8 **In and for Carson City**

10 **JED MARGOLIN, an individual,**

11 **Plaintiff,**

12 **vs.**

13 **OPTIMA TECHNOLOGY CORPORATION,**
14 **a California corporation, OPTIMA**
TECHNOLOGY CORPORATION, a Nevada
15 **corporation, REZA ZANDIAN**
16 **aka GOLAMREZA ZANDIANJAZI**
aka GHOLAM REZA ZANDIAN
17 **aka REZA JAZI aka J. REZA JAZI**
aka G. REZA JAZI aka GHONONREZA
18 **ZANDIAN JAZI, an individual, DOE**
Companies 1-10, DOE Corporations 11-20,
19 **and DOE Individuals 21-30,**

20 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

REQUEST FOR SUBMISSION

21
22 It is hereby requested that the following documents be submitted to the Court for
23 decision:

24 1) John Peter Lee, Ltd.'s Motion to Withdraw From Representation of Reza Zandian
25 aka Golamreza Zandianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G.
26 Reza Jazi aka Ghononreza Zandian Jazi, filed March 7, 2012;

1 2) John Peter Lee, Ltd.'s Amended Motion to Withdraw From Representation of
2 Optima Technology Corporation, a California corporation, Optima Technology Corporation, a
3 Nevada corporation, and Reza Zandian aka Golamreza Zandianjazi aka Gholam Reza Zandian
4 aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi, filed March 14,
5 2012;

6 3) Notice of Non-Opposition to John Peter Lee, Ltd.'s Motion to Withdraw from
7 Representation, filed March 16, 2012;

8 4) Declaration of Adam P. McMillen in Support of the Notice of Non-Opposition to
9 John Peter Lee, Ltd.'s Motion to Withdraw from Representation, filed March 16, 2012;

10 5) Notice of Non-Opposition to John Peter Lee, Ltd.'s Amended Motion to Withdraw
11 from Representation, filed March 30, 2012; and

12 6) Declaration of Adam P. McMillen in Support of the Notice of Non-Opposition to
13 John Peter Lee, Ltd.'s Amended Motion to Withdraw from Representation, filed March 16,
14 2012;

15 **Affirmation Pursuant to NRS 239B.030**

16 The undersigned does hereby affirm that the preceding document does not contain the
17 social security number of any person.

18
19 DATED: April 23, 2012

WATSON ROUNDS

20 BY: Adam McMillen
21 Matthew D. Francis (6978)
22 Adam P. McMillen (10678)
23 5371 Kietzke Lane
24 Reno, NV 89511
25 Telephone: 775-324-4100
26 Facsimile: 775-333-8171
27 Attorneys for Plaintiff Jed Margolin
28

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Request for Submission**, addressed as follows:

John Peter Lee
John C. Courtney
John Peter Lee, Ltd.
830 Las Vegas Blvd. South
Las Vegas, NV 89101

Dated: April 23, 2012



Carla Ousby

909

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

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ORDG
JOHN PETER LEE, LTD.
JOHN PETER LEE, ESQ.
Nevada Bar No. 001768
JOHN C. COURTNEY, ESQ.
Nevada Bar No. 011092
830 Las Vegas Boulevard South
Las Vegas, Nevada 89101
(702) 382-4044 Fax: (702) 383-9950
e-mail: info@johnpeterlee.com
Attorneys for Defendants
Optima Technology Corporation,
Optima Technology Corporation, and
Reza Zandian aka Golamreza Zandianjazi
aka Gholamreza Zandianjazi aka Gholam Reza Zandian
aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka
Ghononreza Zandian Jazi

REC'D & FILED

2012 APR 26 PM 4:18

ALAN GLOVER

BY  CLERK
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

JED MARGOLIN, an individual;

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN aka
GOLAMREZA ZANDIANJAZI aka
GHOLAM REZA ZANDIAN aka REZA
JAZI aka J. REZA JAZI AKA G. REZA JAZI
aka GHONONREZA ZANDIAN JAZI, an
individual, DOE Companies 1-10; DOE
Corporations 11-20, and DOE Individuals 21-
30,

Defendants.

Case No.: 090C00579

Dept. No.: I

1334.023382-td

**ORDER GRANTING JOHN PETER LEE, LTD.'S AMENDED MOTION TO
WITHDRAW FROM REPRESENTATION OF DEFENDANTS OPTIMA
TECHNOLOGY CORPORATION, A CALIFORNIA CORPORATION; OPTIMA
TECHNOLOGY CORPORATION, A NEVADA CORPORATION; AND REZA
ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka
REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN
JAZI**

Upon JOHN PETER LEE, LTD'S Amended Motion to Withdraw from Representation of
Defendants Optima Technology Corporation, a California Corporation; Optima Technology

1 Corporation, a Nevada Corporation, and Reza Zandian aka Golamreza Zandianjazi aka Gholamreza
2 Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi, the Court
3 having reviewed the papers and pleadings on file herein, for good cause appearing, the Court hereby:
4 ORDERS, ADJUDGES AND DECREES that the Amended Motion to Withdraw, is hereby
5 GRANTED.

6 IT IS SO ORDERED.

7 DATED this 26th day of April, 2012.

8
9 
DISTRICT COURT JUDGE

10 SUBMITTED BY:

11 JOHN PETER LEE, LTD.

12
13 BY: 
14 JOHN PETER LEE, ESQ.
15 Nevada Bar No. 001768
16 JOHN C. COURTNEY, ESQ.
17 Nevada Bar No. 011092
18 830 Las Vegas Boulevard South
19 Las Vegas, Nevada 89101
20 (702) 382-4044 Fax: (702) 383-9950
21 e-mail: info@johnpeterlee.com
22 Attorneys for Defendants
23 *Optima Technology Corporation,*
24 *Optima Technology Corporation, and*
25 *Reza Zandian aka Golamreza Zandianjazi*
26 *aka Gholamreza Zandianjazi aka Gholam Reza Zandian*
27 *aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka*
28 *Ghononreza Zandian Jazi*

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
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LAS VEGAS, NEVADA 89101
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2 Nevada Bar No. 001768
JOHN C. COURTNEY, ESQ.
3 Nevada Bar No. 011092
830 Las Vegas Boulevard South
4 Las Vegas, Nevada 89101
(702) 382-4044 Fax: (702) 383-9950
5 e-mail: info@johnpeterlee.com
Attorneys for Defendant
6 *Optima Technology Corporation,*
Reza Zandian aka Golamreza Zandianjazi
7 *aka Gholamreza Zandianjazi aka Gholam Reza Zandian*
aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka
8 *Ghononreza Zandian Jazi*

REC'D & FILED

2012 MAY -9 PM 1:56

ALAN GLOVER
BY *Alan Glover* CLERK
DEPUTY

9 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**

11 JED MARGOLIN, an individual;

Case No.: 090C00579

Dept. No.: I

12 Plaintiff,

13 vs.

14 OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
15 TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN aka
16 GOLAMREZA ZANDIANJAZI aka
GHOLAM REZA ZANDIAN aka REZA
17 JAZI aka J. REZA JAZI AKA G. REZA JAZI
aka GHONONREZA ZANDIAN JAZI, an
18 individual, DOE Companies 1-10; DOE
Corporations 11-20, and DOE Individuals 21-
19 30,

20 Defendants.

1334.023382-td

21 **NOTICE OF ENTRY OF ORDER GRANTING JOHN PETER LEE, LTD.'S AMENDED**
22 **MOTION TO WITHDRAW FROM REPRESENTATION OF DEFENDANTS OPTIMA**
23 **TECHNOLOGY CORPORATION, OPTIMA TECHNOLOGY CORPORATION, REZA**
24 **ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka**
REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN
JAZI

25 PLEASE TAKE NOTICE that an Order Granting John Peter Lee, Ltd.'s Amended Motion
26 to Withdraw from Representation of Defendants Optima Technology Corporation, Optima
27 Technology Corporation, Reza Zandian aka Golamreza Zandianjazi aka Gholam Reza Zandian aka
28 Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi, was filed in the above

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
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LAS VEGAS, NEVADA 89101
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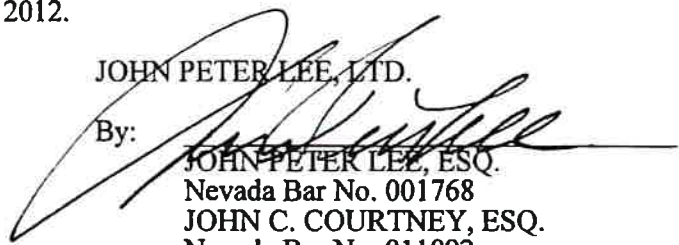
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captioned matter on the 26th day of April, 2012, a copy of which is attached hereto.

DATED this 4th day of May, 2012.

JOHN PETER LEE, LTD.

By:



JOHN PETER LEE, ESQ.
Nevada Bar No. 001768
JOHN C. COURTNEY, ESQ.
Nevada Bar No. 011092
830 Las Vegas Boulevard South
Las Vegas, Nevada 89101
(702) 382-4044 Fax: (702) 383-9950
e-mail: info@johnpeterlee.com
*Attorneys for Defendant
Optima Technology Corporation,
Reza Zandian aka Golamreza Zandianjazi
aka Gholamreza Zandianjazi aka Gholam Reza
Zandian aka Reza Jazi aka J. Reza Jazi aka
G. Reza Jazi aka Ghononreza Zandian Jazi*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ^{JM}4th day of May, 2012, I served a copy of the foregoing
**NOTICE OF ENTRY OF ORDER GRANTING JOHN PETER LEE, LTD.'S AMENDED
MOTION TO WITHDRAW FROM REPRESENTATION OF DEFENDANTS OPTIMA
TECHNOLOGY CORPORATION, OPTIMA TECHNOLOGY CORPORATION, REZA
ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAMREZA ZANDIAN aka REZA
JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN JAZI** in the
above captioned matter by enclosing it in a sealed envelope upon which first class postage was fully
prepaid addressed to:

Matthew D. Francis
Adam P. McMillen
WATSON & ROUNDS
5371 Kietzke Lane
Reno, Nevada 89511

By: 
An Employee of
JOHN PETER LEE LTD.

9/14

JOHN PETER LEE, LTD.
ATTORNEYS AT LAW
830 LAS VEGAS BLVD. SOUTH
LAS VEGAS, NEVADA 89101
Telephone (702) 382-4044
Telecopier (702) 383-9950

1 **ORDG**
2 JOHN PETER LEE, LTD.
3 JOHN PETER LEE, ESQ.
4 Nevada Bar No. 001768
5 JOHN C. COURTNEY, ESQ.
6 Nevada Bar No. 011092
7 830 Las Vegas Boulevard South
8 Las Vegas, Nevada 89101
9 (702) 382-4044 Fax: (702) 383-9950
10 e-mail: info@johnpeterlee.com
11 Attorneys for Defendants
12 *Optima Technology Corporation,*
13 *Optima Technology Corporation, and*
14 *Reza Zandian aka Golamreza Zandianjazi*
15 *aka Gholamreza Zandianjazi aka Gholam Reza Zandian*
16 *aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka*
17 *Ghononreza Zandian Jazi*

REC'D & FILED

2012 APR 26 PM 4: 16

ALAN GLOYER

BY _____ CLFRP
NFPIITV

10 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
11 **IN AND FOR CARSON CITY**

12 JED MARGOLIN, an individual;

13 Plaintiff,

14 vs.

15 OPTIMA TECHNOLOGY CORPORATION,
16 a California corporation, OPTIMA
17 TECHNOLOGY CORPORATION, a Nevada
18 coporation, REZA ZANDIAN aka
19 GOLAMREZA ZANDIANJAZI aka
20 GHOLAM REZA ZANDIAN aka REZA
21 JAZI aka J. REZA JAZI AKA G. REZA JAZI
22 aka GHONONREZA ZANDIAN JAZI, an
23 individual, DOE Companies 1-10; DOE
24 Corporations 11-20, and DOE Individuals 21-
25 30,

26 Defendants.

Case No.: 090C00579

Dept. No.: I

1334.023382-td

23 **ORDER GRANTING JOHN PETER LEE, LTD.'S AMENDED MOTION TO**
24 **WITHDRAW FROM REPRESENTATION OF DEFENDANTS OPTIMA**
25 **TECHNOLOGY CORPORATION, A CALIFORNIA CORPORATION; OPTIMA**
26 **TECHNOLOGY CORPORATION, A NEVADA CORPORATION; AND REZA**
27 **ZANDIAN aka GOLAMREZA ZANDIANJAZI aka GHOLAM REZA ZANDIAN aka**
28 **REZA JAZI aka J. REZA JAZI AKA G. REZA JAZI aka GHONONREZA ZANDIAN**
JAZI

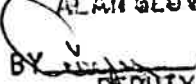
29 Upon JOHN PETER LEE, LTD'S Amended Motion to Withdraw from Representation of
30 Defendants Optima Technology Corporation, a California Corporation; Optima Technology



1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 Attorneys for Plaintiff Jed Margolin

REC'D & FILED

2012 MAY 10 PM 4: 10

ALAN GLOVER
BY  CLERK
DEPUTY

6 **In The First Judicial District Court of the State of Nevada**
7 **In and for Carson City**

8 **JED MARGOLIN, an individual,**

9 **Plaintiff,**

10 vs.

11 **OPTIMA TECHNOLOGY CORPORATION,**
12 **a California corporation, OPTIMA**
13 **TECHNOLOGY CORPORATION, a Nevada**
14 **corporation, REZA ZANDIAN**
15 **aka GOLAMREZA ZANDIANJAZI**
16 **aka GHOLAM REZA ZANDIAN**
17 **aka REZA JAZI aka J. REZA JAZI**
18 **aka G. REZA JAZI aka GHONONREZA**
19 **ZANDIAN JAZI, an individual, DOE**
20 **Companies 1-10, DOE Corporations 11-20,**
21 **and DOE Individuals 21-30,**

22 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

SECOND SUPPLEMENTAL REQUEST
FOR EXEMPTION FROM
ARBITRATION

VALUE IN EXCESS OF \$50,000

23 COMES NOW the Plaintiff, Jed Margolin, by and through his counsel of record,
24 Matthew D. Francis and Adam P. McMillen of the Law Firm of WATSON ROUNDS, P.C.,
25 and hereby requests that the above-entitled matter be exempt from arbitration pursuant to
26 Nevada Arbitration Rule 5, as this case involves an amount at issue in excess of \$50,000.00,
27 exclusive of interest and costs.

28 A summary of the facts which support this second supplemental request for exemption
is as follows (new items in bold):

\\

\\

1 **I. FACTUAL BACKGROUND**

2 Plaintiff Jed Margolin is the named inventor on numerous patents and patent
3 applications, including United States Patent No. 5,566,073 (“the ‘073 Patent”), United States
4 Patent No. 5,904,724 (“the ‘724 Patent”), United States Patent No. 5,978,488 (“the ‘488
5 Patent”) and United States Patent No. 6,377,436 (“the ‘436 Patent”) (collectively “the
6 Patents”). *See* Amended Complaint, dated 8/11/11, ¶ 9, on file herein. Mr. Margolin is the
7 legal owner and owner of record for the ‘488 and ‘436 Patents, and has never assigned those
8 patents. *Id.* at ¶ 10. In 2004, Mr. Margolin granted to Optima Technology Group (“OTG”), a
9 Cayman Islands Corporation specializing in aerospace technology, a Power of Attorney
10 regarding the ‘073 and ‘724 Patents. *Id.* at ¶ 11. Subsequently, Mr. Margolin assigned the
11 ‘073 and ‘724 Patents to OTG. *Id.* at ¶ 13.

12 In May 2006, OTG and Mr. Margolin licensed the ‘073 and ‘724 Patents to Geneva
13 Aerospace, Inc., and Mr. Margolin received a royalty payment pursuant to the royalty
14 agreement between Mr. Margolin and OTG. *Id.* at ¶ 12. In about October 2007, OTG licensed
15 the ‘073 Patent to Honeywell International, Inc., and Mr. Margolin received a royalty payment
16 pursuant to the royalty agreement between Mr. Margolin and OTG. *Id.* at ¶ 14.

17 On about December 5, 2007, Defendant Zandian filed with the U.S. Patent and
18 Trademark Office (“USPTO”) fraudulent assignment documents assigning all four of the
19 Patents to Optima Technology Corporation (“OTC”), a company apparently owned by
20 Defendant Zandian. *Id.* at ¶ 15. Upon discovery of the fraudulent filings, Mr. Margolin: (a)
21 filed a report with the Storey County Sheriff’s Department; (b) took action to regain record
22 title to the ‘488 and ‘436 Patents that he legally owned; and (c) assisted OTG in regaining
23 record title of the ‘073 and ‘724 patents that it legally owned and upon which it contracted
24 with Mr. Margolin for royalties. *Id.* at ¶ 16.

25 Shortly before this, Mr. Margolin and OTG had been named as defendants in an action
26 for declaratory relief regarding non-infringement of the ‘073 and ‘724 patents in the United
27 States District Court for the District of Arizona, in a case titled: *Universal Avionics Systems*
28 *Corporation v. Optima Technology Group, Inc.*, No. CV 07-588-TUC-RCC (the “Arizona

1 Action"). *Id.* at ¶ 17. Plaintiff in the Arizona Action asserted that Mr. Margolin and
2 OTG were not the owners of the '073 and '724 patents, and Mr. Margolin and OTG filed a
3 cross-claim for declaratory relief against Optima Technology Corporation ("OTC") in order to
4 obtain legal title to the respective patents.

5 On April 14, 2008, OTG entered into an agreement to sell the '073 and '724
6 patents to another United States company ("Assignee").¹ The agreement stated that
7 OTG was to sell to Assignee the '073 and '724 patents for an initial payment of
8 \$350,000.00 and 10% royalty payments from licensing, enforcement or sale of the '073
9 and '724 patents.² The agreement specifically referenced the Arizona Action and
10 included several provisions that allowed the Assignee to investigate the patents and the
11 Arizona Action as part of Assignee's due diligence.³ The due diligence clause of the
12 agreement allowed the Assignee to determine in its sole and absolute discretion whether
13 or not the patents and the Arizona Action were acceptable.⁴

14 On June 13, 2008, Assignee sent OTG a "kiss-off" letter stating that they had
15 completed their due diligence investigation and determined that the patents and/or the
16 Arizona Action were not acceptable.⁵ As alleged in the Complaint, Mr. Margolin
17 believes that as a result of the fraudulent actions of Defendants, Mr. Margolin and OTG
18 lost the \$350,000.00 plus royalties deal with the Assignee.⁶

19 Subsequently, on August 18, 2008, the United States District Court for the District of
20 Arizona entered a default judgment in favor of Mr. Margolin and OTG on their declaratory
21 relief action, and ordered that OTC had no interest in the '073 or '724 patents, and that the
22
23

24
25 ¹ See Declaration of Jed Margolin, dated 5/10/12, ¶ 2. Plaintiff has intentionally omitted the name of the
Assignee because the agreement is confidential. *Id.* If requested, Plaintiff will submit a copy of the
agreement to the court *in camera*. *Id.*

26 ² *Id.* at ¶ 3.

27 ³ *Id.* at ¶ 4.

28 ⁴ *Id.* at ¶ 5.

⁵ *Id.* at ¶ 6.

⁶ *Id.* at ¶ 7.

1 assignment documents filed by OTC with the USPTO were “forged, invalid, void, of no force
2 and effect.” See Exhibit B to Zandian’s Motion to Dismiss, on file herein.

3 Due to Defendants’ fraudulent acts, title to the Patents was clouded **and slandered** and
4 interfered with Plaintiff’s and OTG’s ability to license the Patents. Amended Complaint at ¶
5 19. In addition, during the period of time Mr. Margolin worked to correct record title of the
6 Patents in the Arizona Action and with the USPTO, he incurred significant litigation and other
7 costs associated with those efforts. *Id.* at ¶ 20.

8 As an example, and as related above, the \$350,000.00 plus royalties deal with the
9 Assignee fell through. See *supra*. Pursuant to his agreement with OTG, Mr. Margolin
10 would have been entitled to 60% percent of the \$350,000.00 plus royalties deal with
11 Assignee, which would have equaled at least \$210,000.00.⁷ Also, Mr. Margolin has not
12 yet received a full accounting of any licensing or other profits that Defendants received
13 as a result of their fraudulent activity with the subject patents.⁸

14 Moreover, Mr. Margolin was forced to spend \$90,000 in attorneys’ fees in the
15 Arizona Action alone. See Declaration of Jed Margolin in Support of Application for Default
16 Judgment, originally filed on February 28, 2011, attached hereto as Exhibit A.⁹ The \$90,000
17 in attorney’s fees expended in the Arizona Action, does not include attorney’s fees in this
18 action, prejudgment interest pursuant to NRS 99.040(1) or costs pursuant to NRS 18.020. In
19

20 ⁷ *Id.* at ¶ 8.

21 ⁸ *Id.* at ¶ 9.

22 ⁹ Pursuant to Nevada law, Mr. Margolin is entitled to seek his attorney’s fees as special damages as a result
23 of Defendants’ actions in falsely claiming ownership to the subject patents. See *Horgan v. Felton*, 123
24 Nev. 577, 585-86, 170 P.3d 982, 987-88 (2007); see also *Am. Fed’n of Musicians v. Reno’s Riverside Hotel,*
25 *Inc.*, 86 Nev. 695, 699, 475 P.2d 220, 222 (1970) (awarding attorney’s fees as damages because the
26 institution of the litigation was due to the activity of the defendant such that the plaintiff had to retain
27 counsel and expend fees to pay for the litigation); *Tracey v. Am. Family Mut. Ins. Co.*, 2:09-CV-1257-
28 GMN-PAL, 2010 WL 5477751 (D. Nev. Dec. 30, 2010) (attorney’s fees awarded as a matter of law to
plaintiff as proximately and necessarily caused damages incurred as a reasonably foreseeable
consequence or result of defendant’s conduct); *Lowden Inv. Co. v. Gen. Elec. Credit Co.*, 103 Nev. 374,
379-80, 741 P.2d 806, 809 (1987) (generally, attorney’s fees may not be awarded unless by agreement,
statute or rule, however, “attorney’s fees attributable to plaintiff’s litigation with other parties may be
recovered as damages when defendant’s conduct caused the litigation”); *Sandy Valley Associates v. Sky*
Ranch Estates Owners Ass’n, 117 Nev. 948, 957-58, 35 P.3d 964, 970 (2001) (“Attorney fees may also be
awarded as damages in those cases in which a party incurred the fees in recovering real or personal
property acquired through the wrongful conduct of the defendant or in clarifying or removing a cloud
upon the title to property.”); Restatement (Second) of Torts § 914 (2) (1979) (same).

1 addition, Mr. Margolin is also seeking treble damages pursuant to NRS 598.0999 and punitive
2 damages pursuant to Nevada law, **all in an amount exceeding \$50,000.00.** See Amended
3 Complaint, dated 8/11/11, on file herein.

4 **II. CONCLUSION**

5 I hereby certify, pursuant to NRCP 11, that this case falls within the exemptions found
6 in Nevada Arbitration Rules 3 and 5 and that I am aware of the sanctions which may be
7 imposed against any attorney or party who without good cause or justification attempts to
8 remove a case from the court-annexed arbitration program.

9 **AFFIRMATION PURSUANT TO NRS 239B.030**

10 The undersigned does hereby affirm that the preceding document does not contain the
11 social security number of any person.

12 Dated this 10th day of May, 2012.

WATSON ROUNDS

13
14 BY: Adam McMillen
15 Matthew D. Francis (6978)
16 Adam P. McMillen (10678)
17 5371 Kietzke Lane
18 Reno, NV 89511
19 Telephone: 775-324-4100
20 Facsimile: 775-333-8171
21 *Attorneys for Plaintiff Jed Margolin*
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1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
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4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 *Attorneys for Plaintiff Jed Margolin*

REC'D & FILED
2012 MAY 10 PM 4:10
ALAN GLOVER
BY *[Signature]* CLERK
DEPUTY

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**In The First Judicial District Court of the State of Nevada
In and for Carson City**

9 **JED MARGOLIN, an individual,**
10
11 **Plaintiff,**
12
13 **vs.**
14
15 **OPTIMA TECHNOLOGY CORPORATION,**
16 **a California corporation, OPTIMA**
17 **TECHNOLOGY CORPORATION, a Nevada**
18 **corporation, REZA ZANDIAN aka**
19 **GOLAMREZA ZANDIANJAZI aka**
20 **GHOLAM REZA ZANDIAN aka REZA JAZI**
21 **aka J. REZA JAZI aka G. REZA JAZI aka**
22 **GHONONREZA ZANDIAN JAZI, an**
23 **individual, DOE Companies**
24 **1-10, DOE Corporations 11-20, and DOE**
25 **Individuals 21-30,**
26
27 **Defendants.**

Case No.: 090C00579 1B
Dept. No.: 1

**DECLARATION OF JED MARGOLIN
IN SUPPORT OF REQUEST TO
EXEMPT CASE FROM COURT
ANNEXED ARBITRATION
PROGRAM**

21 I, Jed Margolin do hereby declare and state as follows:

22 1. I am the named inventor on United States Patent No. 5,566,073 ("the '073
23 Patent"), United States Patent No. 5,904,724 ("the '724 Patent"), United States Patent No.
24 5,978,488 ("the '488 Patent") and United States Patent No. 6,377,436 ("the '436 Patent")
25 (collectively "the Patents"). This declaration is based upon my personal knowledge, and is
26 made in support of Plaintiff's Request to Exempt Case from Court Annexed Arbitration
27 Program.
28

1 2. On April 14, 2008, Optima Technology Group ("OTG") entered into a
2 confidential agreement to sell the '073 and '724 patents to another United States company
3 ("Assignee"). I have intentionally omitted the name of the Assignee because the agreement is
4 confidential. If requested, I will submit a copy of this agreement to the court *in camera*.

5 3. The agreement stated that OTG was to sell to Assignee the '073 and '724
6 patents for an initial payment of \$350,000.00 and 10% royalty payments from licensing,
7 enforcement or sale of the '073 and '724 patents.

8 4. The agreement specifically referenced *Universal Avionics Systems Corporation*
9 *v. Optima Technology Group, Inc.*, No. CV 07-588-TUC-RCC (the "Arizona Action") and
10 included several provisions that allowed the Assignee to investigate the patents and the
11 Arizona Action as part of Assignee's due diligence.

12 5. The due diligence clause of the agreement allowed the Assignee to determine in
13 its sole and absolute discretion whether or not the patents and the Arizona Action were
14 acceptable.

15 6. On June 13, 2008, Assignee sent OTG a "kiss-off" letter stating that they had
16 completed their due diligence investigation and determined that the patents and/or the Arizona
17 Action were not acceptable.

18 7. As alleged in the Complaint, as a result of the fraudulent actions of the
19 Defendants in this action, that OTG and I were unable to close the confidential agreement,
20 thereby losing \$350,000.00 and 10% royalty payments from licensing, enforcement or sale of
21 the '073 and '724 patents.

22 8. Pursuant to my agreement with OTG, I would have been entitled to 60%
23 percent of the \$350,000.00 plus royalties deal with Assignee, which would have equaled at
24 least \$210,000.00.

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9. I have not yet received a full accounting of any licensing or other profits that Defendants received as a result of their fraudulent activity with the subject patents.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated May 10, 2012.

By: Jed Margolin
JED MARGOLIN

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on
3 this date, a true and correct copy of the foregoing document, **DECLARATION OF JED**
4 **MARGOLIN IN SUPPORT OF REQUEST TO EXEMPT CASE FROM COURT**
5 **ANNEXED ARBITRATION PROGRAM**, will be served via first-class mail through the
6 U.S. Postal Service, addressed as follows:

7
8 John Peter Lee
9 John Peter Lee, Ltd.
10 830 Las Vegas Blvd. South
11 Las Vegas, NV 89101

12 A true and correct copy of this document will also be served via certified mail through
13 the U.S. Postal Service to the following individual:

14 Reza Zandian
15 8775 Costa Verde Blvd.
16 San Diego, CA 82122

17 Dated: May 10, 2012

18 
19 _____
20 Carla Ousby

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Matthew D. Francis (6978)
Adam P. McMillen (10678)
WATSON ROUNDS
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

REC'D & FILED
2012 MAY 15 PM 12: 56
ALAN GLOVER
BY V. GUTIERREZ CLERK
DEPUTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

**JED MARGOLIN, an individual,
Plaintiff,**

vs.

**OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE
Companies 1-10, DOE Corporations 11-20,
and DOE Individuals 21-30,
Defendants.**

**Case No.: 090C00579 1B
Dept. No.: 1**

**PLAINTIFF'S MOTION TO COMPEL
APPEARANCE OF COUNSEL FOR
OPTIMA TECHNOLOGY
CORPORATIONS, OR IN THE
ALTERNATIVE, MOTION TO STRIKE
GENERAL DENIAL OF OPTIMA
TECHNOLOGY CORPORATIONS**

Pursuant to NRCP 7.285, SCR 77, and other applicable law, Plaintiff Jed Margolin ("Mr. Margolin" or "Plaintiff") hereby moves this Court for an order compelling Defendants Optima Technology Corporation, a California corporation, and Optima Technology Corporation, a Nevada corporation (collectively "Optima Technology Corporations") to retain legal counsel, or, in the alternative, to strike the General Denial of those Corporations filed on March 13, 2012. This Motion is based on the grounds that because the Optima Technology Corporations are no longer represented by counsel, they cannot represent themselves under Nevada Law, and cannot defend, prosecute, or participate in this action. This Motion is based

1 on the attached Memorandum of Points and Authorities, all pleadings and papers on file in this
2 action, and any argument the Court may hear.

3 Dated this 15th day of May, 2012.

WATSON ROUNDS

4
5 BY: /s/ Adam P. McMillen
6 Matthew D. Francis (6978)
7 Adam P. McMillen (10678)
8 5371 Kietzke Lane
9 Reno, NV 89511
10 Telephone: 775-324-4100
11 Facsimile: 775-333-8171
12 *Attorneys for Plaintiff Jed Margolin*

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I. BACKGROUND**

15 Mr. Margolin filed the Complaint in this action on December 11, 2009. After
16 extensive briefing regarding service on Defendants concluded, and after the Court denied
17 Defendants' Motion to Dismiss, Defendants served two "General Denials." The first General
18 Denial was served on March 5, 2012 on behalf of the individual Reza Zandian aka Golamreza
19 Andianjazi aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka
20 Ghononreza Zandian Jazi. The second General Denial was served on March 13, 2012 on
21 behalf of the Optima Technology Corporations.

22 On March 13, 2012, Defense counsel moved to withdraw from representing all of the
23 individual and corporate Defendants in this action. On March 16, 2012, Plaintiff filed a non-
24 opposition to Defense counsel's Motion to Withdraw, and on April 26, 2012, this Court
25 granted Defense counsel's Motion to Withdraw. The undersigned has not been contacted by
26 new Defense counsel for any of the Defendants as of the date of this Motion, and no
27 appearance of counsel has been entered for any of the Defendants as of the date of this Motion.

28 **II. ARGUMENT**

NRS 7.285 provides that "[n]o person shall practice law in this state unless he is an
active member of the State Bar of Nevada pursuant to the rules of the supreme court." The
statute further provides that any person who practices law who is not an active member of the
State Bar of Nevada is guilty of a misdemeanor. SCR 77 provides that, with certain

1 inapplicable exceptions, no person may practice law as an officer of the courts in this state
 2 who is not an active member of the state bar. Nevada case law is clear on this issue as well.
 3 *See State v. Stu's Bail Bonds*, 115 Nev. 436, n. 1, 991 P.2d 469, 470 n. 1 (1999) ("business
 4 entities are not permitted to appear, or file documents, in proper person"); *Salman v.*
 5 *Newell*, 110 Nev. 1333, 1336, 885 P. 2d 607, 608 (1994) (observing that no statute or rule
 6 permits a non-lawyer to represent an entity and concluding that an entity cannot proceed in
 7 proper person); *Sunde v. Contel of California*, 112 Nev. 541, 542-43, 915 P.2d 298, 299
 8 (1996) (explaining that non-lawyers may not represent entities in court).

9 Courts may strike pleadings when a corporation has failed to retain counsel. *See*
 10 *Trustees of Operating Engineers Pension Trust v. O'Donnell*, 2007 WL 672528, *2 (D. Nev.
 11 2007) (granting motion to compel and alternative motion to strike answer) (citations omitted).

12 Because corporations may not represent themselves, the Optima Technology
 13 Corporations cannot defend, prosecute, or participate in this action without counsel licensed in
 14 the State of Nevada. As such, Plaintiff respectfully requests that the Optima Technology
 15 Corporations be ordered to retain legal counsel no later than June 15, 2012. Plaintiff also
 16 respectfully requests that the March 13, 2012 General Denial filed by Optima Technology
 17 Corporations be stricken if Optima Technology Corporations do not retain new counsel by
 18 June 15, 2012.

19 **III. CONCLUSION**

20 For all of the foregoing reasons, Plaintiff's Motion should be granted in the manner
 21 requested.

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 15th day of May, 2012.

WATSON ROUNDS

BY: /s/ Adam P. McMillen
Matthew D. Francis (6978)
Adam P. McMillen (10678)
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, a true and correct copy of the foregoing document, **PLAINTIFF'S MOTION TO COMPEL APPEARANCE OF COUNSEL FOR OPTIMA TECHNOLOGY CORPORATIONS, OR IN THE ALTERNATIVE, MOTION TO STRIKE GENERAL DENIAL OF OPTIMA TECHNOLOGY CORPORATIONS**, will be served via first-class mail through the U.S. Postal Service, addressed as follows:

Reza Zandian
8775 Costa Verde Blvd.
San Diego, CA 82122

Dated: May 15, 2012



Carla Ousby

REC'D & FILED

2012 MAY 29 PM 4: 16

ALAN GLOVER

BY  DEPUTY CLERK

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IN THE FIRST JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR CARSON CITY

JED MARGOLIN, an individual,
Plaintiff,

vs.

Case No. 09 OC 00579 1B

Dept. No. I

OPTIMA TECHNOLOGY CORPORATION, a
California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN aka
GOLAMREZA ZANDIANJAZI aka GHOLAM
REZA ZANDIAN aka REZA JAZI aka J. REZA
JAZI aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE Companies
1-10, DOE Corporations 11-20, and DOE
Individuals 21-30,
Defendants.

**DECISION OF ARBITRATION COMMISSIONER REMOVING MATTER
FROM MANDATORY ARBITRATION**

Plaintiff filed a Second Supplemental Request for Exemption from Arbitration based on the assertion that the amount in controversy exceeds \$50,000. No opposition to the exemption request was filed.

The Nevada Arbitration Rules set forth by the Supreme Court of the State of Nevada and the rules of the First Judicial District Court provide a maximum recovery in arbitration of \$50,000. In this case, it appears that a probable jury award in favor of plaintiff would exceed \$50,000 exclusive of interest and costs and regardless of comparative liability.

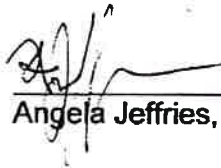
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Office of the First Judicial
3 District Court Arbitration Commissioner and that on this 21st day of May, 2012, I caused to be
4 served by depositing for mailing in the U.S. Mail a true and correct copy of the foregoing
5 **DECISION OF ARBITRATION COMMISSIONER REMOVING MATTER FROM MANDATORY**
6 **ARBITRATION** postage prepaid and addressed to:

7
8 Matthew D. Francis, Esq.
9 Adam P. McMillen, Esq.
10 Watson Rounds
11 5371 Kietzke Lane
12 Reno, Nevada 89511

13 Reza Zandian
14 8775 Costa Verde Blvd.
15 San Diego, California 92122

16
17 

18 _____
19 Angela Jeffries, Legal Assistant

ORIGINAL

1 Matthew D. Francis (6978)
Adam P. McMillen (10678)
2 WATSON ROUNDS
5371 Kietzke Lane
3 Reno, NV 89511
Telephone: 775-324-4100
4 Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

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ALAN GLOVER
BY  CLERK

5
6
7 **In The First Judicial District Court of the State of Nevada**
8 **In and for Carson City**
9

10 **JED MARGOLIN, an individual,**

11 **Plaintiff,**

12 **vs.**

13 **OPTIMA TECHNOLOGY CORPORATION,**
14 **a California corporation, OPTIMA**
TECHNOLOGY CORPORATION, a Nevada
15 **corporation, REZA ZANDIAN**
aka GOLAMREZA ZANDIANJAZI
16 **aka GHOLAM REZA ZANDIAN**
aka REZA JAZI aka J. REZA JAZI
17 **aka G. REZA JAZI aka GHONONREZA**
ZANDIAN JAZI, an individual, DOE
18 **Companies 1-10, DOE Corporations 11-20,**
19 **and DOE Individuals 21-30,**

20 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

REQUEST FOR SUBMISSION

21 It is hereby requested that Plaintiff's Motion to Compel Appearance of Counsel for
22 Optima Technology Corporations, or in the Alternative, Motion to Strike General Denial of
23 Optima Technology Corporations be submitted to the Court for decision. No opposition has
24 been filed.

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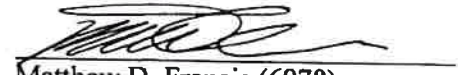
AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 6th day of June, 2012.

WATSON ROUNDS

BY:



Matthew D. Francis (6978)
Adam P. McMillen (10678)
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

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CERTIFICATE OF SERVICE

Pursuant to NRC 5(b), I certify that I am an employee of Watson Rounds, and that on this date, a true and correct copy of the foregoing document, **Request for Submission**, will be served via first-class mail through the U.S. Postal Service, addressed as follows:

Reza Zandian
8775 Costa Verde Blvd.
San Diego, CA 82122

Dated: June 6, 2012



Carla Ousby

1 Matthew D. Francis (6978)
Adam P. McMillen (10678)
2 WATSON ROUNDS
5371 Kietzke Lane
3 Reno, NV 89511
Telephone: 775-324-4100
4 Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

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ALAN GLOVER
BY [Signature] CLERK
DEPUTY

7 **In The First Judicial District Court of the State of Nevada**
8 **In and for Carson City**

10 **JED MARGOLIN, an individual,**

11 **Plaintiff,**

12 **vs.**

13 **OPTIMA TECHNOLOGY CORPORATION,**
14 **a California corporation, OPTIMA**
TECHNOLOGY CORPORATION, a Nevada
15 **corporation, REZA ZANDIAN**
16 **aka GOLAMREZA ZANDIANJAZI**
aka GHOLAM REZA ZANDIAN
17 **aka REZA JAZI aka J. REZA JAZI**
aka G. REZA JAZI aka GHONONREZA
18 **ZANDIAN JAZI, an individual, DOE**
19 **Companies 1-10, DOE Corporations 11-20,**
and DOE Individuals 21-30,

20 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

UNILATERAL CASE
CONFERENCE REPORT

21
22 **DISPUTE RESOLUTION CONFERENCE REQUESTED:**

23 **YES _____ NO X**

24 **I.**

25 **PROCEEDINGS PRIOR TO CASE CONFERENCE REPORT**

26 **A. DATE OF FILING OF COMPLAINT:**

27 **Plaintiffs filed a Complaint on December 11, 2009.**

28 **B. IF ANY DEFENDANT HAS FILED A MOTION PURSUANT TO RULES**

1 12(b)(2)-(4), LIST DATE OF ENTRY OF ORDER DENYING SUCH MOTION:

2 1. Defendants' Motion to Dismiss on a Special Appearance filed June 9, 2012;

3 2. Order Setting Aside Default, Denying Motion to Dismiss and Granting
4 Extension of Time for Service filed August 3, 2011

5 3. Defendant's Motion to Dismiss Amended Complaint on Special
6 Appearance filed November 16, 2011.

7 4. Order Denying Defendant's Motion to Dismiss filed February 21, 2012

8 C. DATE OF FILING AND SERVICE OF ANSWER BY DEFENDANT(S):

9 Defendant Reza Zandian Reza Zandian aka Golanreza Andianjazi aka Gholameza
10 Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza Zandian Jazi filed a
11 General Denial on March 5, 2012. Defendants Optima Technology Corporation, a California
12 corporation and Optima Technology Corporation, a Nevada corporation, filed a General
13 Denial on March 13, 2012. After filing the aforementioned General Denials, this Court
14 granted Defense counsel's Motion to Withdraw from Representation. Because no counsel for
15 the Defendant corporations has appeared since the Motion to Withdraw was granted, Plaintiff
16 filed "Plaintiff's Motion to Compel Appearance of Counsel for Optima Technology
17 Corporations, or in the Alternative, Motion to Strike General Denial of Optima Technology
18 Corporations" on May 15, 2012. Because no opposition was filed to Plaintiff's Motion,
19 Plaintiff filed a Request for Submission of this Motion on June 6, 2012. That Motion is still
20 pending.

21 OTHER PLEADINGS FILED:

22 See docket.

23 E. EXTENSION OR STIPULATIONS REGARDING TIME OF CASE

24 CONFERENCE:

25 None.

26 F. DATE THE EARLY CASE CONFERENCE WAS HELD AND WHO
27 ATTENDED:

28

1 On May 22, 2012, Plaintiff mailed a letter, by certified mail, return receipt requested,
2 to Mr. Reza Zandian notifying him of a 16.1 early case conference on Monday, June 11, 2012.
3 Matthew D. Francis, Esq. of Watson Rounds was prepared to attend the telephonic Rule 16.1
4 meeting on behalf of Plaintiff, Jed Margolin. Mr. Zandian, who was to initiate the telephone
5 call, did not do so. Mr. Zandian was to initiate the telephone call because Plaintiff and his
6 counsel did not and do not have Mr. Zandian's telephone number.

7 G. DATE OF FILING CASE CONFERENCE REPORT:

8 See, Clerk's filed stamp.

9 II.

10 BRIEF DESCRIPTION OF THE NATURE OF THE ACTION

11 AND EACH CLAIM FOR RELIEF OR DEFENSE

12 A. DESCRIPTION OF ACTION:

13 Plaintiff alleges that this case arises from the Defendants' fraudulent assignments of
14 Plaintiff's patents.

15 B. CLAIMS FOR RELIEF:

16 Plaintiff claims conversion, tortious interference with contract, intentional interference
17 with prospective economic advantage, unjust enrichment, and unfair and deceptive trade
18 practices.

19 Defendants have not alleged any affirmative defenses.

20 III.

21 WRITTEN LIST OF DOCUMENTS AND WITNESSES PROVIDED

22 Plaintiff's production of documents and list of witnesses was served on June 14, 2012
23 and is attached hereto as Exhibit 1.

24 IV.

25 DISCOVERY PLAN: NRCPC 16.1(B)(2) AND 16.1(C)(2)

26 Plaintiff expects to conduct ordinary written discovery and depositions.

27 Plaintiff will conduct discovery according to NRCPC:

28 A. Discovery will close forty-five (45) days prior to trial;

1 B. Last day to file motions to amend the pleadings or to add parties will be ninety
2 (90) days prior to the close of discovery;

3 C. Last day for initial disclosure of expert witnesses will be ninety (90) days prior to
4 the close of discovery; and

5 D. Last day for disclosure of rebuttal expert witnesses will be thirty (30) days after
6 the initial disclosure of expert witnesses.

7 V.

8 STIPULATIONS REGARDING LIMITATIONS OR
9 CONDITIONS ON ADDITIONAL DISCOVERY

10 None.

11 VI.

12 TIME REQUIRED FOR TRIAL

13 Plaintiff requests 5 days. A jury has not yet been requested.

14 VII.

15 UNRESOLVED DISCOVERY QUESTIONS

16 None.

17 VIII.

18 INITIAL DISCLOSURES/OBJECTIONS NRCP 16.1(A)(1)

19 If a party objects during the Early Case Conference that initial disclosures are not
20 appropriate in the circumstances of this case, those objections must be stated herein. The
21 Court shall determine what disclosures, if any, are to be made and shall set the time for such
22 disclosure.

23 None.

24 This report is signed pursuant to NRCP 26(g)(1). The writer's signature is a
25 certification that to the best of the signer's knowledge, information and belief, formed after a
26 reasonable inquiry, the signer's disclosures are correct and complete at this time.

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AFFIRMATION Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: June 14, 2012

WATSON ROUNDS

BY: Adam McMillen
Matthew D. Francis (6978)
Adam P. McMillen (10678)
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin


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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Unilateral Case Conference Report**, addressed as follows:

Reza Zandian
8775 Costa Verde Blvd., #501
San Diego, CA 92122

Dated: June 14, 2012



Carla Ousby

Exhibit 1

Exhibit 1

1 Matthew D. Francis (6978)
Adam P. McMillen (10678)
2 WATSON ROUNDS
5371 Kietzke Lane
3 Reno, NV 89511
Telephone: 775-324-4100
4 Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin
5

6
7 **In The First Judicial District Court of the State of Nevada**
8 **In and for Carson City**
9

10 **JED MARGOLIN, an individual,**

11 **Plaintiff,**

12 **vs.**

13 **OPTIMA TECHNOLOGY CORPORATION,**
14 **a California corporation, OPTIMA**
TECHNOLOGY CORPORATION, a Nevada
15 **corporation, REZA ZANDIAN**
16 **aka GOLAMREZA ZANDIANJAZI**
aka GHOLAM REZA ZANDIAN
17 **aka REZA JAZI aka J. REZA JAZI**
aka G. REZA JAZI aka GHONONREZA
18 **ZANDIAN JAZI, an individual, DOE**
Companies 1-10, DOE Corporations 11-20,
19 **and DOE Individuals 21-30,**

20 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

PLAINTIFF'S NRCP 16.1
DISCLOSURES

21
22 **Plaintiff Jed Margolin hereby submits the following NRCP 16.1 Initial Disclosures.**

23 **Plaintiff makes these Disclosures based on the information presently available to him.**

24 **Plaintiff's investigation of this case is ongoing, and Plaintiff reserves the right to supplement**
25 **these Disclosures.**

26 **Additionally, Plaintiff makes these Disclosures subject to, and without waiving, the**
27 **attorney-client privilege, the protection afforded by the work product doctrine, and/or any**
28 **other applicable privilege(s). Plaintiff also expressly reserves the right to object to other**

1 discovery procedures involving or relating to the persons or documents identified in these

2 Disclosures:

3 **A. LIST OF WITNESSES**

- 4 1. Jed Margolin
5 c/o Watson Rounds
6 5371 Kietzke Lane
7 Reno, NV 89511

8 Mr. Margolin is expected to testify regarding all matters at issue in this action.

- 9 2. Reza Zandian
10 8775 Costa Verde Blvd., #501
11 San Diego, CA 92122

12 Mr. Zandian is expected to testify regarding all matters at issue in this action.

- 13 3. John Peter Lee, Esq.
14 830 Las Vegas Blvd. South
15 Las Vegas, Nevada 89101
16 702-382-4044

17 Mr. Lee is expected to testify regarding all matters at issue in this action.

- 18 4. All witnesses identified by Defendant.
19 5. Any witness identified by any other party.
20 6. Any witness identified at a later time.
21 7. Plaintiff reserves the right to supplement this witness list either to add or delete

22 witnesses in the event that subsequent discovery and/or investigation warrants the same.

23 **B. DOCUMENTS**

24 Plaintiff incorporates by reference all of the pleadings on file herein, and further produces
25 and incorporates by reference the documents bates numbered MAR00001-00052.

26 **C. DAMAGES**

27 Plaintiff alleges that it is entitled to certain damages, fees, and costs from Defendants,
28 but Plaintiff has not received all documents and information from all Defendants which would
allow it to compute all such damages, fees, and costs at this time. Plaintiff will supplement
this disclosure after it has received documents and information from Defendants and further
computed damages.

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D. INSURANCE POLICIES

None.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: June 14, 2012

WATSON ROUNDS

BY: Adam McMillen
Matthew D. Francis (6978)
Adam P. McMillen (10678)
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin


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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Plaintiff's NRCP 16.1 Initial Disclosures**, addressed as follows:

Reza Zandian
8775 Costa Verde Blvd., #501
San Diego, CA 92122

Dated: June 14, 2012



Carla Ousby

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Case No. 09 0C 00579 1B

Dept. No. I

REC'D & FILED

2012 JUN 28 AM 11:13

ALAN GLOVER
BY *Alan Glover* CLERK
DEPUTY

In The First Judicial District Court of the State of Nevada

In and for Carson City

JED MARGOLIN, an individual,

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE Companies
1-10, DOE Corporations 11-20, and DOE
Individuals 21-30,

Defendants.

**ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL
APPEARANCE OF COUNSEL FOR
OPTIMA TECHNOLOGY
CORPORATIONS, OR IN THE
ALTERNATIVE, MOTION TO
STRIKE GENERAL DENIAL OF
OPTIMA TECHNOLOGY
CORPORATIONS**

This matter comes before the Court on Plaintiff Jed Margolin's motion for an order compelling Defendants Optima Technology Corporation, a California corporation, and Optima Technology Corporation, a Nevada corporation (collectively "Optima Technology Corporations") to retain legal counsel, or, in the alternative, to strike the General Denial of those Corporations filed on March 13, 2012.

Upon consideration of the foregoing documents, and the Court deeming itself fully advised of the matter, the Court hereby enters its Order Granting Plaintiff's Motion and finds and orders as follows:

Plaintiff filed the Complaint in this action on December 11, 2009. After extensive briefing regarding service on Defendants concluded, and after the Court denied Defendants'

1 Motions to Dismiss, Defendants served two “General Denials.” The first General Denial was
2 served on March 5, 2012 on behalf of the individual Reza Zandian aka Golamreza Zandianjazi
3 aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza
4 Zandian Jazi. The second General Denial was served on March 13, 2012 on behalf of the
5 Optima Technology Corporations.

6 On March 13, 2012, Defense counsel moved to withdraw from representing all of the
7 individual and corporate Defendants in this action. On March 16, 2012, Plaintiff filed a non-
8 opposition to Defense counsel’s Motion to Withdraw and on April 26, 2012, this Court granted
9 Defense counsel’s Motion to Withdraw. No appearance of counsel has been entered for any of
10 the Defendants as of this date.

11 NRS 7.285 provides that “[n]o person shall practice law in this state unless he is an
12 active member of the State Bar of Nevada pursuant to the rules of the supreme court.” The
13 statute further provides that any person who practices law who is not an active member of the
14 State Bar of Nevada is guilty of a misdemeanor. SCR 77 provides that, with certain
15 inapplicable exceptions, no person may practice law as an officer of the courts in this state
16 who is not an active member of the state bar. Nevada case law is clear on this issue as well.
17 *See State v. Stu's Bail Bonds*, 115 Nev. 436, n. 1, 991 P.2d 469, 470 n. 1 (1999) (“business
18 entities are not permitted to appear, or file documents, in proper person”); *Salman v.*
19 *Newell*, 110 Nev. 1333, 1336, 885 P. 2d 607, 608 (1994) (observing that no statute or rule
20 permits a non-lawyer to represent an entity and concluding that an entity cannot proceed in
21 proper person); *Sunde v. Contel of California*, 112 Nev. 541, 542–43, 915 P.2d 298, 299
22 (1996) (explaining that non-lawyers may not represent entities in court).

23 In addition, courts may strike pleadings when a corporation has failed to retain counsel.
24 *See Trustees of Operating Engineers Pension Trust v. O'Donnell*, 2007 WL 672528, *2 (D.
25 Nev. 2007) (granting motion to compel and alternative motion to strike answer) (citations
26 omitted).

27 In light of the foregoing, the Court finds that the Optima Technology Corporations
28 cannot defend, prosecute, or participate in this action without counsel licensed in the State of

1 Nevada. In Plaintiff's Motion, Plaintiff requested that the Optima Technology Corporations be
2 ordered to retain legal counsel no later than June 15, 2012. Plaintiff also requested that the
3 March 13, 2012 General Denial filed by the Optima Technology Corporations be stricken if the
4 Optima Technology Corporations did not retain new counsel by June 15, 2012. Pursuant to the
5 above findings, the Court further finds that Plaintiff's requests should be granted with the
6 Optima Technology Corporations now being given until July 15, 2012 to retain counsel or their
7 General Denial will be stricken.

8 THEREFORE, Plaintiff Jed Margolin's Motion to Compel Appearance of Counsel for
9 the Optima Technology Corporations or in the Alternative Motion to Strike the General Denial
10 of the Optima Technology Corporations is GRANTED as follows:

11 IT IS HEREBY ORDERED that the Optima Technology Corporations must retain
12 counsel and that counsel must enter an appearance in this matter on behalf of the Optima
13 Technology Corporations by July 15, 2012.

14 IT IS FURTHER ORDERED that if no appearance is entered on behalf of the Optima
15 Technology Corporations by July 15, 2012, the Optima Technology Corporations' General
16 Denial, filed on March 13, 2012, shall be stricken.

17 Dated this 28th day of June 2012.

18
19 
20 JAMES T. RUSSELL
21 DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

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I hereby certify that on the 24 day of June, 2012, I placed a copy of the foregoing Order in the United States Mail, postage prepaid, addressed as follows:

Matthew D. Francis, Esq.
Adam P. McMillen, Esq.
5371 Kietzke Lane
Reno, NV 89511

Reza Zandian
8775 Costa Verde Blvd. Apt #501
San Diego, CA 82122



ORIGINAL

1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 Attorneys for Plaintiff Jed Margolin

REC'D & FILED

2012 JUL -2 PM 1:30

ALAN GLOVER
BY [Signature] CI FRK
FIDELITY

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**In The First Judicial District Court of the State of Nevada
In and for Carson City**

JED MARGOLIN, an individual,

Plaintiff,

vs.

**OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE
Companies 1-10, DOE Corporations 11-20,
and DOE Individuals 21-30,**

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

NOTICE OF ENTRY OF ORDER

Please take notice that the Order Granting Plaintiff's Motion to Compel Appearance of Counsel for Optima Technology Corporations, or in the Alternative, Motion to Strike General Denial of Optima Technology Corporations, attached hereto as Exhibit 1, was filed in the above-entitled Court on June 28, 2012.

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Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: June 29, 2012

WATSON ROUNDS

By: /s/ Adam P. McMillen
Matthew D. Francis
Adam P. McMillen
Watson Rounds
5371 Kietzke Lane
Reno, NV 89511

Attorneys for Plaintiff Jed Margolin

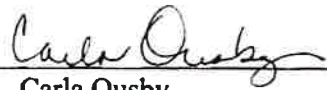
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CERTIFICATE OF SERVICE

Pursuant to NRCF 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Notice of Entry of Order**, addressed as follows:

Reza Zandian
8775 Costa Verde Blvd. Apt #501
San Diego, CA 82122

Dated: June 29, 2012



Carla Ousby

Exhibit 1

Exhibit 1

1 Case No. 09 0C 00579 1B
2 Dept. No. I

REC'D & FILED
2012 JUN 28 AM 11:13
BY Alan Glover CLERK
DEPUTY

5 In The First Judicial District Court of the State of Nevada
6 In and for Carson City

7 JED MARGOLIN, an individual,
8 Plaintiff,
9 vs.
10 OPTIMA TECHNOLOGY CORPORATION,
11 a California corporation, OPTIMA
12 TECHNOLOGY CORPORATION, a Nevada
13 corporation, REZA ZANDIAN
14 aka GOLAMREZA ZANDIANJAZI
15 aka GHOLAM REZA ZANDIAN
16 aka REZA JAZI aka J. REZA JAZI
17 aka G. REZA JAZI aka GHONONREZA
18 ZANDIAN JAZI, an individual, DOE Companies
1-10, DOE Corporations 11-20, and DOE
Individuals 21-30,
19 Defendants.

**ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL
APPEARANCE OF COUNSEL FOR
OPTIMA TECHNOLOGY
CORPORATIONS, OR IN THE
ALTERNATIVE, MOTION TO
STRIKE GENERAL DENIAL OF
OPTIMA TECHNOLOGY
CORPORATIONS**

19 This matter comes before the Court on Plaintiff Jed Margolin's motion for an order
20 compelling Defendants Optima Technology Corporation, a California corporation, and Optima
21 Technology Corporation, a Nevada corporation (collectively "Optima Technology
22 Corporations") to retain legal counsel, or, in the alternative, to strike the General Denial of those
23 Corporations filed on March 13, 2012.

24 Upon consideration of the foregoing documents, and the Court deeming itself fully
25 advised of the matter, the Court hereby enters its Order Granting Plaintiff's Motion and finds
26 and orders as follows:

27 Plaintiff filed the Complaint in this action on December 11, 2009. After extensive
28 briefing regarding service on Defendants concluded, and after the Court denied Defendants'

1 Motions to Dismiss, Defendants served two "General Denials." The first General Denial was
2 served on March 5, 2012 on behalf of the individual Reza Zandian aka Golamreza Zandianjazi
3 aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza
4 Zandian Jazi. The second General Denial was served on March 13, 2012 on behalf of the
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6 On March 13, 2012, Defense counsel moved to withdraw from representing all of the
7 individual and corporate Defendants in this action. On March 16, 2012, Plaintiff filed a non-
8 opposition to Defense counsel's Motion to Withdraw and on April 26, 2012, this Court granted
9 Defense counsel's Motion to Withdraw. No appearance of counsel has been entered for any of
10 the Defendants as of this date.

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12 active member of the State Bar of Nevada pursuant to the rules of the supreme court." The
13 statute further provides that any person who practices law who is not an active member of the
14 State Bar of Nevada is guilty of a misdemeanor. SCR 77 provides that, with certain
15 inapplicable exceptions, no person may practice law as an officer of the courts in this state
16 who is not an active member of the state bar. Nevada case law is clear on this issue as well.
17 *See State v. Stu's Bail Bonds*, 115 Nev. 436, n. 1, 991 P.2d 469, 470 n. 1 (1999) ("business
18 entities are not permitted to appear, or file documents, in proper person"); *Salman v.*
19 *Newell*, 110 Nev. 1333, 1336, 885 P. 2d 607, 608 (1994) (observing that no statute or rule
20 permits a non-lawyer to represent an entity and concluding that an entity cannot proceed in
21 proper person); *Sunde v. Contel of California*, 112 Nev. 541, 542-43, 915 P.2d 298, 299
22 (1996) (explaining that non-lawyers may not represent entities in court).

23 In addition, courts may strike pleadings when a corporation has failed to retain counsel.
24 *See Trustees of Operating Engineers Pension Trust v. O'Donnell*, 2007 WL 672528, *2 (D.
25 Nev. 2007) (granting motion to compel and alternative motion to strike answer) (citations
26 omitted).

27 In light of the foregoing, the Court finds that the Optima Technology Corporations
28 cannot defend, prosecute, or participate in this action without counsel licensed in the State of

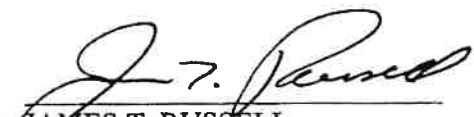
1 Nevada. In Plaintiff's Motion, Plaintiff requested that the Optima Technology Corporations be
2 ordered to retain legal counsel no later than June 15, 2012. Plaintiff also requested that the
3 March 13, 2012 General Denial filed by the Optima Technology Corporations be stricken if the
4 Optima Technology Corporations did not retain new counsel by June 15, 2012. Pursuant to the
5 above findings, the Court further finds that Plaintiff's requests should be granted with the
6 Optima Technology Corporations now being given until July 15, 2012 to retain counsel or their
7 General Denial will be stricken.

8 THEREFORE, Plaintiff Jed Margolin's Motion to Compel Appearance of Counsel for
9 the Optima Technology Corporations or in the Alternative Motion to Strike the General Denial
10 of the Optima Technology Corporations is GRANTED as follows:

11 IT IS HEREBY ORDERED that the Optima Technology Corporations must retain
12 counsel and that counsel must enter an appearance in this matter on behalf of the Optima
13 Technology Corporations by July 15, 2012.

14 IT IS FURTHER ORDERED that if no appearance is entered on behalf of the Optima
15 Technology Corporations by July 15, 2012, the Optima Technology Corporations' General
16 Denial, filed on March 13, 2012, shall be stricken.

17 Dated this 28th day of June 2012.

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20 JAMES T. RUSSELL
21 DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

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I hereby certify that on the 29 day of June, 2012, I placed a copy of the foregoing Order in the United States Mail, postage prepaid, addressed as follows:

Matthew D. Francis, Esq.
Adam P. McMillen, Esq.
5371 Kietzke Lane
Reno, NV 89511

Reza Zandian
8775 Costa Verde Blvd. Apt #501
San Diego, CA 82122



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Matthew D. Francis (6978)
Adam P. McMillen (10678)
WATSON ROUNDS
5371 Kietzke Lane
Reno, NV 89511
Telephone: 775-324-4100
Facsimile: 775-333-8171
Attorneys for Plaintiff Jed Margolin

ORIGINAL

REC'D & FILED
2012 SEP 14 PM 12: 38

ALAN GLOVER
BY *[Signature]* CLERK
DEPUTY

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

JED MARGOLIN, an individual,

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN
aka GOLAMREZA ZANDIANJAZI
aka GHOLAM REZA ZANDIAN
aka REZA JAZI aka J. REZA JAZI
aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE
Companies 1-10, DOE Corporations 11-20,
and DOE Individuals 21-30,

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

**APPLICATION FOR ENTRY OF
DEFAULT**

**TO: CLERK OF THE FIRST JUDICIAL DISTRICT COURT
CARSON CITY, STATE OF NEVADA**

Please enter the Default of Defendants Optima Technology Corporation, a California corporation and Optima Technology Corporation, a Nevada corporation for failure to plead or otherwise defend the above-entitled action as provided by the Nevada Rules of Civil Procedure.

On March 14, 2012, Defendants Optima Technology Corporation, a California corporation, and Optima Technology Corporation, a Nevada corporation, both filed a "General Denial" in this action. On June 28, 2012, this Court entered an Order granting Plaintiff's

962

1 Motion to Compel Appearance of Counsel for Optima Technology Corporations, or in the
2 Alternative, Motion to Strike General Denial of Optima Technology Corporations. A true and
3 correct copy of said Order is attached hereto as Exhibit 1. Because there has been no
4 appearance of counsel for the Optima Technology Corporations, as ordered, the Optima
5 Technology Corporations' General Denial is stricken, and the Optima Technology Corporations
6 are in default for failure to plead or otherwise defend as required by law.
7

8
9 Dated this 13th day of September, 2012.

10 BY: /s/ Adam P. McMillen
11 Matthew D. Francis (6978)
12 Adam P. McMillen (10678)
13 WATSON ROUNDS
14 5371 Kietzke Lane
15 Reno, NV 89511
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on this date, a true and correct copy of the foregoing document, will be served via first-class mail through the U.S. Postal Service addressed as follows:

Reza Zandian
8775 Costa Verde Blvd.
San Diego, CA 92122

Dated: September 13, 2012



Carla Ousby

964

Exhibit 1

Exhibit 1

1 Case No. 09 OC 00579 1B

2 Dept. No. 1

REC'D & FILED

2012 JUN 28 AM 11:13

ALAN GLOVER
BY *Alan Glover* CLERK
DEPUTY

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4
5 In The First Judicial District Court of the State of Nevada

6 In and for Carson City

7 JED MARGOLIN, an individual,

8 Plaintiff,

9 vs.

10 OPTIMA TECHNOLOGY CORPORATION,
11 a California corporation, OPTIMA
12 TECHNOLOGY CORPORATION, a Nevada
13 corporation, REZA ZANDIAN
14 aka GOLAMREZA ZANDIANJAZI
15 aka GHOLAM REZA ZANDIAN
16 aka REZA JAZI aka J. REZA JAZI
17 aka G. REZA JAZI aka GHONONREZA
18 ZANDIAN JAZI, an individual, DOE Companies
19 1-10, DOE Corporations 11-20, and DOE
20 Individuals 21-30,

21 Defendants.

**ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL
APPEARANCE OF COUNSEL FOR
OPTIMA TECHNOLOGY
CORPORATIONS, OR IN THE
ALTERNATIVE, MOTION TO
STRIKE GENERAL DENIAL OF
OPTIMA TECHNOLOGY
CORPORATIONS**

22 This matter comes before the Court on Plaintiff Jed Margolin's motion for an order
23 compelling Defendants Optima Technology Corporation, a California corporation, and Optima
24 Technology Corporation, a Nevada corporation (collectively "Optima Technology
25 Corporations") to retain legal counsel, or, in the alternative, to strike the General Denial of those
26 Corporations filed on March 13, 2012.

27 Upon consideration of the foregoing documents, and the Court deeming itself fully
28 advised of the matter, the Court hereby enters its Order Granting Plaintiff's Motion and finds
and orders as follows:

Plaintiff filed the Complaint in this action on December 11, 2009. After extensive
briefing regarding service on Defendants concluded, and after the Court denied Defendants'

969

1 Motions to Dismiss, Defendants served two "General Denials." The first General Denial was
2 served on March 5, 2012 on behalf of the individual Reza Zandian aka Golamreza Zandianjazi
3 aka Gholam Reza Zandian aka Reza Jazi aka J. Reza Jazi aka G. Reza Jazi aka Ghononreza
4 Zandian Jazi. The second General Denial was served on March 13, 2012 on behalf of the
5 Optima Technology Corporations.

6 On March 13, 2012, Defense counsel moved to withdraw from representing all of the
7 individual and corporate Defendants in this action. On March 16, 2012, Plaintiff filed a non-
8 opposition to Defense counsel's Motion to Withdraw and on April 26, 2012, this Court granted
9 Defense counsel's Motion to Withdraw. No appearance of counsel has been entered for any of
10 the Defendants as of this date.

11 NRS 7.285 provides that "[n]o person shall practice law in this state unless he is an
12 active member of the State Bar of Nevada pursuant to the rules of the supreme court." The
13 statute further provides that any person who practices law who is not an active member of the
14 State Bar of Nevada is guilty of a misdemeanor. SCR 77 provides that, with certain
15 inapplicable exceptions, no person may practice law as an officer of the courts in this state
16 who is not an active member of the state bar. Nevada case law is clear on this issue as well.
17 *See State v. Stu's Bail Bonds*, 115 Nev. 436, n. 1, 991 P.2d 469, 470 n. 1 (1999) ("business
18 entities are not permitted to appear, or file documents, in proper person"); *Salman v.*
19 *Newell*, 110 Nev. 1333, 1336, 885 P. 2d 607, 608 (1994) (observing that no statute or rule
20 permits a non-lawyer to represent an entity and concluding that an entity cannot proceed in
21 proper person); *Sunde v. Contel of California*, 112 Nev. 541, 542-43, 915 P.2d 298, 299
22 (1996) (explaining that non-lawyers may not represent entities in court).

23 In addition, courts may strike pleadings when a corporation has failed to retain counsel.
24 *See Trustees of Operating Engineers Pension Trust v. O'Donnell*, 2007 WL 672528, *2 (D.
25 Nev. 2007) (granting motion to compel and alternative motion to strike answer) (citations
26 omitted).

27 In light of the foregoing, the Court finds that the Optima Technology Corporations
28 cannot defend, prosecute, or participate in this action without counsel licensed in the State of

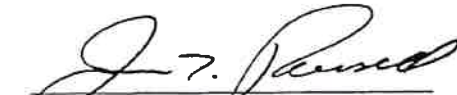
1 Nevada. In Plaintiff's Motion, Plaintiff requested that the Optima Technology Corporations be
2 ordered to retain legal counsel no later than June 15, 2012. Plaintiff also requested that the
3 March 13, 2012 General Denial filed by the Optima Technology Corporations be stricken if the
4 Optima Technology Corporations did not retain new counsel by June 15, 2012. Pursuant to the
5 above findings, the Court further finds that Plaintiff's requests should be granted with the
6 Optima Technology Corporations now being given until July 15, 2012 to retain counsel or their
7 General Denial will be stricken.

8 THEREFORE, Plaintiff Jed Margolin's Motion to Compel Appearance of Counsel for
9 the Optima Technology Corporations or in the Alternative Motion to Strike the General Denial
10 of the Optima Technology Corporations is GRANTED as follows:

11 IT IS HEREBY ORDERED that the Optima Technology Corporations must retain
12 counsel and that counsel must enter an appearance in this matter on behalf of the Optima
13 Technology Corporations by July 15, 2012.

14 IT IS FURTHER ORDERED that if no appearance is entered on behalf of the Optima
15 Technology Corporations by July 15, 2012, the Optima Technology Corporations' General
16 Denial, filed on March 13, 2012, shall be stricken.

17 Dated this 20th day of June 2012.-----


JAMES T. RUSSELL
DISTRICT COURT JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of June, 2012, I placed a copy of the foregoing
Order in the United States Mail, postage prepaid, addressed as follows:

Matthew D. Francis, Esq.
Adam P. McMillen, Esq.
5371 Kietzke Lane
Reno, NV 89511

Reza Zandian
8775 Costa Verde Blvd. Apt #501
San Diego, CA 82122



ORIGINAL

1 Case No. 09 OC 00579 1B
2 Dept. No. I

REC'D & FILED
2012 SEP 24 PM 1:32
ALAN GLOYER
BY [Signature] DEPUTY CLERK

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4
5 In The First Judicial District Court of the State of Nevada
6 In and for Carson City

7 JED MARGOLIN, an individual,
8 Plaintiff,

9 vs.

DEFAULT

10 OPTIMA TECHNOLOGY CORPORATION,
11 a California corporation, OPTIMA
12 TECHNOLOGY CORPORATION, a Nevada
13 corporation, REZA ZANDIAN
14 aka GOLAMREZA ZANDIANJAZI
15 aka GHOLAM REZA ZANDIAN
16 aka REZA JAZI aka J. REZA JAZI
17 aka G. REZA JAZI aka GHONONREZA
18 ZANDIAN JAZI, an individual, DOE Companies
19 1-10, DOE Corporations 11-20, and DOE
20 Individuals 21-30,

21 Defendants.

22 On March 14, 2012, Defendants Optima Technology Corporation, a California
23 corporation, and Optima Technology Corporation, a Nevada corporation, both filed a
24 "General Denial" in this action. On June 28, 2012, this Court entered an Order granting
25 Plaintiff's Motion to Compel Appearance of Counsel for Optima Technology Corporations,
26 or in the Alternative, Motion to Strike General Denial of Optima Technology Corporations.
27 A true and correct copy of said Order is attached hereto as Exhibit 1. Because there has been
28 no appearance of counsel for the Optima Technology Corporations, as ordered, the Optima
Technology Corporations' General Denial is stricken, and the Optima Technology
Corporations are in default for failure to plead or otherwise defend as required by law.

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DEFAULT is therefore entered against Defendants Optima Technology Corporation, a California corporation, and Optima Technology Corporation, a Nevada corporation this 24 day of September, 2012.

Alan Glover
CLERK OF THE COURT

BY: 
DEPUTY CLERK

974

Exhibit 1

Exhibit 1

1 Case No. 09 0C 00579 1B

2 Dept. No. I

REC'D & FILED

2012 JUN 28 AM 11:13

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4
5 BY Alan Glover CLERK
DEPUTY

6 In The First Judicial District Court of the State of Nevada

7 In and for Carson City

8 JED MARGOLIN, an individual,

9 Plaintiff,

10 vs.

11 OPTIMA TECHNOLOGY CORPORATION,
12 a California corporation, OPTIMA
13 TECHNOLOGY CORPORATION, a Nevada
14 corporation, REZA ZANDIAN
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16 aka GHOLAM REZA ZANDIAN
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19 ZANDIAN JAZI, an individual, DOE Companies
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21 Individuals 21-30,

22 Defendants.

ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL
APPEARANCE OF COUNSEL FOR
OPTIMA TECHNOLOGY
CORPORATIONS, OR IN THE
ALTERNATIVE, MOTION TO
STRIKE GENERAL DENIAL OF
OPTIMA TECHNOLOGY
CORPORATIONS

23 This matter comes before the Court on Plaintiff Jed Margolin's motion for an order
24 compelling Defendants Optima Technology Corporation, a California corporation, and Optima
25 Technology Corporation, a Nevada corporation (collectively "Optima Technology
26 Corporations") to retain legal counsel, or, in the alternative, to strike the General Denial of those
27 Corporations filed on March 13, 2012.

28 Upon consideration of the foregoing documents, and the Court deeming itself fully
advised of the matter, the Court hereby enters its Order Granting Plaintiff's Motion and finds
and orders as follows:

Plaintiff filed the Complaint in this action on December 11, 2009. After extensive
briefing regarding service on Defendants concluded, and after the Court denied Defendants'

1 Motions to Dismiss, Defendants served two "General Denials." The first General Denial was
2 served on March 5, 2012 on behalf of the individual Reza Zandian aka Golamreza Zandianjazi
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4 Zandian Jazi. The second General Denial was served on March 13, 2012 on behalf of the
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7 individual and corporate Defendants in this action. On March 16, 2012, Plaintiff filed a non-
8 opposition to Defense counsel's Motion to Withdraw and on April 26, 2012, this Court granted
9 Defense counsel's Motion to Withdraw. No appearance of counsel has been entered for any of
10 the Defendants as of this date.

11 NRS 7.285 provides that "[n]o person shall practice law in this state unless he is an
12 active member of the State Bar of Nevada pursuant to the rules of the supreme court." The
13 statute further provides that any person who practices law who is not an active member of the
14 State Bar of Nevada is guilty of a misdemeanor. SCR 77 provides that, with certain
15 inapplicable exceptions, no person may practice law as an officer of the courts in this state
16 who is not an active member of the state bar. Nevada case law is clear on this issue as well.
17 See *State v. Stu's Bail Bonds*, 115 Nev. 436, n. 1, 991 P.2d 469, 470 n. 1 (1999) ("business
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22 (1996) (explaining that non-lawyers may not represent entities in court).

23 In addition, courts may strike pleadings when a corporation has failed to retain counsel.
24 See *Trustees of Operating Engineers Pension Trust v. O'Donnell*, 2007 WL 672528, *2 (D.
25 Nev. 2007) (granting motion to compel and alternative motion to strike answer) (citations
26 omitted).

27 In light of the foregoing, the Court finds that the Optima Technology Corporations
28 cannot defend, prosecute, or participate in this action without counsel licensed in the State of

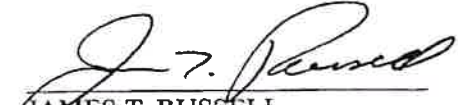
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2 ordered to retain legal counsel no later than June 15, 2012. Plaintiff also requested that the
3 March 13, 2012 General Denial filed by the Optima Technology Corporations be stricken if the
4 Optima Technology Corporations did not retain new counsel by June 15, 2012. Pursuant to the
5 above findings, the Court further finds that Plaintiff's requests should be granted with the
6 Optima Technology Corporations now being given until July 15, 2012 to retain counsel or their
7 General Denial will be stricken.

8 THEREFORE, Plaintiff Jed Margolin's Motion to Compel Appearance of Counsel for
9 the Optima Technology Corporations or in the Alternative Motion to Strike the General Denial
10 of the Optima Technology Corporations is GRANTED as follows:

11 IT IS HEREBY ORDERED that the Optima Technology Corporations must retain
12 counsel and that counsel must enter an appearance in this matter on behalf of the Optima
13 Technology Corporations by July 15, 2012.

14 IT IS FURTHER ORDERED that if no appearance is entered on behalf of the Optima
15 Technology Corporations by July 15, 2012, the Optima Technology Corporations' General
16 Denial, filed on March 13, 2012, shall be stricken.

17 Dated this 28th day of June 2012.

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20 JAMES T. RUSSELL
21 DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of June, 2012, I placed a copy of the foregoing
Order in the United States Mail, postage prepaid, addressed as follows:

Matthew D. Francis, Esq.
Adam P. McMillen, Esq.
5371 Kietzke Lane
Reno, NV 89511

Reza Zandian
8775 Costa Verde Blvd. Apt #501
San Diego, CA 82122



ORIGINAL

1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 *Attorneys for Plaintiff Jed Margolin*

REC'D & FILED
2012 SEP 27 PM 1:00
ALAN GLOVER
BY *[Signature]*
DEPUTY

7 **In The First Judicial District Court of the State of Nevada**
8 **In and for Carson City**

10 **JED MARGOLIN, an individual,**

11 **Plaintiff,**

12 **vs.**

13 **OPTIMA TECHNOLOGY CORPORATION,**
14 **a California corporation, OPTIMA**
15 **TECHNOLOGY CORPORATION, a Nevada**
16 **corporation, REZA ZANDIAN**
17 **aka GOLAMREZA ZANDIANJAZI**
18 **aka GHOLAM REZA ZANDIAN**
19 **aka REZA JAZI aka J. REZA JAZI**
20 **aka G. REZA JAZI aka GHONONREZA**
21 **ZANDIAN JAZI, an individual, DOE**
22 **Companies 1-10, DOE Corporations 11-20,**
23 **and DOE Individuals 21-30,**

24 **Defendants.**

Case No.: 090C00579 1B

Dept. No.: 1

NOTICE OF ENTRY OF DEFAULT

25 To all parties:

26 Please take notice that the Default as to Optima Technology Corporation, a California
27 corporation, and Optima Technology Corporation, a Nevada corporation, attached hereto as
28 Exhibit 1 was filed in the above-titled Court on September 24, 2012.

///

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1 ///

2 **Affirmation Pursuant to NRS 239B.030**

3 The undersigned does hereby affirm that the preceding document does not contain the
4 social security number of any person.

5 DATED: September 26, 2012

6 WATSON ROUNDS

7 By: /s/ Adam P. McMillen

8 Matthew D. Francis

9 Adam P. McMillen

10 Watson Rounds

11 5371 Kietzke Lane

12 Reno, NV 89511

13 Attorneys for Plaintiff Jed Margolin

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Watson Rounds, and that on
3 this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true
4 and correct copy of the foregoing document, **Notice of Entry of Default**, addressed as
5 follows:

6
7 **Reza Zandian**
8 **8775 Costa Verde Blvd.**
9 **San Diego, CA 82122**

10 Dated: September 26, 2012

11 
12 _____
13 Carla Ousby

**Exhibit 1
Default**

**Exhibit 1
Default**

1 Case No. 09 OC 00579 1B

2 Dept. No. I

REC'D & FILED

2012 SEP 24 PM 1:32

ALAN GLOVER

BY _____ CLERK

DEPUTY

C. Cooper Nevada

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5 In The First Judicial District Court of the State of Nevada

6 In and for Carson City

7 JED MARGOLIN, an individual,

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DEFAULT

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27 A true and correct copy of said Order is attached hereto as Exhibit 1. Because there has been
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DEFAULT is therefore entered against Defendants Optima Technology Corporation, a California corporation, and Optima Technology Corporation, a Nevada corporation this 24 day of September, 2012.

Alan Glover
CLERK OF THE COURT
C. Cooper

BY: _____
DEPUTY CLERK

Exhibit 1

Exhibit 1

1 Case No. 09 OC 00579 1B

2 Dept. No. I

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2012 JUN 28 AM 11:13

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4 BY Alan Glover ALAN GLOVER
DEPUTY CLERK

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6 In and for Carson City

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**ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL
APPEARANCE OF COUNSEL FOR
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CORPORATIONS, OR IN THE
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STRIKE GENERAL DENIAL OF
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087

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6 Optima Technology Corporations now being given until July 15, 2012 to retain counsel or their
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17 Dated this 28th day of June 2012.

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20 JAMES T. RUSSELL
21 DISTRICT COURT JUDGE
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5371 Kietzke Lane
Reno, NV 89511

Reza Zandian
8775 Costa Verde Blvd. Apt #501
San Diego, CA 82122

A handwritten signature in cursive script, appearing to read "James D. ...", with a horizontal line drawn through it.

IN THE FIRST JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF CARSON CITY, STATE OF NEVADA

JED MARGOLIN,

Plaintiff(s),

vs.

OPTIMA TECHNOLOGY CORPORATION ET AL.,

Defendant(s).

REC'D & FILED
Case No.: 090C005791B
2012 OCT 30 AM 11:28
AFFIDAVIT OF SERVICE

ALAN GLOVER
[Signature]
NOTARY

Received service documents on: 10/18/2012

I am over the age of 18 and ~~reside~~ am employed in the State of District of Columbia.

On 10/12/2012 at 2:08 ~~AM~~ / PM, I served the within **WITNESS FEE \$40.00; SUBPOENA DUCES TECUM; DECLARATION OF CUSTODIAN OR RECORDS** on NASA, Defendant(s).

Said service was effected at 300 E Street, SW, Washington, DC 20024,

in the following manner:

- Registered Agent:** By leaving a copy of the WITNESS FEE \$40.00; SUBPOENA DUCES TECUM; DECLARATION OF CUSTODIAN OR RECORDS with _____, the registered agent of NASA.
- Officer/Agent:** By leaving a copy of the WITNESS FEE \$40.00; SUBPOENA DUCES TECUM; DECLARATION OF CUSTODIAN OR RECORDS with: J.A. Reistrup, Senior Attorney, who is an officer or agent of NASA.
- Other:** By leaving a copy of the WITNESS FEE \$40.00; SUBPOENA DUCES TECUM; DECLARATION OF CUSTODIAN OR RECORDS with: _____

Add Comments: _____

Description of person process was left with:

Sex: male Race: white Approx. Age: 49 Height: 5'10" Weight: 180

Signed and sworn to before me on this 15 day of October, 2012.

X *[Signature]*

Ambiko Guice

(Print Name)

Reno/Carson Messenger Service, Inc. (Lic# 322)
185 Martin Street
Reno, NV 89509
775.322.2424

Angela H. Croson
Notary Public

Angela H. Croson
Notary Public, District of Columbia
My Commission Expires 3/31/2014



17869

1 Matthew D. Francis (6978)
2 Adam P. McMillen (10678)
3 WATSON ROUNDS
4 5371 Kietzke Lane
5 Reno, NV 89511
6 Telephone: 775-324-4100
7 Facsimile: 775-333-8171
8 Attorneys for Plaintiff Jed Margolin

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**In The First Judicial District Court of the State of Nevada
In and for Carson City**

JED MARGOLIN, an individual,

Plaintiff,

vs.

OPTIMA TECHNOLOGY CORPORATION,
a California corporation, OPTIMA
TECHNOLOGY CORPORATION, a Nevada
corporation, REZA ZANDIAN aka
GOLAMREZA ZANDIANJAZI aka GHOLAM
REZA ZANDIAN aka REZA JAZI aka J. REZA
JAZI aka G. REZA JAZI aka GHONONREZA
ZANDIAN JAZI, an individual, DOE Companies
1-10, DOE Corporations 11-20, and DOE
Individuals 21-30,

Defendants.

Case No.: 090C00579 1B

Dept. No.: 1

**APPLICATION FOR DEFAULT
JUDGMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Plaintiff Jed Margolin hereby applies for a default judgment pursuant to NRCP 55(b)(2) against Defendants Optima Technology Corporation, a Nevada corporation, and Optima Technology Corporation, a California corporation (together the "Defendants") in the principal amount of \$1,286,552.46, together with interest at the legal rate of 5.25% per annum accruing from the date of default, September 24, 2012. This Application is based upon the grounds that no appearance of counsel for the Defendants has been entered, the Defendants' General Denial has been stricken, and the Defendants are in default for failure to plead or otherwise defend as required by law.

1 Based on the following arguments and evidence, Plaintiff requests that the Court enter
2 judgment in his favor, and against Defendants, in the manner set forth herein and in the
3 attached Default Judgment.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **I. FACTUAL BACKGROUND**

6 Plaintiff filed the Amended Complaint in this action on August 11, 2011. After
7 extensive briefing regarding service on Defendants, and after the Court denied Defendants'
8 Motion to Dismiss, Defendants served and filed a General Denial in response to the Amended
9 Complaint. The General Denial was served on March 13, 2012 on behalf of the Defendants.

10 Also on March 13, 2012, Defense counsel moved to withdraw from representing all of
11 the individual and corporate Defendants in this action. On March 16, 2012, Plaintiff filed a
12 non-opposition to Defense counsel's Motion to Withdraw, and on April 26, 2012, this Court
13 granted Defense counsel's Motion to Withdraw.

14 On May 15, 2012, Plaintiff moved this Court for an order compelling the appearance of
15 counsel for the Defendants or in the alternative an order striking the General Denial of the
16 Defendants. The Defendants did not respond to the motion. On June 28, 2012, this Court
17 ordered that the Defendants retain counsel and that counsel enter an appearance in this matter
18 on behalf of the Defendants by July 15, 2012. This Court also ordered that if no appearance
19 was made by that date, the General Denial would be stricken.

20 Since no appearance was made on behalf of the Defendants, Plaintiff filed an
21 application for entry of default on September 14, 2012. On September 24, 2012, this Court
22 entered a default against the Defendants. The notice of entry of default was served on
23 September 26, 2012, and filed on September 27, 2012. Now Plaintiff seeks entry of a default
24 judgment against Defendants.

25 Defendants are not infants or incompetent persons, and are not in the military service
26 of the United States as defined by 50 U.S.C. Appx. § 521.
27
28

1 The facts in Plaintiff's amended complaint warrant entry of Final Judgment against
2 Defendants for conversion, tortious interference with contract, intentional interference with
3 prospective economic advantage, unjust enrichment, and unfair and deceptive trade practices.

4 **III. ARGUMENT**

5 NRCP 55(b)(2) allows a party to apply to the Court for a default judgment. As set
6 forth above, Defendants have failed to have counsel enter an appearance, and their General
7 Denial was stricken and a default entered. As a result, all of the averments in Plaintiff's
8 Amended Complaint, other than those as to the amount of damages, are admitted. NRCP 8(d).
9 As set forth in the Amended Complaint, Plaintiff states claims for relief for each of his
10 alternative causes of action. As set forth herein, Plaintiff presents admissible evidence on the
11 amount of damages he has incurred as a result of Defendants' actions.

12 **A. MR. MARGOLIN PROVIDES ADMISSIBLE EVIDENCE TO SUPPORT**
13 **HIS CLAIM FOR CONVERSION**

14 Conversion is "a distinct act of dominion wrongfully exerted over another's personal
15 property in denial of, or inconsistent with his title or rights therein or in derogation, exclusion,
16 or defiance of such title or rights." *Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 606, 5
17 P.3d 1043, 1048 (2002), quoting *Wantz v. Redfield*, 74 Nev. 196, 198 (1958). Further,
18 conversion is an act of general intent, which does not require wrongful intent and is not
19 excused by care, good faith, or lack of knowledge. *Id.*, citing *Bader v. Cerri*, 96 Nev. 352, 357
20 n. 1 (1980). Conversion applies to intangible property to the same extent it applies to tangible
21 property. See *M.C. Multi-Family Development, L.L.C. v. Crestdale Associates, Ltd.*, 124 Nev.
22 901, 911, 193 P.3d 536, 543 (Nev. 2008), citing *Kremen v. Cohen*, 337 F.3d 1024, 1030 (9th
23 Cir.2003)(expressly rejecting the rigid limitation that personal property must be tangible in
24 order to be the subject of a conversion claim).

25 When a conversion causes "a serious interference to a party's rights in his property ...
26 the injured party should receive full compensation for his actual losses." *Winchell v. Schiff*,
27 124 Nev. 938, 945, 193 P.3d 946, 951 (2008), quoting *Bader*, 96 Nev. at 356, overruled on
28

1 other grounds by *Evans*, 116 Nev. at 608, 611. The return of the property converted does not
2 nullify the conversion. *Bader*, 96 Nev. at 356.

3 As set forth in the Amended Complaint, Plaintiff owned the '488 and '436 Patents, and
4 had a royalty interest in the '073 and '724 Patents. Amended Complaint, ¶¶ 9-12. Defendants
5 filed false assignment documents with the USPTO in order to gain dominion over the Patents.
6 *Id.* at ¶15; Margolin Decl., Exhibit 2. Defendants failed to pay Plaintiff for interfering with his
7 property rights in the Patents. Defendants' retention of Plaintiff's Patents was inconsistent
8 with Plaintiff's ownership interest therein and defied his legal rights thereto. As a direct and
9 proximate result of Defendants' conversion of Plaintiff's Patents, Plaintiff has suffered
10 damages in the amount of \$300,000. The \$300,000 includes \$90,000 Plaintiff paid in
11 attorneys' fees in the Arizona Action where that court ordered the USPTO to correct the record
12 of title to the Patents (plus pre-judgment interest, attorney's fees and costs – discussed below).
13 Margolin Decl., ¶ 4, Exhibit 3.

14 The \$300,000 damages figure also consists of \$210,000 that would have been paid to
15 Plaintiff pursuant to a patent purchase agreement that was terminated as a result of the
16 Defendants' actions as stated in the Amended Complaint. Margolin Decl., ¶ 5. Plaintiff
17 cannot provide documentation or specific details of the purchase agreement because of the
18 confidentiality provisions in the agreement (although Plaintiff is willing to provide the
19 documentation to the Court for an *in camera* review). Margolin Decl., ¶ 5. However, Plaintiff
20 can state that on April 14, 2008, Optima Technology Group ("OTG") entered into a purchase
21 agreement to sell the '073 and '724 patents to another entity which would have netted Plaintiff
22 \$210,000 on the sale of the Patents. *See* Margolin Decl., ¶ 5; *See also* Amended Complaint, ¶¶
23 11-14 (showing royalty agreement). The purchase agreement also included a provision for
24 post-patent sale royalty payments which would have provided additional substantial income to
25 the Plaintiff. *Id.* Finally, the April 14, 2008 purchase agreement provided the purchasing
26 entity an opportunity to conduct due diligence regarding the Arizona Action prior to
27 consummation of the sale. Margolin Decl., ¶ 5. On June 13, 2008, the purchasing entity wrote
28 OTG and stated that they had completed their due diligence investigation and determined that

1 the Patents and/or the Arizona Action were not acceptable and therefore the purchase
2 agreement was terminated. Margolin Decl., ¶ 5. Thus, the purchase agreement was terminated
3 because of Defendants' actions as stated herein and in the Amended Complaint. *See* Margolin
4 Decl., ¶ 5.

5 Mr. Margolin has stated a claim for conversion and presented evidence to support that
6 claim and resulting damages. As a result, default judgment is warranted on this claim.

7 **B. MR. MARGOLIN HAS PROVIDED ADMISSIBLE EVIDENCE TO**
8 **SUPPORT HIS CLAIMS FOR TORTIOUS INTERFERENCE**

9 "In Nevada, an action for intentional interference with contract requires: (1) a valid and
10 existing contract; (2) the defendant's knowledge of the contract; (3) intentional acts intended or
11 designed to disrupt the contractual relationship; (4) actual disruption of the contract; and (5)
12 resulting damage." *J.J. Indus., L.L.C. v. Bennett*, 119 Nev. 269, 274, 71 P.2d 1264, 1267
13 (2003), *citing Sutherland v. Gross*, 105 Nev. 192, 772 P.2d 1287, 1290 (1989). "At the heart of
14 [an intentional interference] action is whether Plaintiff has proved intentional acts by
15 Defendant intended or designed to disrupt Plaintiff's contractual relations...." *Nat. Right to*
16 *Life P.A. Com. v. Friends of Bryan*, 741 F. Supp. 807, 814 (D. Nev. 1990).

17 Here, the facts alleged in the Amended Complaint and admitted by Defendants prove
18 that Defendants intentionally interfered with Plaintiff's contract with OTG for the payment of
19 royalties by filing false assignment documents with the USPTO. Amended Complaint, ¶¶ 26-
20 30. Because the loss of title to the Patents prevented Plaintiff and OTG from licensing the
21 Patents, no royalties were paid. The illegal act of filing "forged, invalid [and] void"
22 documents with the USPTO support that Defendants had the requisite intent to interfere with
23 Plaintiff's contract to collect royalties. *See* Margolin Decl., Exhibit 2. As a direct and
24 proximate result of Defendants' interference of Plaintiff's contract with OTG, Plaintiff has
25 suffered damages in the amount of \$300,000, as related above.

26 In addition, interference with prospective economic advantage requires a showing of
27 the following elements: (1) a prospective contractual relationship between the plaintiff and a
28 third party; (2) the defendant's knowledge of this prospective relationship; (3) the intent to

1 harm the plaintiff by preventing the relationship; (4) the absence of privilege or justification by
2 the defendant; and, (5) actual harm to the plaintiff as a result of the defendant's conduct.

3 *Leavitt v. Leisure Sports Incorporation*, 103 Nev. 81, 88, 734 P.2d 1221, 1225 (1987).

4 As alleged in the Amended Complaint, Plaintiff and OTG had already licensed the
5 '073 and '724 Patents and were engaged in negotiations with other prospective licensees of the
6 Patents when Defendants filed the fraudulent assignment documents with the USPTO with the
7 intent to disrupt the prospective business. Amended Complaint, ¶¶ 32-35; *see also* Margolin
8 Decl., ¶ 5. As a result of Defendants' acts, Plaintiff's prospective business relationships were
9 disrupted and Plaintiff has suffered damages in the amount of \$300,000, as stated above.

10 Plaintiff has stated claims for tortious interference and presented evidence to support
11 the claims and resulting damages. As a result, default judgment is appropriate on these claims.

12 **C. MR. MARGOLIN PROVIDES ADMISSIBLE EVIDENCE TO SUPPORT**
13 **HIS CLAIM FOR UNJUST ENRICHMENT**

14 Unjust enrichment is the unjust retention of a benefit to the loss of another, or the
15 retention of money or property of another against the fundamental principles of justice or
16 equity and good conscience. *Mainor v. Nault*, 120 Nev. 750, 763, 101 P.2d 308, 317 (2004);
17 *Nevada Industrial Dev. V. Benedetti*, 103 Nev. 360, 363 n. 2, 741 P.2d 802, 804 (1987). The
18 essential elements of a claim for unjust enrichment are a benefit conferred on the defendant by
19 the plaintiff, appreciation of the defendant of such benefit, and acceptance and retention by the
20 defendant of such benefit. *Topaz Mutual Co., Inc. v. Marsh*, 108 Nev. 845, 856, 839 P.2d 606,
21 613 (1992), *quoting Unionamerica Mtg. v. McDonald*, 97 Nev. 210, 212 (1981).

22 As set forth above and in the Amended Complaint, Defendants received a benefit when
23 they unlawfully took record title of the Patents. *See* Amended Complaint, ¶ 15. Defendants
24 retained this benefit for approximately eight months and failed to provide any payment for title
25 to the Patents. *Id.* at ¶¶ 15-18. As a direct result of Defendants' unjust retention of the benefit,
26 Plaintiff suffered damages in the amount of \$300,000, as related above.

27 Plaintiff has stated a claim for unjust enrichment and presented evidence to support that
28 claim and the resulting damages. As a result, default judgment is warranted on this claim.

1 **D. MR. MARGOLIN PROVIDES ADMISSIBLE EVIDENCE TO SUPPORT**
2 **HIS CLAIM FOR UNFAIR TRADE PRACTICES**

3 Under NRS § 598.0915, knowingly making a false representation as to affiliation,
4 connection, association with another person, or knowingly making a false representation in the
5 course of business constitutes unfair trade practices. NRS § 598.0915. By filing the
6 fraudulent assignment document with the USPTO, Defendants knowingly made a false
7 representation to the USPTO that Plaintiff and OTG had assigned the Patents to Defendants.
8 *See Amended Complaint, ¶¶ 15, 42-43.* As a result of Defendants' false representation,
9 Plaintiff was deprived of his ownership interests in the Patents for a period of approximately
10 eight months.

11 The United States District Court for the District of Arizona ruled that Defendants had
12 no interest in the '073 or '724 Patents, and that the assignment documents Defendants filed
13 with the USPTO were "forged, invalid, void, of no force and effect." *See Margolin Decl.,*
14 *Exhibit 2.* Accordingly, Plaintiff has stated a claim for deceptive trade practices and has
15 presented evidence to support that claim and the resulting damages in the amount of \$300,000,
16 as stated above.

17 In addition, Plaintiff's damages should be trebled pursuant to NRS 598.0999(3), which
18 states as follows:

19 The court may require the natural person, firm, or officer or managing agent of
20 the corporation or association to pay to the aggrieved party damages on all
21 profits derived from the knowing and willful engagement in a deceptive trade
22 practice and treble damages on all damages suffered by reason of the deceptive
23 trade practice.

24 *Id.* Accordingly, Plaintiff's \$300,000 in damages should be trebled to \$900,000.

25 Also, Plaintiff is entitled to his attorney's fees and costs in this action pursuant to NRS
26 598.0999(3), which states: "The court in any such action may, in addition to any other relief or
27 reimbursement, award reasonable attorney's fees and costs." Plaintiff's attorney's fees in this
28 case are \$69,900.00 to date. *McMillen Declaration ("McMillen Decl."), ¶ 2, Exhibit 1.*
Plaintiff's costs in this case are \$23,979.86. *McMillen Decl., ¶ 3, Exhibit 1.* The total fees
and costs in this case are \$93,879.86.

1 As such, default judgment is warranted on this claim.

2 **E. MR. MARGOLIN IS ENTITLED TO PREJUDGMENT INTEREST**

3 NRS 99.040(1) provides, in pertinent part:

4 When there is no express contract in writing fixing a different rate of interest,
5 interest must be allowed at a rate equal to the prime rate at the largest bank in
6 Nevada, as ascertained by the Commissioner of Financial Institutions, on
7 January 1, or July 1, as the case may be, immediately preceding the date of the
8 transaction, plus 2 percent, upon all money from the time it becomes due.... *Id.*

9 In Nevada, the prejudgment interest rate on an award is the rate in effect at the time the
10 contract between the parties was signed. *Kerala Properties, Inc. v. Familian*, 122 Nev. 601,
11 604, 137 P.3d 1146, 1148 (2006). As set forth above, Defendants committed the tortious acts
12 on December 12, 2007. The controlling interest rate as of July 1, 2007 was 8.25%. McMillen
13 Decl., ¶ 4, Exhibit 2. As a result, the proper interest rate for calculating prejudgment interest is
14 10.25%. *Id.*; NRS 99.040.

15 As of December 12, 2007, the amount of \$900,000 was due and owing to Plaintiff.
16 Margolin Decl., ¶ 4, Exhibit 3. As a result, that amount has been due and owing for at least
17 1,772 days (December 12, 2007 to October 17, 2012). The prejudgment interest amount is
18 therefore \$292,672.60 (.1025 x 1,158 days x \$900,000 divided by 365). McMillen Decl., ¶ 4,
19 Exhibit 2.

20 **F. MR. MARGOLIN IS ENTITLED TO COSTS**

21 NRS 18.020 provides, in pertinent part:

22 Costs must be allowed of course to the prevailing party against any adverse party
23 against whom judgment is rendered, in the following cases: 1) in an action for the
24 recovery of real property or a possessory right thereto; 2) in an action to recover the
25 possession of personal property, where the value of the property amounts to more
26 than \$2,500. The value must be determined by the jury, court or master by whom
27 the action is tried; 3) in an action for the recovery of money or damages, where the
28 plaintiff seeks to recover more than \$2,500.

Id.

If the Court grants this Application, Plaintiff will be the prevailing party under NRS
18.020 and will therefore be entitled to costs thereunder. As discussed herein and in the

1 Amended Complaint, Plaintiff is seeking to recover the value of property valued in excess of
2 \$2,500 as well as money and damages in the amount of \$900,000.

3 To date, as stated above, Plaintiff has incurred costs in the amount of \$23,979.86.
4 McMillen Decl., ¶ 5, Exhibit 3.

5 **IV. CONCLUSION**

6 In light of the foregoing, Plaintiff respectfully requests that this Application for Default
7 Judgment be granted, and the attached Default Judgment entered. As stated above, Plaintiff is
8 entitled to treble damages in the amount of \$900,000; prejudgment interest in the amount of
9 \$292,672.60; attorney's fees in the amount of \$69,900.00; and costs in the amount of
10 \$23,979.86; for a total judgment of \$1,286,552.46.

11 **AFFIRMATION PURSUANT TO NRS 239B.030**

12 The undersigned does hereby affirm that the preceding document does not contain the
13 social security number of any person.

14 Dated this 29th day of October, 2012.

15 BY: _____

16 Matthew D. Francis (6978)
17 Adam P. McMillen (10678)
18 WATSON ROUNDS
19 5371 Kietzke Lane
20 Reno, NV 89511
21 Telephone: 775-324-4100
22 Facsimile: 775-333-8171
23 *Attorneys for Plaintiff Jed Margolin*

CERTIFICATE OF SERVICE

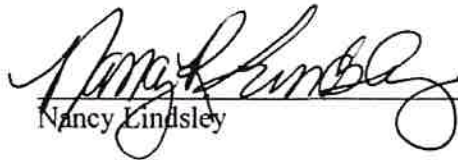
Pursuant to NRC 5(b), I certify that I am an employee of Watson Rounds, and that on this date, I deposited for mailing, in a sealed envelope, with first-class postage prepaid, a true and correct copy of the foregoing document, **Application for Default Judgment** and the **(Proposed) Default Judgment**, addressed as follows:

Reza Zandian
8775 Costa Verde Blvd. #501
San Diego, CA 92122

Optima Technology Corp.
A California corporation
8775 Costa Verde Blvd. #501
San Diego, CA 92122

Optima Technology Corp.
A Nevada corporation
8775 Costa Verde Blvd. #501
San Diego, CA 92122

Dated: October 29, 2012


Nancy Lindsley