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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.**

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

28 **Dept. No.: 1**

REQUEST FOR EXEMPTION
FROM ARBITRATION

VALUE IN EXCESS OF \$50,000

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

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

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I. FACTUAL BACKGROUND

1
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 NRC 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

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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, **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