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8 UNITED STATES DISTRICT COURT  
 9 EASTERN DISTRICT OF CALIFORNIA

10 KEITH R CLAYTON,  
 11 Plaintiff

Case No. 2:13-cv-00907-JAM-EFB

12 vs.

[PROPOSED]

13 AUTOMATED GAMING TECHNOLOGIES,  
 INC. a Nevada corporation, et al.

ORDER GRANTING PLAINTIFF MOTION  
 TO COMPEL DEFENDANT AUTOMATED  
 GAMING TECHNOLOGIES, INC. TO  
 PRODUCE DOCUMENTS PURSUANT TO  
 PLAINTIFF'S SECOND REQUEST FOR  
 PRODUCTION OF DOCUMENTS

14 Defendants.

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 16 AUTOMATED GAMING TECHNOLOGIES,  
 INC., a Nevada corporation,

Date: July 30, 2014  
 Time: 10:00 a.m.  
 Judge: Hon. Edmund F. Brennan  
 Courtroom 8, 13th Floor

17 Counter-Claimant

18 v.

19 KEITH R. CLAYTON, and DOES 1  
 Through 10, inclusive,

20 Counter-Defendants.  
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22 The motion of plaintiff and counter-defendant Keith R. Clayton ("plaintiff") for an  
 23 order compelling defendant and cross-complainant Automated Gaming Technologies, Inc.  
 24 ("AGT") to produce the documents requested in Plaintiff's Second Request for Production of  
 25 Documents to Defendant (the "Document Request"), came on regularly for hearing on July 30,  
 26 2014, at 10:00 am., in the above-entitled Court. Gilbert J. Premo appeared as counsel for  
 27 plaintiff, and Katie Konz, Esq. and Christopher B. Burton, Esq. of Downey Brand LLP  
 28 appeared as counsel for AGT.

1 At issue at the time of the hearing were Requests Nos. 2 and 3 of the Document  
2 Request. The Court having read and considered the papers submitted by the parties, and heard  
3 the arguments of counsel, and good cause therefor appearing, plaintiff's motion is GRANTED  
4 as follows, and the Court ORDERS AS FOLLOWS:

5 1. As to Request No. 2 of the Document Request, AGT shall, by August 13, 2014,  
6 produce the program, production of which was demanded in that Request, on a computer at the  
7 offices of AGT's attorneys in Sacramento, California, and make the same available to plaintiff  
8 himself (and his attorneys and experts), who shall be allowed to inspect, examine, run, execute  
9 and test the program on that computer.

10 2. As to Request No. 3 of the Document Request, AGT shall, by August 13, 2014  
11 produce the source code of the program, production of which source code was demanded in  
12 that Request, on a computer at the offices of AGT's attorneys in Sacramento, California, and  
13 make the same available to an expert or experts designated by plaintiff (and to plaintiff's  
14 attorney), who shall be allowed to inspect, examine, run, execute and test the source code on  
15 that computer.

16 a. The expert and plaintiff's attorney shall not disclose to plaintiff the information  
17 gained by such inspection and review of such source code, unless the expert determines that,  
18 from his said inspection and review, there appears to be evidence that the said source code  
19 copies the source code of any computer application written by plaintiff which is a subject of  
20 this action, or otherwise appears to infringe a copyright held by plaintiff. In such case, the  
21 expert and plaintiff's attorney may disclose said information to plaintiff, but prior to doing so,  
22 the parties shall meet and confer regarding whether the above condition for disclosure to  
23 plaintiff have been meet, and plaintiff's attorney shall present to AGT's attorneys the expert's  
24 findings that plaintiff intends to present to the Court to show that the said condition has been  
25 satisfied, **as well as all facts or data considered by Plaintiff's expert in forming his opinions.**

26 b. If the parties cannot agree that the said condition for disclosure to plaintiff has been  
27 met, plaintiff may apply to the Court for an order allowing the expert and plaintiff's attorney to  
28 make said disclosure to plaintiff. In the case of such a dispute, the parties shall promptly

1 prepare a Joint Statement Regarding the Dispute, which shall be presented to the Court for  
2 hearing and decision.

3 3. AGT, and/or its attorneys or experts, may be present in the room at the offices of  
4 AGT's attorneys to visually monitor the activities of plaintiff or plaintiff's expert or attorneys  
5 during the above-referenced inspections, but only to ensure that no unauthorized activities take  
6 place. The activities of plaintiff, or his attorneys or experts shall not be recorded by AGT  
7 and/or its attorneys or experts, by any electronic means or photographic means, including but  
8 not limited to film, photographing, screen capture, and/or key logging, ~~remote monitoring or~~  
9 ~~screen sharing.~~

10 4. Plaintiff and his attorneys and experts shall not copy, remove, or otherwise transfer  
11 any portion of the said program or source code, provided, however, that:

12 a. ~~They may take screen snapshots of portions of the program, or source code, as~~  
13 ~~applicable that they believe contain evidence of copyright infringement, which may be recorded~~  
14 ~~by plaintiff or his attorneys and experts (as applicable) on removable media, such as a flash~~  
15 ~~drive, at the inspection computer, and a copy of the screen shots taken shall be provided to~~  
16 ~~AGT;~~

17 b. They may take notes of and during their inspection and review.

18 As augmented and modified above, it is so ordered.

19 Dated: August 6, 2014



21 EDMUND F. BRENNAN  
22 United States Magistrate Judge

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