E-Filed 11/1/10

1 2	MENNEMEIER, GLASSMAN & STROUD LLP ANDREW W. STROUD (SBN 126475) LANDON D. BAILEY (SBN 240236)				
	980 9th Street, Suite 1700				
3	Sacramento, CA 95814 Telephone: (916) 553-4000				
4	Facsimile: (916) 553-4011 E-mail: stroud@mgslaw.com				
56	Attorneys for Defendant Video Gaming Technologies, Inc.				
7					
8	UNITED STATES 1	DISTRICT COURT			
9	FOR THE NORTHERN DISTRICT OF CALIFORNIA				
10					
11	OEM-TECH, CO, a California sole	Case No. 3:10-cv-04368-RS			
12	proprietorship owned and operated by Charles) Estes,	STIPULATION TO SET NEW			
13	Plaintiff,	HEARING DATE ON MOTION TO DISMISS PLAINTIFFS' THIRD AND			
14	v.)	FIFTH CLAIMS FOR RELIEF PURSUANT TO FEDERAL RULE OF			
15	VIDEO GAMING TECHNOLOGIES, INC., a	CIVIL PROCEDURE 12(b)(6), OR, ALTERNATIVELY, STRIKE			
16	Corporation doing business in California as VGT, INC., and DOES 1-50, inclusive	PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(f); [PROPOSED] ORDER THEREON			
17	Defendant.	Date: December 16, 2010			
18		Time: 1:30 p.m. Judge: Honorable Richard Seeborg			
19		Location: Courtroom 3, 17th Floor			
20		Complaint Filed: July 16, 2010			
21)	Date of Removal: September 28, 2010			
22					
23					
24					
25					
26					
27					
28					
	494.04.PLE.NTC.Mot.Dismiss.Stip.Hearing.Date.wpd STIPULATION TO SET NEW HEARING DATE MOTION TO DISMISS. OR. ALTERNATIVELY. TO				

RECITALS

- 1. On September 28, 2010, Defendant Video Gaming Technologies, Inc. ("VGT") removed this matter from California Superior Court for the County of Alameda. At that time, this matter was assigned to Magistrate Judge James Larson.
- 2. On October 5, 2010, Defendant VGT filed a Motion to Dismiss Plaintiff's Third and Fifth Claims for Relief Pursuant to Federal Code of Civil Procedure 12(b)(6), Or, Alternatively, to Strike Pursuant to Federal Rule of Civil Procedure 12(f) (the "VGT Motion to Dismiss"). The VGT Motion to Dismiss was noticed and scheduled to be heard on November 3, 2010 before Magistrate Judge James Larson.
- 3. On October 5, 2010, Defendant VGT also filed a Declination to Proceed Before a Magistrate Judge and Request for Reassignment to a United States District Judge.
- 4. On October 6, 2010, this Court issued a Reassignment Order. The Reassignment Order assigned this matter to Judge Richard Seeborg, and vacated the previously established hearing date on the VGT Motion to Dismiss.
- 5. On October 12, 2010, counsel for the parties conferred regarding establishing a new hearing date for VGT Motion to Dismiss. Counsel for Plaintiff OEM-Tech, Co. indicated that he would like to postpone the hearing for various reasons. Counsel for Defendant would like to accommodate this request.

STIPULATION

In light of the above-specified facts, the parties hereby stipulate as follows:

- 1. The VGT Motion to Dismiss shall be heard on December 16, 2010, at 1:30 p.m., before the Honorable Judge Richard Seeborg. Plaintiff OEM-Tech, Co.'s opposition brief, if any, shall be filed on or before November 24, 2010. Defendant VGT's reply brief, if any, shall be filed on or before December 2, 2010.
- 2. Defendant VGT shall serve Plaintiff OEM-Tech, Co. with an amended notice reflecting this new hearing date and briefing schedule. Plaintiff OEM-Tech, Co. hereby waives any applicable objection regarding this hearing date or notice thereof.

1	Dated: October 14, 2010		MENNEMEIER, GLASSMAN & STROUD LLP ANDREW W. STROUD
2			LANDON D. BAILEY
3		_	
4		By:	/s/ Andrew W. Stroud Andrew W. Stroud
5			Attorneys for Defendant Video Gaming Technologies, Inc.
6	Dated: October 14, 2010		THE SHAFER LAW GROUP
7			JOHN S. KNOWLTON
8		_	
9		By:	/s/ John S. Knowlton John S. Knowlton
10			Attorneys for Plaintiff OEM-Tech, Co.
11			
12	PURSUANT TO STIPULATION, IT IS SO ORDERED.		
13			
14			Will Selling
15	Dated: 11/1/10	By:	Honorable Richard Seeborg
16 17			United States District Court, Northern District of California
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
-			