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5 Attorneys for Defendant  
 6 Video Gaming Technologies, Inc.

7  
 8 UNITED STATES DISTRICT COURT  
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10  
 11 OEM-TECH, CO, a California sole )  
 proprietorship owned and operated by Charles )  
 12 Estes, )  
 13 Plaintiff, )  
 14 v. )  
 15 VIDEO GAMING TECHNOLOGIES, INC., a )  
 Corporation doing business in California as )  
 16 VGT, INC., and DOES 1-50, inclusive )  
 17 Defendant. )

Case No. 3:10-cv-04368-RS  
**STIPULATION TO POSTPONE  
 HEARING DATE ON MOTION TO  
 DISMISS PLAINTIFFS' THIRD AND  
 FIFTH CLAIMS FOR RELIEF  
 PURSUANT TO FEDERAL RULE OF  
 CIVIL PROCEDURE 12(b)(6), OR,  
 ALTERNATIVELY, STRIKE  
 PURSUANT TO FEDERAL RULE OF  
 CIVIL PROCEDURE 12(f) IN LIGHT OF  
 PLAINTIFF'S COUNSEL'S MOTION  
 TO WITHDRAW; ~~PROPOSED~~ ORDER  
 THEREON**

) Date: December 16, 2010  
 ) Time: 1:30 p.m.  
 ) Judge: Honorable Richard Seeborg  
 ) Location: Courtroom 3, 17th Floor

) Complaint Filed: July 16, 2010  
 )  
 ) Date of Removal: September 28, 2010

1 **RECITALS**

2 1. On September 28, 2010, Defendant Video Gaming Technologies, Inc. (“VGT”)  
3 removed this matter from California Superior Court for the County of Alameda. At that time,  
4 this matter was assigned to Magistrate Judge James Larson.

5 2. On October 5, 2010, Defendant VGT filed a Motion to Dismiss Plaintiff’s Third  
6 and Fifth Claims for Relief Pursuant to Federal Code of Civil Procedure 12(b)(6), Or,  
7 Alternatively, to Strike Pursuant to Federal Rule of Civil Procedure 12(f) (the “VGT Motion to  
8 Dismiss”). The VGT Motion to Dismiss was noticed and scheduled to be heard on November 3,  
9 2010 before Magistrate Judge James Larson.

10 3. On October 5, 2010, Defendant VGT also filed a Declination to Proceed Before a  
11 Magistrate Judge and Request for Reassignment to a United States District Judge.

12 4. On October 6, 2010, this Court issued a Reassignment Order. The Reassignment  
13 Order assigned this matter to Judge Richard Seeborg, and vacated the previously established  
14 hearing date on the VGT Motion to Dismiss.

15 5. On October 14, 2010, counsel for both parties submitted a stipulation to postpone  
16 the hearing date on VGT’s Motion to Dismiss to December 16, 2010. On November 1, 2010,  
17 Judge Seeborg signed and filed the stipulation, thereby setting VGT’s Motion to Dismiss for  
18 hearing on December 16, 2010.

19 6. On November 18, 2010, counsel for Plaintiff OEM-Tech, Co. filed a Motion By  
20 Counsel For Plaintiff to Withdraw as Counsel of Record.

21 7. Counsel for Plaintiff OEM-Tech, Co. has requested that VGT agree to continue  
22 the hearing date on VGT’s Motion to Dismiss again to give Plaintiff OEM-Tech, Co. sufficient  
23 time to resolve its issues with regard to representation, to give Plaintiff OEM-Tech, Co.  
24 sufficient time to secure new counsel if necessary, and to permit such new counsel sufficient time  
25 to review the file and respond to VGT’s Motion to Dismiss. VGT would like to accommodate  
26 this request.

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28 / / /

1 **STIPULATION**

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

3 1. The VGT Motion to Dismiss shall be heard on March 24, 2011, at 1:30 p.m.,  
4 before the Honorable Judge Richard Seeborg. Plaintiff OEM-Tech, Co.'s opposition brief, if  
5 any, shall be filed on or before March 3, 2011. Defendant VGT's reply brief, if any, shall be  
6 filed on or before March 10, 2011.

7 2. Defendant VGT shall serve Plaintiff OEM-Tech, Co. with a Second Amended  
8 Notice reflecting this new hearing date and briefing schedule. Plaintiff OEM-Tech, Co. hereby  
9 waives any applicable objection regarding this new hearing date or notice thereof.

10  
11 Dated: November 19, 2010 MENNEMEIER, GLASSMAN & STROUD LLP  
12 ANDREW W. STROUD  
13 LONDON D. BAILEY

14 By: /s/ Andrew W. Stroud  
15 Andrew W. Stroud  
16 Attorneys for Defendant Video Gaming Technologies, Inc.

17 Dated: November 19, 2010 THE SHAFER LAW GROUP  
18 JOHN S. KNOWLTON

19 By: /s/ John S. Knowlton  
20 John S. Knowlton  
21 Attorneys for Plaintiff OEM-Tech, Co.

22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23  
24  
25 Dated: 11/22/10 \_\_\_\_\_ By:   
26 Honorable Richard Seeborg  
27 United States District Court, Northern District of California  
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