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21 **IN THE UNITED STATES DISTRICT COURT**
22 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
23 **WESTERN DIVISION**

24 CRYTEK GMBH,) Case No. 2:17-cv-08937-DMG-FFM
25)
26 Plaintiff,) [HON. DOLLY M. GEE]
27)
28 v.) **DECLARATION OF CLIFFORD**
) **T. BRAZEN IN SUPPORT OF**
) **CRYTEK GMBH’S REPLY IN**
) **SUPPORT OF MOTION FOR**
) **VOLUNTARY DISMISSAL**
)
)
) DATE: February 7, 2020
) Time: 9:30 AM
) Courtroom: 8C

1 I, Clifford T. Brazen, declare as follows:

2 1. I am an attorney licensed to practice law in the State of Kansas, admitted
3 *pro hac vice* to practice in this Court, and am an attorney at the law firm of Erise IP,
4 P.A., counsel of record for Crytek GmbH, the Plaintiff in the above-captioned lawsuit.

5 2. I make this declaration on the basis of personal knowledge, except where
6 indicated otherwise.

7 3. Attached hereto as **Exhibit A** is a true and correct copy of an email
8 exchange between myself and Jeremy Goldman between January 10, 2020 and January
9 13, 2020.

10 **Crytek Proposal of Appropriate Conditions on Dismissal**

11 4. On December 30, 2019 I met and conferred with counsel for CIG, Mr.
12 Jeremy Goldman and Ms. Azita Iskander. During that call, I discussed Crytek's intent
13 to proceed with its motion for voluntary dismissal. I also proposed the conditions
14 generally outlined in Section I.A.4 of Crytek's Reply in support of its motion for
15 voluntary dismissal. Mr. Goldman indicated that he did not believe those proposed
16 conditions would be acceptable to his client.

17 5. On January 14, 2020 I, along with my partner Mr. Eric Buresh met and
18 conferred with CIG's counsel following the parties' status conference with the Court
19 on January 10, 2020. During that call, Mr. Buresh again communicated Crytek's
20 proposed conditions to CIG's counsel. CIG's counsel again rejected Crytek's proposed
21 conditions.

22 **Crytek's is not Seeking Damages Based on a Theory of Lost Profits Related to its**
23 **Own-Developed Games**

24 6. On January 10, 2020 I followed up with Ms. Iskander through email
25 regarding a meet and confer the parties held on December 31, 2019 regarding Crytek's
26 objections and responses to CIG's written discovery. In that correspondence, I
27

1 reiterated a number of Crytek’s objections to CIG’s outstanding requests for
2 production.

3 7. Among other objections, I reiterated Crytek’s objections to CIG’s
4 Request Nos. 148, 150, 151, 154, 160, 162, 164, and 166 which sought documents
5 relating to Crytek-developed games. I stated:

6 Regarding RFP Nos. 148, 150, 151, 154, 160, 162, 164 and 166, Crytek
7 maintains that documents related to Crytek’s developed games have no
8 relevance to Crytek’s damages resulting from CIG’s removal of
9 Crytek’s credits from Star Citizen, and Crytek will confirm that it is not
10 and will not seek damages based on a theory that it has lost sales of its
11 Crytek-developed games as a result of CIG’s removal of Crytek’s
12 credits from Star Citizen. Please let me know if this resolves the parties’
13 dispute over these Requests for Production.

14 8. In the next paragraph of my email, I reiterated Crytek’s objections to
15 CIG’s Request Nos. 152 and 155 which generally sought Crytek’s general financial
16 information:

17 Regarding RFP Nos. 152 and 155, similar to the requests above, Crytek
18 maintains that the request for its profit and loss statements, income
19 statements and/or equivalent documents as well as its balance sheets
20 and statements of cash flow is over broad and has no relevance to
21 Crytek’s claim for damages. Crytek’s general financial documents
22 include financial information that has no relation to its licensing
23 business, including all the Crytek developed game information Crytek
24 has already objected to producing above. Moreover, Crytek has already
25 confirmed that Crytek is not seeking damages on a theory of lost profits.
26 Thus, the general financial documents requested by CIG in RFP Nos.
27 152 and 155 are overbroad and irrelevant, and Crytek will not endeavor
28 to collect and produce them.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 24, 2020.


Clifford T. Brazen