

(Counsel listed on signature page)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

TECHNOLOGY PROPERTIES LIMITED  
LLC, *et al*,

Plaintiffs,

v.

NINTENDO CO., LTD., NINTENDO OF  
AMERICA, INC.,

Defendants.

Case No. 3:12-cv-03881-VC

**PLAINTIFF’S UNOPPOSED  
ADMINISTRATIVE MOTION TO  
TAKE DEPOSITIONS IN JAPAN**

**PLAINTIFF’S UNOPPOSED ADMINISTRATIVE MOTION TO  
TAKE DEPOSITIONS IN JAPAN**

Pursuant to Civil L.R. 7-11 and Federal Rule of Civil Procedure 28(b), Plaintiff Phoenix Digital Solutions LLC (“PDS”) moves the Court for an order regarding the depositions of certain witnesses in Japan. PDS has met, conferred, and reached an agreement with Defendants Nintendo Co., Ltd. and Nintendo of America, Inc. (collectively, “Nintendo”), to take depositions of certain employees of Nintendo in Osaka-Kobe, Japan at the United States Consulate. (*See* the attached Declaration of Barry J. Bumgardner). Pursuant to Article 17 of the United States-Japan Consular Convention, the attorneys for PDS and Nintendo present at the deposition must obtain a special visa issued by the Japanese Government. In order to obtain such a visa, PDS must present a Court order authorizing the deposition and participants. PDS expects to obtain relevant, admissible evidence through these depositions.

PDS respectfully requests that the Court enter the attached Order. Defendants do not oppose the relief requested in this Motion.

1 Dated: August 25, 2015

Respectfully Submitted,

2 /s/ Barry J. Bumgardner

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26 **Attorneys for Plaintiff**

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(Counsel listed on signature page)

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LLC, *et al*,

Plaintiffs,

v.

NINTENDO CO., LTD., NINTENDO OF  
AMERICA, INC.,

Defendants.

Case No. 3:12-cv-03881-VC

**DECLARATION OF BARRY J.  
BUMGARDNER IN SUPPORT OF  
PLAINTIFF’S UNOPPOSED  
ADMINISTRATIVE MOTION TO  
TAKE DEPOSITIONS IN JAPAN**

I, Barry J. Bumgardner, declare as follows:

1. I am a partner in the firm Nelson Bumgardner, P.C., counsel of record for Plaintiff, Phoenix Digital Solutions LLC (“PDS”), in the above-captioned case. I am an attorney in good standing with the State Bar of Texas and admitted to practice before this Court. I make each of these statements below based on my own personal knowledge, and if called as a witness, I could and would testify as to their truthfulness.
2. Prior to filing PDS’s Unopposed Administrative Motion to Take Depositions in Japan (“Motion”), I contacted counsel for Defendants Nintendo Co., Ltd. and Nintendo of America, Inc. (collectively, “Nintendo”) in this action to seek agreement to the Motion and sought-after relief requested therein.
3. Counsel for Nintendo informed me that Nintendo does not oppose the relief sought and

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has agreed to produce the named witnesses on the dates listed in the proposed order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 25<sup>th</sup> day of August, 2015, in Fort Worth, Texas.

By: /s/ Barry J. Bumgardner  
Barry J. Bumgardner

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LLC, *et al*,

Plaintiffs,

v.

NINTENDO CO., LTD., NINTENDO OF  
AMERICA, INC.,

Defendants.

Case No. 3:12-cv-03881-VC (PSG)

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S UNOPPOSED  
ADMINISTRATIVE MOTION TO  
TAKE DEPOSITIONS IN JAPAN**

To any consul or vice consul of the United States Consulate Osaka-Kobe:

Upon the application of Plaintiffs, and pursuant to Article 17 of the United States – Japan Consular Convention, it is ORDERED that the depositions on notice of the following witnesses be taken at the United States consulate in Osaka-Kobe, Japan:

Ryuji Umezu and Yozo Kawai, Nintendo Co., Ltd. commencing on or about October 1, 9:00 AM local time, and terminating on or about October 2, 2015, 5:00 PM local time, and to mark any documentary exhibit in connection therewith.

Counsel for Defendants who will participate in said depositions are Matthew J. Brigham and Stephen R. Smith; and Counsel for Plaintiffs who will participate in said depositions are Barry J. Bumgardner and Thomas C. Cecil. The proceedings will be reported, videotaped, and/or interpreted by Planet Depos – American Realtime Court Reporters. Please cause the testimony of said witnesses to be reduced to writing and the depositions signed by said witnesses and annex said deposition testimony to your commission and close the same under your seal and make return thereof to this court with all convenient speed.

**IT IS SO ORDERED.**

Dated: August \_\_\_\_, 2015

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The Honorable Paul S. Grewal  
United States Magistrate Judge