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FILED
SAN MATEO COUNTY
NOV 07 2018

Clerk of the Superior Court
By [Signature]
DEPUTY CLERK

6 Attorneys for Plaintiff and
7 Cross- Defendant
8 Yaana Technologies, LLC

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SAN MATEO**

11 **UNLIMITED JURISDICTION**

12 YAANA TECHNOLOGIES, LLC,)

Case No: 18CIV02373 **BY FAX**

13 PLAINTIFF,)

**YAANA SUPPLEMENTAL REPLY
TO OPPOSITION RE MOTION
FOR ORDER ESTABLISHING
ADMISSIONS AGAINST
DEFENDANT AND CROSS-
COMPLAINANT OPTIMUS
VENTURES, LLC AND FOR
SANCTIONS AGAINST OPTIMUS
VENTURES, LLC AND FRANK E.
MAYO**

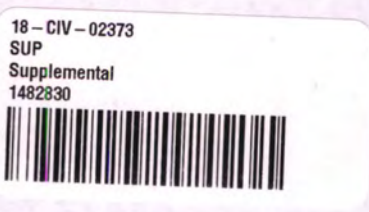
14 vs.)

15 MEERA KAUL, AN INDIVIDUAL;)
16 OPTIMUS VENTURES, LLC;)
17 OPTIMUS WORLDWIDE; OPTIMUS)
18 VENTURES.US; MARK HEOLLER,)
19 AN INDIVIDUAL; SYED JAMALI,)
20 AN INDIVIDUAL; RAJEN)
PARSHAD, AN INDIVIDUAL; AND)
DOES 1-20, INCLUSIVE,)

Hearing Date: November 9, 2018
Hearing Time: 9:00 a.m.
Dept. No.: LM
Hearing Judge: TBD

21 DEFENDANTS.

Date Action Filed: May 9, 2018
Trial Date: None



1 **MEMORANDUM OF PONTS AND AUTHORITIES IN SUPPORT OF**
2 **SUPPLEMENTAL REPLY**

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4 Section 2033.280 of the California Code of Civil Procedure provides in part as
5 follows: If a party to whom requests for admission are directed fails to serve a
6 timely response, the following rules apply:

7 (a) The party to whom the requests for admission are directed waives any
8 objections to the requests, including one based on privilege or on the protection of
9 work product under Chapter 4 (commencing with Section 2018.010. The court, on
10 motion, may relieve that party from this waiver on its determination that both of
11 the following conditions are satisfied:

12 (1) The party has subsequently served a response that is in substantial
13 compliance with Sections 2033.210, 2033.220, and 2033.230.

14 (2) The party's failure to serve a timely response was the result of mistake,
15 inadvertence, or excusable neglect.

16 (b) The requesting party may move for an order that the genuineness and the
17 truth of any matters specified in the requests be deemed admitted, as well as for a
18 monetary sanction under Chapter 7 (commencing with Section 2023.010).

19 (c) The court shall make this order, unless it finds that the party to whom the
20 requests for admission have been directed has served, before the hearing on the
21 motion, a proposed response to the requests that is in substantial compliance with
22 Section 2033.220. It is mandatory that the court impose a monetary sanction under
23 Chapter 7 (commencing with Section 2023.010) on the party or attorney, or both,
24 whose failure to serve a timely response to requests for admission necessitated this
25 motion.
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1 **1. OBJECTIONS TO DECLARATION OF FRANK E. MAYO**
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3 Plaintiff and Cross- Defendant Yaana objects to the Declaration of Frank .E.
4 Mayo filed in opposition to this motion as follows:

5 Page 2, lines 5-9: Hearsay, no foundation, not qualified as an expert to opine
6 as to medical condition. Move to strike.

7 Page 2, lines 16-19: Hearsay, no foundation, not qualified as an expert ot
8 opine as to medical condition. Move to strike.

9 Entire Declaration: Not signed. No Exhibits attached. Move to strike.
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11 **2. ARGUMENT**
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14 Sanctions are mandatory under CCP 2033.290 (d). There is no substantial
15 justification defense available.

16 Defendant and Cross- Complainant has filed with the Court a further
17 Verification of Avi Kumar to the Response to the Requests for Admission served
18 by Defendant Optimus Ventures, LLC, Set One (1) and Cross- Complainant
19 Optimus Ventures LLC, Set One (1). It is not clear, however, that the further
20 Verifications of Avi Kumar as CEO of Optimus Ventures LLC are Original
21 Verifications, as required under CCP 2033.270, since only a copy of

22 eachVerification was served upon counsel for Yaana. In addition, when you
23 compare the signature of Avi Kumar in the Supplemental Verifications dated
24 October 30, 2018 (Exhibit A to Supplemental Reply) (See Supplemental
25 Verification For Response to Request for Admissions, Set One for Optimus
26 Ventures LLC as CEO for Defendant dated November, 2018 and Supplemental
27 Verification Fro Response to Request for Admissions, Set One for Optimus
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1 Ventures LLC as CEO for Cross- Complainant dated November, 2018) against the
2 signature of Avi Kumar in the earlier Verifications of Avi Kumar dated September
3 18, 2018 (Exhibit B to Supplemental Reply) (See Defendant Optimus Ventures
4 LLC Response to Plaintiff's Request for Admissions (Set One) and Cross
5 Complainant Optimus Ventures LLC Response to Plaintiff's Request for
6 Admissions (Set One) attached to the Declaration of Frank Mayo in Opposition to
7 Plaintiff's Motion to Have Requests for Admissions Served on Defendant Optimus
8 Ventures LLC Be Deemed Admitted dated September 18, 2018), there is a glaring
9 difference in the size of the two signatures, the penmanship in the two signatures,
10 and the heaviness or weight of the two signatures, suggesting that either one or the
11 other or neither of the signatures is the signature of Avi Kumar. Moreover, when
12 you compare the signature of Avi Kumar in the Supplemental Verifications of Avi
13 Kumar against the signature of Meera Kaul contained in her verifications to
14 Requests for Admissions dated September 17, 2018 (Exhibit C to Supplemental
15 Reply) (See Defendant Meera Kaul's Response to Plaintiff's Request for
16 Admissions (Set One) and Cross Complainant Meera Kaul's Response to Yaana
17 Technologies LLC's Request for Admissions attached as Exhibit 2 to the
18 Declaration of Frank Mayo in Opposition to Plaintiff's Motion to Compel
19 Discovery and Have Admissions Propounded to Meera Kaul Deemed Admitted on
20 Defendant Be Deemed Admitted dated September 19, 2018), for example, the
21 size, the penmanship and the heaviness or weight of Avi Kumar appears glaringly
22 similar to the size, the penmanship and the heaviness or weight of the signature of
23 Meera Kaul, suggesting that Meera Kaul may have signed the Supplemental
24 verifications on behalf of Avi Kumar.

26 Plaintiff and Defendant Yaana Technologies, LLC has requested that
27 Defendant and Cross- Complainant Optimus Ventures, LLC bring the originals of
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1 the Avi Kumar Verifications dated September 18, 2018 and the originals of the
2 Avi Kumar Supplemental Verifications dated October 30, 2018, together with any
3 facsimile transmissions of the same from Dubai, to the hearing on this motion for
4 inspection and review. For these reasons, the responses are not in substantial
5 compliance with Sections 2033.010, 2033.020, and 2033.030.

6 The Declaration of Frank E. May filed in Support of Defendant and Cross-
7 Complainants Opposition to this motion is objectionable for all of the reasons set
8 forth in the Objections to Declaration of Frank E. Mayo above. Accordingly, there
9 is no signed Declaration in proper form with proper Exhibits attached establishing
10 mistake, inadvertence or excusable neglect. Without a signed Declaration from
11 Optimus Ventures LLC and/or counsel Frank E. Mayo establishing mistake,
12 inadvertence or excusable neglect, this Court must Order the Admissions to be
13 deemed admitted.
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15 16 **3. CONCLUSION**

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18 Based upon the foregoing Notice and Memorandum of YAANA
19 TECHNOLOGIES, LLC and the Declaration of Alfred L. Rinaldo, Jr. set forth
20 below, the pleadings and papers filed in this action, and the argument of counsel in
21 open Court, Plaintiff and Cross- Defendant YAANA TECHNOLOGIES, LLC
22 hereby requests following:

23 1. That the Court grant the Motion of YAANA TECHNOLOGIES, LLC for
24 an Order Establishing that Requests 1 through 16 contained in Plaintiff YAANA
25 TECHNOLOGIES, LLC'S Requests for Admission to Defendant OPTIMUS
26 VENTURES, LLC, Set One (1), served July 3, 2018, be deemed admitted in favor
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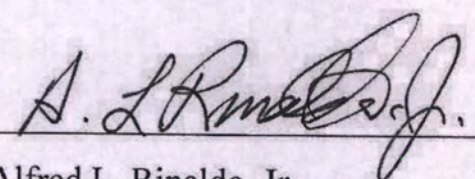
1 of Plaintiff YAANA TECHNOLOGIES, LLC and against Defendant OPTIMUS
2 VENTURES, LLC;

3 2. That the Court grant the Motion of YAANA TECHNOLOGIES, LLC for
4 an Order Establishing that Requests 1 through 4 contained in Cross- Defendant
5 YAANA TECHNOLOGIES, LLC'S Requests for Admission to Cross- Complainant
6 OPTIMUS VENTURES, LLC, Set One (1), served July 13, 2018, be deemed
7 admitted in favor of Cross- Defendant YAANA TECHNOLOGIES, LLC and
8 against Cross- Complainant OPTIMUS VENTURES, LLC; and

9 3. That the Court grant the Motion of YAANA TECHNOLOGIES, LLC for
10 monetary sanctions in favor of Plaintiff and Cross- Defendant YAANA
11 TECHNOLOGIES, LLC and against Defendant and Cross- Complainant
12 OPTIMUS VENTURES, LLC and its attorney, FRANK E. MAYO, jointly and
13 severally, in the amount of \$2902.50 for costs and attorney fees incurred in this
14 motion, and order the sanctions to be paid within ten (10) days from the date of
15 this hearing.
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17 Dated: November 6, 2018

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19 Law Offices of Alfred L. Rinaldo, Jr.

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23 Alfred L. Rinaldo, Jr.

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EXHIBIT A

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SUPPLEMENTAL

VERIFICATION - 446,2015.5, C.C.P.

Re: Yaana Technologies, LLC v. Meera Kaul, et al
Response to Request for Admissions, Set One

Case No. 18CIV02373

I, Avi Kumar, declare:

I am an officer, to wit: CEO of Optimus Ventures LLC,
organized and existing under the laws of the state of California.

Optimus Ventures LLC is a Defendant in the above-entitled action, and

I have been authorized to make this verification on its behalf.

I have read the foregoing Response to Request for Admissions, Set One,
and know the contents thereof. The same is true of my own knowledge,

except as to those matters which are therein alleged on information
and belief and as to those matter, I believe it to be true.

I declare under penalty of perjury of the laws of the State of
California that all of the foregoing is true and correct.

Executed this 30th day of October 2018 at Dubai,

OPTIMUS VENTURES LLC

~~SIGNATURE BY FAX~~

By: _____

as _____

SUPPLEMENTAL
VERIFICATION - 446,2015.5, C.C.P.

Re: Yaana Technologies, LLC v. Meera Kaul, et al
Response to Request for Admissions, Set One

Case No. 18CIV02373

I, Avi Kumar, declare:

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12 I am an officer, to wit: CEO of Optimus Ventures LLC,
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14 organized and existing under the laws of the state of California.
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16 Optimus Ventures LLC is a Cross-complainant in the above-entitled
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18 action, and I have been authorized to make this verification on its
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20 behalf.

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22 I have read the foregoing Response to Request for Admissions, Set One,
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24 and know the contents thereof. The same is true of my own knowledge,
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26 except as to those matters which are therein alleged on information
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28 and belief and as to those matter, I believe it to be true.

I declare under penalty of perjury of the laws of the State of
California that all of the foregoing is true and correct.

Executed this 30th day of October 2018 at Dubai

OPTIMUS VENTURES LLC
SIGNATURE BY FAX

By: 
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EXHIBIT B

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VERIFICATION - 446,2015.5, C.C.P.

Re: YAANA V KAUL ET AL
Cross Complainant Optimus Ventures LLC Response to Request for
Admissions Set One

Case No. 18CIV02373

I am the Defendant Optimus Ventures LLC in the above-entitled
matter; I have read the foregoing Response to Request for Admissions,
Set One and I certify that the same is true of my own knowledge, except
as to those matters which are therein stated upon my information or
belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury of the laws of the State of
California that all of the foregoing is true and correct.

Executed this 15th day of September 2018 at
Dubai.

Optimus Ventures LLC

Avi Kumar
By Avi Kumar

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VERIFICATION - 446,2015.5, C.C.P.

Re: YAANA V KAUL ET AL
Cross Complainant Optimus Ventures LLC Response to Request for Admissions Set One

Case No. 18CIV02373

I am the Cross/^{Complainant} Optimus Ventures LLC in the above-entitled matter; I have read the foregoing Response to Request for Admissions, Set One and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury of the laws of the State of California that all of the foregoing is true and correct.

Executed this 18th day of September 2018 at Dubai:

Optimus Ventures LLC

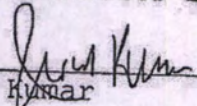

By Avi Kumar

EXHIBIT C

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VERIFICATION - 446,2015.5, C.C.P.

Re: Yaana Technology Inc. v. Kaul, et al.
Cross Complainant Meera Kaul Response to Request for Admissions, Set One

Case No. 18CIV02373

I am Cross Complainant Meera Kaul in the above-entitled matter;
I have read the foregoing Response to Response to Request for Admissions, Set One, and certifies that the same is true of its own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury of the laws of the State of California that all of the foregoing is true and correct.

Executed this 17th day of September 2018 at

CO
Cross Complainant
Meera Kaul

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VERIFICATION - 446,2015.5, C.C.P.

Re: YAANA V KAUL ET AL

Defendant Meera Kaul's Response to Request for Admissions, Set One

Case No. 18CIV02373

I am a Defendant Meer Kaul in the above-entitled matter; I have read the foregoing Response to Request for Admissions, Set One and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury of the laws of the State of California that all of the foregoing is true and correct.

Executed this 17th day of September 2018 at

[Signature]
Meera Kaul

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**YAANA TECHNOLOGIES, LLC VS. KAUL, ET. AL.
SAN MATEO COUNTY SUPERIOR COURT ACTION NO.18CIV02373**

PROOF OF SERVICE

I am over the age of eighteen years and not a party to the within entitled action; my business address is: 1754 Technology Drive, Suite 120- F, San Jose, CA 95110

On November 6, 2018, I served the within

YAANA SUPPLEMENTAL REPLY TO OPPOSITION RE MOTION FOR ORDER ESTABLISHING ADMISSIONS AGAINST DEFENDANT AND CROSS-COMPLAINANT OPTIMUS VENTURES, LLC AND FOR SANCTIONS

on the parties in said action, by the following means:

(BY MAIL) By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, for collection and mailing on that date following ordinary business practices, in the United States mail at San Jose, California, for same day pick-up, addressed as shown below.

(BY HAND-DELIVERY) By causing a true copy thereof, enclosed in a sealed envelope, to be delivered by a messenger to the address(es) shown below.

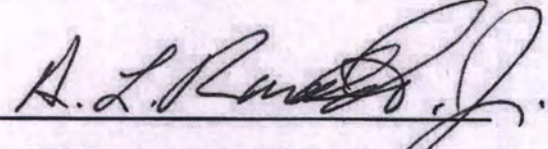
(BY OVERNIGHT DELIVERY) By placing a true copy thereof, enclosed in a sealed envelope, with delivery charges to be billed to the Law Offices of Alfred L. Rinaldo, Jr. to be delivered by Federal Express, to the address(es) shown below.

(BY FACSIMILE TRANSMISSION) By transmitting a true copy thereof by facsimile transmission from facsimile number (408) 232-0170 to the interested parties to said action at the facsimile number(s) shown below.

FRANK E. MAYO
ATTORNEY AT LAW
4962 EL CAMINO REAL, STE. 104
LOS ALTOS, CA 94022

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed at San Jose, California.

Dated: November 6, 2018


ALFRED L. RINALDO, JR.

PROOF OF SERVICE