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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MARK PACANA, PAUL FISKRATTI, and
WAYNE LEWALD, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

TTE TECHNOLOGY, INC., dba TCL
NORTH AMERICA,

Defendant.

CASE NO. 3:20-CV-02857-EMC

**JOINT STIPULATION AND ~~[PROPOSED]~~
ORDER REGARDING DISTRIBUTION OF
SETTLEMENT FUNDS**

Judge: Hon. Edward M. Chen
Crtrm: 5 – 17th Floor

1 Plaintiffs Mark Pacana, Paul Fiskratti, and Wayne Lewald (collectively, “Plaintiffs”) and
2 Defendant TTE Technology Inc. dba TCL North America (“TCL”), by and through their
3 respective counsel of record (collectively, the “Parties”), hereby stipulate and agree to the
4 following, subject to Court approval:

5 WHEREAS, on July 7, 2022, the Court granted preliminary approval to the Parties’
6 settlement agreement (Doc. 140). Therein, the Court ordered that the settlement administrator
7 shall distribute settlement awards to those class members submitting valid claims within 90 days
8 of the date of Final Approval. (Doc. 140, pp. 9-10.;

9 WHEREAS, on January 23, 2023, the Court entered a “Final Approval Order and Order
10 for Dismissal” (Doc. 152), making distribution of claimants’ settlement awards of up to \$40 per
11 valid claim due no later than April 24, 2023;¹

12 WHEREAS, on May 15, 2023, the Parties filed an Interim Joint Report (Doc. 156) with
13 regards to the means of resolving potentially fraudulent bot claims identified by class
14 administrator A.B. Data., Ltd. (“A.B. Data”);²

15 WHEREAS, on May 17, 2023, the Parties filed a Joint Administrative Motion (Doc. 158)
16 requesting that the Court approve the Parties’ proposed verification process for the potentially
17 fraudulent bot claims;

18 WHEREAS, on May 30, 2023, the Court approved the Parties’ proposed verification
19 process and ordered A.B. Data to send the proposed Verification Notice to each suspected bot
20 claimant and report back to the Court on the outcome of the verification process by no later than
21 July 14, 2023 (Doc. 159);

22 WHEREAS, on July 14, 2023, the Parties filed a Joint Administrative Motion (“Motion”)
23 (Doc. 161) reporting the results of the verification process and requesting direction from the Court
24

25 _____
26 ¹ The settlement agreement provides that Defendant will fund a \$2,900,000 common fund from
27 which class members who submit a valid claim will be paid.

28 ² In preparing to initiate the settlement distribution, A.B. Data performed an additional quality
assurance review of the claims submitted that had previously been deemed facially valid. The
quality assurance process detected a significant number of potentially fraudulent claims generated
by automated means by Non-Settlement Class Members.

1 regarding the final distribution of funds to the valid claimants;³ and

2 WHEREAS, at the Motion hearing with the Parties on July 27, 2023, the Court addressed
3 the results of the verification process and inquired regarding increasing the distribution of
4 claimants' settlement awards to \$60 per valid claim following the elimination of disallowed
5 claims, with distribution of any remaining funds *cy pres*, to increase the overall benefit to the
6 class;

7 WHEREAS, the increase of the payment to each valid claimant from \$40 to \$60 is fair and
8 equitable to claimants and unknown class members, and in the best interests of the class;

9 WHEREAS, upon the approval of the Court, A.B. Data will make the \$60 payments to the
10 valid claimants, and report back to the Court within 60 days regarding the distribution of the
11 settlement awards and any remaining funds to be distributed *cy pres*.

12 THEREFORE, the Parties stipulate to increase the distribution of claimants' settlement
13 awards to \$60 per valid claim, and respectfully request the Court to direct A.B. Data to make the
14 \$60 settlement payments to all valid claimants within 30 days. The Parties and A.B. Data shall
15 report to the Court within 60 days regarding the status of the distribution of the claimants'
16 settlement awards and any remaining funds to be distributed *cy pres*.

17 IT IS SO STIPULATED.

18
19 Dated: August 9, 2023

DLA PIPER LLP (US)

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21

By: /s/ Isabelle L. Ord

22

ISABELLE L. ORD
CHRISTOPHER M. YOUNG
Attorneys for Defendant
TTE TECHNOLOGY, INC.

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³ The results of the verification process revealed that all of the suspected bot claims were invalid. (Doc. 161 at 5). The final claim rate is between 1%-2%.

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CRUEGER DICKINSON LLC

Dated: August 9, 2023

By: /s/ Charles J. Crueger^A

CHARLES J. CRUEGER
BEN KAPLAN
Attorneys for Plaintiffs
CHRISTOPHER JULIAN, MARK PACANA, PAUL
FISKRATTI, and WAYNE LEWALD

⁴ Pursuant to N.D. Cal. Civ. L.R. 5-1(i)(3), I hereby attest that the concurrence to the filing of this document has been obtained from each signatory hereto.


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[PROPOSED] ORDER

Having considered the Parties' Stipulation, and good cause appearing therefore, the Court hereby finds that the increase of the payment to each valid claimant from \$40 to \$60 is fair and equitable to claimants and unknown class members, and in the best interests of the class and APPROVES the Parties' Stipulation. Settlement Administrator A.B. Data, Ltd. shall distribute the claimants' settlement awards of up to \$60 per valid claim no later than 30 days after the issuance of this order and report to the Court no later than 60 days after the issuance of this order regarding the status of the distribution of the claimants' settlement awards and any remaining funds to be distributed *cy pres*.

IT IS SO ORDERED.

Dated: 8/11/2023



The Honorable Edward M. Chen
United States District Judge