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THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

COINLAB, INC., a Delaware Corporation,  
  
Plaintiff,  
  
v.  
  
MT. GOX KK, a Japanese corporation, and  
TIBANNE KK, a Japanese corporation,  
  
Defendants.

No. 2:13-cv-00777-MJP

**DECLARATION OF TOD L. GAMLEN IN  
SUPPORT OF MOTION TO STAY  
ENTIRE ACTION**

**NOTE ON MOTION CALENDAR:  
Friday, April 4, 2014**

I, Tod L. Gamlen, hereby declare as follows:

1. I am an attorney with Baker & McKenzie, LLP, and one of the counsel of record herein for the defendant MtGox KK. I am duly admitted to practice before the courts of the State of California and have been admitted *pro hac vice* before this Court to represent defendant MtGox KK and defendant Tibanne KK. I have personal knowledge of the matters set forth in this declaration. If called upon to testify in court, I could competently testify as to the matters declared herein.

2. I have been admitted *pro hac vice* to represent defendant Tibanne KK in this action and have appeared for Tibanne KK in this action. Today a motion to withdraw as counsel for Tibanne KK was filed in this action (Doc. Nos. 39 and 40) in which Baker & McKenzie,

*DECLARATION OF TOD L. GAMLEN IN SUPPORT  
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(2:13-cv-00777-MJP) - 1*

**HILLIS CLARK MARTIN & PETERSON P.S.**  
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1 including myself and Daniel Valles, and the firm of Hillis, Clark, Martin & Peterson, and its  
2 attorneys Louis D. Peterson and Joseph Genster, are moving to withdraw as counsel for Tibanne  
3 KK. .

4 3. I submit this declaration in support of the present motion of MtGox KK for an  
5 order staying this entire action.

6 4. On May 2, 2013, CoinLab filed its initial complaint in this matter (Doc. No. 1).  
7 Subsequently, on November 25, 2013, CoinLab filed its First Amended Complaint ("FAC") in  
8 this matter. Doc. No. 29. A true and correct copy is attached hereto as **EXHIBIT 1**. In both its  
9 original complaint and FAC CoinLab asserts claims that arise out of an Exclusive License  
10 Agreement for the USA & Canada (the "CoinLab Agreement"), dated November 22, 2012,  
11 entered into between CoinLab on the one hand, and MtGox KK and Tibanne KK, on the other. A  
12 true and correct copy of the Agreement is attached to the FAC and attached hereto as  
13 **EXHIBIT 2**.

14 5. On September 10, 2013, MtGox and Tibanne KK filed their answer to CoinLab's  
15 initial complaint and filed a counterclaim against CoinLab. Doc. No. 18. A true and correct copy  
16 of this Answer and Counterclaim is attached hereto as **EXHIBIT 3**.

17 6. On December 9, 2013 MtGox KK and Tibanne KK filed their answer to the First  
18 Amended Complaint. Doc. No. 31. A true and correct copy of that answer is attached hereto as  
19 **EXHIBIT 4**. The parties stipulated that the Counterclaim filed on September 10, 2013 (Doc. No.  
20 18) would remain operative and no further answer or reply to the Counterclaim was required.  
21 Doc. No. 28.

22 7. On October 17, 2013, MtGox served on CoinLab its First Set of Interrogatories,  
23 consisting of Interrogatory Nos. 1-21. Interrogatory Nos. 22 requested CoinLab to "...[D]escribe  
24 in detail all facts and legal bases relating to each element or category of damages, remedy or other  
25 recovery you are seeking to recover in this action, ..." CoinLab served initial responses to this  
26 First Set of Interrogatories on November 18, 2013. After meet and confer communications and

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1 conference calls, CoinLab served Supplemental Responses on December 5, 2013; and, after  
2 several more meet and confer communications, CoinLab served Second Supplemental Responses  
3 on January 13, 2014. A true and correct copy of the above referenced responses to Interrogatory  
4 No. 22 are attached hereto as follows:

- 5 • CoinLab's initial responses – **EXHIBIT 5A**;
- 6 • CoinLab's Supplemental Responses – **EXHIBIT 5B**; and,
- 7 • CoinLab's Second Supplemental Responses – **EXHIBIT 5C**.

8 8. On February 28, 2014 MtGox KK filed a petition in the Tokyo District Court  
9 under the bankruptcy laws of Japan, that is, Article 17(1) of the Japanese Corporate  
10 Reorganization Act (Kaisha Kosei Ho) (the “JCRA”) (“the Japan Proceeding”).

11 9. On March 9, 2014 MtGox filed a petition under Chapter 15 (“the Chapter 15  
12 Proceeding”) of the US Bankruptcy Act in the United States Bankruptcy Court for the Northern  
13 District of Texas, Dallas division (“Texas Bankruptcy Court”), requesting recognition of the  
14 Japan Proceeding. A true and correct copy of MtGox KK's March 9 Chapter 15 petition in the  
15 Texas Bankruptcy Court is attached hereto as **EXHIBIT 6**.

16 10. On March 9, 2014, MtGox KK also filed in the Chapter 15 proceeding an  
17 Emergency Application for an Order granting Provisional Relief pursuant to Sections 105(a) and  
18 1519 of the Bankruptcy Code, scheduling Recognition Hearing, and Specifying Form and Manner  
19 of Notice (“Emergency Application”) as well as requesting an emergency hearing date for  
20 March 10, 2014. A true and correct copy of the Emergency Application is attached hereto as  
21 **EXHIBIT 7**.

22 11. On March 10, 2014, the Texas Bankruptcy Court heard MtGox KK's Emergency  
23 Application and entered an Order Granting Application for Provisional Relief, Scheduling  
24 Recognition Hearing, and Specifying Form and Manner of Notice (“Match 10 Order”). A true  
25 and correct copy of the March 10 Order is attached hereto as **EXHIBIT 8**. In the March 10 Order  
26 at page 3, para. 2, the Texas Bankruptcy Court sets a date for the Recognition Hearing for April 1

1 and 2, 2014 at 9:30 AM. I have been advised, and am informed and believe, that all counsel in  
2 the Chapter 15 Proceeding have agreed to continue the Recognition Hearing until the week of  
3 May 5, 2014 and that counsel are in the process of contacting the Texas Bankruptcy Court  
4 regarding such continuance.

5 12. On February 13, 2014, CoinLab served upon MtGox KK and Tibanne KK jointly  
6 CoinLab's Second Set of Interrogatories and Requests for Document Production. A true and  
7 correct copy of CoinLab's Second Set of Interrogatories and Requests for Document Production  
8 are attached hereto as **EXHIBIT 9**.

9 13. On March 13, 2014, I sent an email to CoinLab's counsel requesting CoinLab to  
10 (1) withdraw the Second Set of Interrogatories and Requests for Document production as to  
11 MtGox and (2) also withdraw them as to Tibanne since they are overbroad and impinge upon the  
12 Texas Bankruptcy Court's stay order. On March 13, 2014 CoinLab's counsel sent me an email in  
13 response. A true and correct copy of my March 13, 2014 e-mail and the March 13, 2014 response  
14 of CoinLab's counsel are attached hereto as **EXHIBIT 10**.

15 14. On March 14, 2014, CoinLab's counsel emailed a subpoena to me directed to  
16 Baker & McKenzie A true and correct copy of counsel's email and the Subpoena issued to Baker  
17 & McKenzie and CoinLab's correspondence to Baker & McKenzie are attached here to as  
18 **EXHIBIT 11**.

19 15. On Friday March 14, 2014, I and Daniel Valles of our office had a conference call  
20 with Edgar Sargent and Roger Townsend, Counsel for CoinLab, to discuss issues relating to  
21 discovery and the handling of this case in light of the bankruptcy proceedings of MtGox KK.  
22 During that time, I asked if CoinLab would be willing to stipulate to a stay of the entire action.  
23 Counsel would not agree to so stipulate.

24 16. On Wednesday, March 19, 2014, Mr. Valles sent CoinLab's counsel an email, a  
25 true and correct copy of which is attached hereto has **EXHIBIT 12**, directing counsel to this  
26 Court's decision in *Beardsley v. All American Heating*, 2007 US Dist. LEXIS 37210 (W.D. Wash.

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1 May 22, 2007), as well as three cases that had followed that decision and again inquired as to  
2 whether CoinLab would stipulate to staying this entire action. On March 19, 2014, counsel did  
3 send emails in response, but, in those emails, counsel did not state that CoinLab would stipulate  
4 to such a stay.

5 17. Under the Scheduling Order entered by this Court on October 17, 2014 (Doc. No.  
6 23) the following scheduling dates currently remain in this action:

- 7 a. April 7, 2014 -- Expert witness disclosure and reports
- 8 b. May 7, 2014 -- Last day to file discovery motions
- 9 c. July 7, 2014 -- Last day to file dispositive motions
- 10 d. October 24, 2014 -- Pretrial conference
- 11 e. November 3, 2014 -- Trial

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

14 DATED this 20 day of March, 2014 at Palo Alto, California.

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/s/ Tod L. Gamlen  
TOD L. GAMLEN

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 20 day of March 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Roger M. Townsend *Attorneys for Plaintiff*  
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s/ Tod L. Gamlen  
\_\_\_\_\_  
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