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10 [Additional counsel appear on signature page.]

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13 In re KING DIGITAL ENTERTAINMENT plc)
SHAREHOLDER LITIGATION)

Lead Case No. CGC-15-544770

14 _____)

CLASS ACTION

15 This Document Relates To:)

16 ALL ACTIONS.)

17 CLASS REPRESENTATIVES' REPLY
MEMORANDUM IN FURTHER SUPPORT
OF MOTION FOR: (1) FINAL APPROVAL
OF CLASS ACTION SETTLEMENT AND
18 PLAN OF ALLOCATION OF SETTLEMENT
PROCEEDS; AND (2) AN AWARD OF
ATTORNEYS' FEES AND EXPENSES

19 Assigned for All Purposes to the
Honorable Curtis E.A. Karnow
20 Date: May 31, 2017
21 Time: 2:00 p.m.
22 Dept. 304
Date Action Filed: 03/17/15

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
05/17/2017
Clerk of the Court
BY: GARY FELICIANO
Deputy Clerk

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1 Class Representatives, City of Taylor Police and Fire Retirement System, Michael Nunes, Sean
2 Debotte and Theodore Eyking, and Class Counsel respectfully submit this reply memorandum in further
3 support of the Motion for: (1) Final Approval of Class Action Settlement and Plan of Allocation of
4 Settlement Proceeds; and (2) an Award of Attorneys' Fees and Expenses.¹

5 **I. INTRODUCTION**

6 Class Representatives and Class Counsel are pleased to advise the Court of the overwhelmingly
7 positive reaction of the Class to the Settlement, the Plan of Allocation, and Class Counsel's request for
8 an award of attorneys' fees and expenses, now that the April 24, 2017 deadline for objections and
9 exclusions has passed. In accordance with the Court-approved notice program, the Claims
10 Administrator, Gilardi & Co. LLC, has disseminated over 72,000 copies of the Notice of Proposed
11 Settlement of Class Action ("Notice") to potential Class Members and nominees. See Supplemental
12 Declaration of Michael B. Jacoby Regarding Further Dissemination of the Notice and Proof of Claim
13 and Requests for Exclusion Received, ¶3 ("Supp. Jacoby Decl."), submitted herewith. In addition, the
14 Summary Notice was published in *The Wall Street Journal* and was transmitted over the *PR Newswire*
15 on February 21, 2017. See Declaration of Michael B. Jacoby Regarding (A) Mailing of the Notice of
16 Proposed Settlement of Class Action and the Proof of Claim, (B) Publication of the Summary Notice,
17 (C) Internet Posting, and (D) Requests for Exclusion Received to Date, ¶14, filed on April 10, 2017.
18 Further, a dedicated website, which was identified in the Notice and Summary Notice, was created and
19 relevant documents were posted thereon, including all papers in support of final approval of the
20 Settlement, Plan of Allocation, and Class Counsel's request for an award of 29.5% of the Settlement
21 Fund plus expenses in the amount of \$217,071.31. *Id.*, ¶13.

22 Notwithstanding the extensive notice program, not a single Class Member objects to the
23 Settlement or the Plan of Allocation and only one Class Member, Ms. Constance Decker, objects to
24 Class Counsel's request for an award of attorneys' fees.² In addition, only ten requests for exclusion

25 _____
26 ¹ Unless otherwise noted, all capitalized terms not defined herein have the same meanings set forth in
27 the Stipulation of Settlement, dated October 31, 2016 (the "Stipulation" or "Settlement"), filed with the
28 Court on November 8, 2016.

² Ms. Decker's objection is attached as Exhibit 1.

1 have been received from the Class.³ See Supp. Jacoby Decl., ¶4. These results are a clear testament to
2 the fairness, adequacy, and reasonableness of the Settlement, the Plan of Allocation, and Class
3 Counsel’s request for an award of attorneys’ fees and expenses.

4 As discussed below, Ms. Decker’s objection to the requested award of 29.5% of the Settlement
5 Fund is not supported by any legal or statutory authority, and should be overruled.

6 **II. THE REACTION OF THE CLASS SUPPORTS APPROVAL OF THE**
7 **SETTLEMENT, PLAN OF ALLOCATION AND APPROVAL OF CLASS**
8 **COUNSEL’S REQUEST FOR AN AWARD OF ATTORNEYS’ FEES AND**
9 **EXPENSES**

10 The reaction of the Class to the Settlement is a factor to be weighed in considering its adequacy.
11 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996) (one of the factors leading to a
12 presumption that the settlement is fair, reasonable and adequate is that the “percentage of objectors is
13 small”); *7-Eleven Owners For Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1152-53
14 (2000) (finding that the response of class members was “overwhelming positive” where “a mere 80 of
15 the 5,454 noticed Class Members elected to opt out” and nine objected). Moreover, the lack of
16 objection to the Plan of Allocation supports its approval. *Maley v. Del Global Techs. Corp.*, 186 F.
17 Supp. 2d 358, 367 (S.D.N.Y. 2002) (the lack of any objections to the plan of allocation supports its
18 approval); *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1284-85 (9th Cir. 1992) (confirming
19 district court’s approval of plan of allocation as fair, reasonable and adequate over one objection). After
20 an extensive notice program described above, only Ms. Decker has objected to Class Counsel’s request
21 for an award of attorneys’ fees and expenses. The single objection to the requested award of attorneys’
22 fees supports its approval. See *Cohorst v. BRE Props.*, No. 3:10-cv-2666-JM-BGS, 2011 U.S. Dist.
23 LEXIS 151719, at *60 (S.D. Cal. Nov. 9, 2011) (after an extensive notice program, including e-mails to
24 more than one million class members informing them of, among other things, that class counsel was
25 requesting a fee of 30%, the fact that only one objector disputed the attorneys’ fees fully supports the

25 ³ A small number of requests for exclusion offers support for the Court’s final approval of the
26 Settlement. See, e.g., *In re Bear Stearns Cos., Inc. Sec., Derivative, & ERISA Litig.*, 909 F. Supp. 2d
27 259, 266-67 (S.D.N.Y. 2012) (noting the absence of significant exclusion requests weighs “strongly in
28 favor of approval” where 115 requests for exclusion were received); *Destefano v. Zynga, Inc.*, No. 12-
cv-04007-JSC, 2016 U.S. Dist. LEXIS 17196, at *47 (N.D. Cal. Feb. 11, 2016) (“[A] low number of
exclusions representing a small fraction of shares in the public float also supports the reasonableness of
a securities class action settlement.”).

1 requested award); *see also In re Heritage Bond Litig.*, No. 02-ML-1475 DT, 2005 U.S. Dist. LEXIS
2 13555, at *71 (C.D. Cal. June 10, 2005) (“The absence of objections or disapproval by class members
3 to Class Counsel’s fee request further supports finding the fee request reasonable.”). Ms. Decker’s
4 objection is cursory in nature and provides no reason for the Court to reduce Class Counsel’s requested
5 fee award of 29.5% of the Settlement Fund and should be overruled.

6 **III. THE DECKER OBJECTION SHOULD BE OVERRULED**

7 Ms. Decker asserts that attorneys’ fees of 33-1/3% is a gross overpayment leaving the average
8 shareholder with a “[recovery] of \$.026-.12 on the dollar,” and asserts that an award of 15% would be
9 “very fair and appropriate.” Her unsupported request to reduce the amount of attorneys’ fees from the
10 requested 29.5% of the Settlement Fund, however, is belied by the record as well as California law and
11 should be rejected. As discussed in more detail in Class Counsel’s Memorandum of Points and
12 Authorities in Support of Motion for an Award of Attorneys’ Fees and Expenses (“Fee Brief”), the
13 requested award of attorneys’ fees of 29.5% of the Settlement Fund is reasonable in amount under the
14 standards set forth in California and should be approved.

15 Here, Class Counsel have obtained a highly favorable recovery. Indeed, courts have
16 consistently recognized that the result achieved is an important factor to be considered in making a fee
17 award. *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983) (“most critical factor is the degree of success
18 obtained”).⁴ As discussed in more detail in the Settlement Brief⁵ and Fee Brief, the \$18.5 million
19 Settlement represents a very good result for the Class considering the risk of establishing liability and
20 damages. Class Representatives’ damages expert estimates that damages in this case would be \$160
21 million if Class Representatives were able to prove liability. *See* Declaration of Bjorn I. Steinholt, CFA
22 (“Steinholt Decl.”), filed with the Court on December 28, 2016. Defendants, however, had a different
23 view of damages. Defendants’ expert, estimated at most, “under plaintiff-friendly assumptions” and
24

25 ⁴ *See also In re King Res. Co. Sec. Litig.*, 420 F. Supp. 610, 630 (D. Colo. 1976) (“the amount of the
26 recovery, and end result achieved are of primary importance, for these are the true benefit to the
client”).

27 ⁵ *See* previously-filed Memorandum of Points and Authorities in Support of Class Representatives’
28 Motion for Final Approval of Class Action Settlement and Plan of Allocation of Settlement Proceeds
 (“Settlement Brief”).

1 without a negative causation defense that the Class would have alleged damages of approximately \$53
2 million, but “the actual damage figure could be less than that amount.” *See* Declaration of Alexander
3 Aganin in Support of Motion to Approve Settlement (“Aganin Decl.”), ¶14, filed with the Court on
4 December 28, 2016. At trial, the amount of damages would have been hotly contested and would have
5 resulted in a “battle of experts.”⁶ Using the damages estimates of \$160 million by Class
6 Representatives’ expert and the \$53 million by Defendants’ expert, the \$18.5 million represents a
7 recovery of between approximately 11.5% to 35% of possible damages, assuming liability was proven
8 at trial. This is a highly favorable recovery by any measure.

9 Class Counsel’s requested fee award of 29.5% of the Settlement Fund also falls within or below
10 the parameters of percentage fees awarded in other class action litigation in California. Indeed, the
11 California Supreme Court, in *Laffitte v. Robert Half Int’l, Inc.*, 1 Cal. 5th 480 (2016), recently affirmed
12 the trial court’s award of 33-1/3% of the settlement amount of \$19 million. As recognized by the Court
13 of Appeals in *Laffitte*, “[e]mpirical studies show that, regardless whether the percentage method or the
14 lodestar method is used, fee awards in class actions average around one-third of the recovery.”⁷
15 *Laffitte v. Robert Half Int’l Inc.*, 231 Cal. App. 4th 860, 878 (2014) (citations omitted); *see also Lealao*
16 *v. Beneficial Cal., Inc.*, 82 Cal. App. 4th 19, 31 n.5 (2000) (“[W]hatever method is used and no matter
17 what billing records are submitted . . . the result is an award that almost always hovers around 30[%] of
18 the fund created by the settlement.”).

19 Moreover, the time and labor spent by Class Counsel supports the requested fee of 29.5%. Class
20 Counsel vigorously investigated and prosecuted this Litigation since its inception. The efforts of Class
21 Counsel are described in the Fee and Settlement Briefs as well as the Joint Declaration of James I.
22 Jaconette and Geoffrey M. Johnson in Support of Motion for Preliminary Approval of Class Action
23 Settlement, which was previously filed with the Court on November 8, 2016. Class Counsel have spent
24 more than 5,900 hours in the investigation, prosecution and settlement of this Litigation with a resulting

25 _____
26 ⁶ *See Connectivity Sys. Inc. v. Nat’l City Bank*, No. 2:08-cv-1119, 2011 U.S. Dist. LEXIS 7829, at *6
27 (S.D. Ohio Jan. 26, 2011) (“Acceptance of expert testimony is always far from certain, no matter how
28 qualified the expert, inevitably leading to a ‘battle of the experts.’ The Settlement Agreement reached
by the parties avoids the risks attendant to this ‘battle of the experts,’ which could result in a ruling
against Named Plaintiffs and the Settlement Class.”).

1 lodestar of \$3,672,792.75.⁷ As a result, the requested fee of 29.5% of the \$18.5 million recovery, or
2 \$5,457,500, represents a multiplier of approximately 1.5 Class Counsel's lodestar. Such a multiplier is
3 eminently reasonable. Courts have recognized that "[m]ultipliers can range from 2 to 4 or even higher."
4 *Wershba v. Apple Comput., Inc.*, 91 Cal. App. 4th 224, 255 (2001).

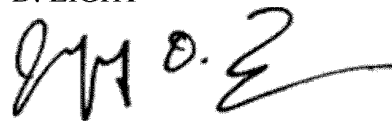
5 **IV. CONCLUSION**

6 For all the reasons set forth herein and in Class Representatives' and Class Counsel's previous
7 submissions, the Court is respectfully requested to approve the Settlement and Plan of Allocation as
8 fair, reasonable, and adequate and to approve Class Counsel's request for an award of attorneys' fees
9 and expenses as reasonable. Additionally, the service awards requested by Class Representatives are
10 reasonable in amount and supported by a declaration from each Class Representative seeking an award.

11 DATED: May 17, 2017

Respectfully submitted,

12 ROBBINS GELLER RUDMAN
13 & DOWD LLP
14 JAMES I. JACONETTE
15 JEFFREY D. LIGHT



16 JEFFREY D. LIGHT

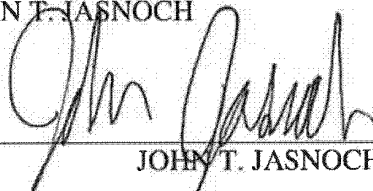
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26 ⁷ See Declaration of James I. Jaconette Filed on Behalf of Robbins Geller Rudman & Dowd LLP in
27 Support of Application for Award of Attorneys' Fees and Expenses ("Robbins Fee Decl.") and
28 Declaration of Geoffrey M. Johnson Filed on Behalf of Scott+Scott, Attorneys at Law, LLP in Support
of Application for Award of Attorneys' Fees and Expenses ("Scott Fee Decl."), previously filed with
the Court on April 10, 2017.

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EXHIBIT 1

RECEIVED APR 25 2017

To: Class Counsel, Jeffrey D. Light

Based on the settlement information provided. It seems amazingly unfair of the settlement as it stands now to Award the "Attorney fees" & "Expenses" a $33\frac{1}{3}\%$ of the settlement. This gross over payment is leaving the average shareholder with a settlement \$ of $.026-.12$ / on the dollar owned. I'm sorry but 15% is very fair & appropriate.

Please reconsider.

Sincerely,

Constance Decker

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JDL

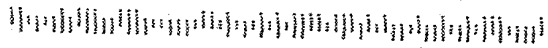
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DECLARATION OF SERVICE BY MAIL & EMAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 655 West Broadway, Suite 1900, San Diego, California 92101.

2. That on May 17, 2017, declarant served the REPLY MEMORANDUM IN FURTHER SUPPORT OF MOTION FOR: (1) FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION OF SETTLEMENT PROCEEDS; AND (2) AN AWARD OF ATTORNEYS' FEES AND EXPENSES by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

4. Also, on May 17, 2017, declarant served the REPLY MEMORANDUM IN FURTHER SUPPORT OF MOTION FOR: (1) FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION OF SETTLEMENT PROCEEDS; AND (2) AN AWARD OF ATTORNEYS' FEES AND EXPENSES via electronic mail on all parties listed on the attached Service List.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 17, 2017, at San Diego, California.



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