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November 12, 2019

Via E-Filing

The Honorable Naomi Reice Buchwald
United States District Court for the Southern District of New York
500 Pearl St.
New York, NY 10007-1312

Re: ***Vuzix Corp. v. Ricardo Antonio Pearson, Case No. 1:19-cv-00689***
MOTION FOR CLARIFICATION

Dear Judge Buchwald:

We write to respectfully request that this Court clarify that its November 8, 2019 decision granting defendant Richard J. Pearson's Motion to Dismiss (Dkt. 39) did not, expressly or impliedly, find or accept that Richard Pearson is "Ricardo Antonio Pearson" or has ever used "Ricardo Antonio Pearson" in the conduct of his business. While the Order granting the Motion to Dismiss does not specifically state that Richard Pearson is "Ricardo Antonio Pearson," Richard is concerned that certain statements within the Order could be used, albeit improperly, to state the Court made such a finding.

By way of background, since 2017 parties unhappy with Richard's reporting on securities issues have attempted to impugn his credibility and otherwise cast doubt on his securities analysis by raising questions concerning his true identity. These efforts have caused Richard significant difficulty and expense in both his professional and personal life. It is for that reason that Richard has in his filings in this matter repeatedly made clear that his name is not (as suggested by the Complaint) Ricardo Antonio Pearson, but rather Richard J. Pearson. In his Declaration in Support of Removal (Dkt. 1-2), for example, Richard Pearson stated:

The name Richard J. Pearson is my true legal name and is not an alias. At all times in my professional career, I have been identified as Richard Pearson or more informally as Rick Pearson. My bylines on my website Moxreports.com and on Seeking Alpha state that my name is Richard Pearson. My email address is rick.pearson@pearsoninvestment.com. My name is not—and never has been—Ricardo Antonio Pearson.

Richard Pearson has made similar statements in the other declarations filed with the Court, including the following:

- The author of the articles at issue in Vuzix's Complaint is Richard J. Pearson. See Dkt. 1-2 at ¶¶ 28-30; Dkt. 25 at ¶¶ 44-46.
- The name Richard J. Pearson is Richard's true legal name and is not an alias. See Dkt. 1-2 at ¶ 11; Dkt. 25 at ¶ 56.

- Richard J. Pearson is not and has never been Ricardo Antonio Pearson. See Dkt. 1-2 at ¶ 11; Dkt. 25 at ¶ 56.

Copies of the foregoing declarations are attached as Exhibits A and B to this letter for the Court's reference.

The Court's opinion does not define the term "Pearson" or "Defendant," and includes certain statements that may potentially create the impression that Richard Pearson is in fact "Ricardo Antonio Pearson." See, e.g., Dismissal Decision at 1 ("Plaintiff Vuzix Corporation ("Vuzix") brings this action against defendant Ricardo Antonio Pearson, also known as Richard Pearson."), and 3 ("Plaintiff characterizes defendant Ricardo Antonio Pearson as a short-seller in its amended complaint."). Richard understands full well that the cited passages merely track the language Plaintiff included in its complaint. However, given the continuing attempts by parties to falsely attribute to Richard Pearson the identity of "Ricardo Antonio Pearson," we respectfully ask that the Court clarify that it has not made any such findings concerning the name or identity of Richard Pearson. As demonstrated by the materials cited above, it is Richard J. Pearson, rather than Ricardo Antonio Pearson, who has appeared in and defended this action, and Mr. Pearson has never used the name Ricardo Antonio Pearson as an alias. The clarification requested by this letter will ensure that parties do not use the Court's opinion to suggest that Your Honor has ruled otherwise.

We thank the Court for its consideration and are available for a hearing on this matter if that would be helpful to the Court.

Respectfully submitted,

HOLLAND & KNIGHT LLP

/s Christine N. Walz

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
VUZIX CORPORATION,

Plaintiff,

- against -

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON

Defendant.
-----X

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE


USDC SDNY
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O R D E R

19 Civ. 689 (NRB)

We are in receipt of defendant's letter of November 12, 2019, requesting a clarification of our decision of November 8, 2019 with respect to plaintiff's denomination of defendant as Ricardo Antonio Pearson a/k/a Richard Pearson. Our decision of November 8, 2019 was in no way intended to even comment on the nomenclature. Rather, as we must on a motion to dismiss, we recited the allegations in the Amended Complaint. We do note, however, that our decision of April 24, 2019, denying plaintiff's motion to remand proceeded on a determination that Richard Pearson had established that he was a citizen of California for diversity purposes.

Dated: New York, New York
November 19, 2019



NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE