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6 Attorney for Plaintiff,
7 **GAMETEK LLC**

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 GAMETEK LLC,

Case No.: '12CV2928 BTM BLM

12 Plaintiff,
13 v.

**COMPLAINT FOR INFRINGEMENT OF
U.S. PATENT NO. 7,076,445**

14 FUNZIO, INC.; FUNZIO USA, INC.; and
GREE INTERNATIONAL, INC.

DEMAND FOR JURY TRIAL

15 Defendants.

Complaint Filed: December 10, 2012
Trial Date: not set

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17 This is an action for patent infringement in which GAMETEK LLC submits this Complaint
18 against Defendants named herein, namely FUNZIO, INC.; FUNZIO USA, INC.; and GREE
19 INTERNATIONAL, INC. (collectively "Defendants"), as follows:
20

21 **THE PARTIES**

22 1. GAMETEK LLC ("GAMETEK" or "Plaintiff") is a California limited liability
23 company with a place of business at 500 Newport Center Drive, Suite 700, Newport Beach, CA
24 92660.

25 2. On information and belief, FUNZIO, INC. is a Delaware corporation with a place of
26 business at 500 Howard Street, Suite 425, San Francisco, CA 94105.
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1 3. On information and belief, FUNZIO USA, INC. is a Delaware corporation with a
2 place of business at 500 Howard Street, Suite 425, San Francisco, CA 94105.

3 4. On information and belief, GREE INTERNATIONAL, INC. is a California
4 corporation with a place of business at 330 Primrose Rd. Suite 407, Burlingame, CA 94010.
5 Hereinafter, FUNZIO, INC., FUNZIO USA, INC., and GREE INTERNATIONAL, INC. are
6 collectively referred to as “FUNZIO.”
7

8 **JURISDICTION AND VENUE**

9 5. This action arises under the patent laws of the United States, Title 35 of the United
10 States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

11 6. On information and belief, the Defendants are subject to this Court’s specific and/or
12 general personal jurisdiction, pursuant to due process and/or the California Long Arm Statute, due at
13 least to their substantial business in California, including related to the infringements alleged herein.
14 Further, on information and belief, Defendants have interactive websites and/or games comprising
15 infringing methods, which are at least used in and/or accessible in California. Further, on
16 information and belief, Defendants regularly conduct and/or solicit business, engage in other
17 persistent courses of conduct, and/or derive substantial revenue from goods and services provided to
18 persons and/or entities in California.
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21 7. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).
22 Without limitation, on information and belief, Defendants are subject to personal jurisdiction in this
23 district. On information and belief, the Defendants are subject to this Court’s specific and/or general
24 personal jurisdiction, pursuant to due process and/or the California Long Arm Statute, due at least to
25 their substantial business in this district, including related to the infringements alleged herein.
26 Further, on information and belief, Defendants have interactive websites and games comprising
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1 infringing methods, which are at least used in and/or accessible in this district. Further, on
2 information and belief, Defendants regularly conduct and/or solicit business, engage in other
3 persistent courses of conduct, and/or derive substantial revenue from goods and services provided to
4 persons and/or entities in this district.

5
6 **COUNT I**

7 **INFRINGEMENT OF U.S. PATENT NO. 7,076,445**

8 8. United States Patent No. 7,076,445 (“the ‘445 patent”), entitled “SYSTEM AND
9 METHODS FOR OBTAINING ADVANTAGES AND TRANSACTING THE SAME IN A
10 COMPUTER GAMING ENVIRONMENT,” issued on July 11, 2006.

11 9. GAMETEK is the present assignee of the entire right, title and interest in and to the
12 ‘445 patent, including all rights to sue for past and present infringement. Accordingly, GAMETEK
13 has standing to bring this lawsuit for infringement of the ‘445 patent.

14 10. The various claims of the ‘445 patent cover, inter alia, a method of managing a game
15 comprising displaying a plurality of game objects, determining if the user has sufficient
16 consideration to purchase a game object, presenting an offer to purchase the game object dependent
17 upon parameters comprising the tracked activity of the user and the indication that the user has
18 sufficient consideration, permitting the user to purchase the game object without interrupting the
19 game, supplying the purchased game object to the user without interrupting the game, and
20 incorporating the game object into the game.

21 11. On information and belief, FUNZIO has been and now is infringing, including
22 jointly, the ‘445 patent by actions comprising managing a game comprising displaying a plurality of
23 game objects, determining if the user has sufficient consideration to purchase a game object,
24 presenting an offer to purchase the game object dependent upon parameters comprising the tracked
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1 activity of the user and the indication that the user has sufficient consideration, permitting the user to
2 purchase the game object without interrupting the game, supplying the purchased game object to the
3 user without interrupting the game, and incorporating the game object into the game. On information
4 and belief, such methods comprise Crime City, Kingdom Age, and Modern War.

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6 12. Further, on information and belief, FUNZIO makes, uses, and hosts the game known
7 as Crime City.

8 13. Further, on information and belief, FUNZIO makes, uses, and hosts the game known
9 as Kingdom Age.

10 14. Further, on information and belief, FUNZIO makes, uses, and hosts the game known
11 as Modern War.

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13 15. As a result of FUNZIO's infringing conduct, FUNZIO has damaged GAMETEK.
14 FUNZIO is liable to GAMETEK in an amount that adequately compensates GAMETEK for its
15 infringement, which by law, can be no less than a reasonable royalty.

16 16. FUNZIO was put on notice of the '445 patent prior to the filing of this suit.
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18 GAMTEK contends that, at a minimum, FUNZIO's ongoing infringement of the '445 patent since
19 receiving notice of the '445 patent is willful, including because FUNZIO's infringement is clear and,
20 at a minimum, such infringement is an objectively reckless act.

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22 **PRAYER FOR RELIEF**

23
24 WHEREFORE, GAMETEK respectfully requests that this Court enter:

- 25 1. A judgment in favor of GAMETEK that Defendants have infringed the '445 patent;
26 2. A judgment that FUNZIO's infringement is and/or has been willful and objectively
27 reckless;

