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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,
12 Plaintiff,
13 v.

Case No.: '12CV2931 BTM KSC
**COMPLAINT FOR INFRINGEMENT OF
U.S. PATENT NO. 7,076,445**

14 CROWDSTAR INTERNATIONAL LIMITED;
15 CROWDSTAR INC.; and CROWDSTAR
NETWORK, LLC,

DEMAND FOR JURY TRIAL

16 Defendants.

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

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

21 **THE PARTIES**

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23 1. GAMETEK LLC ("GAMETEK" or "Plaintiff") is a California limited liability
24 company with a place of business at 500 Newport Center Drive, Suite 700, Newport Beach, CA
25 92660.

26
27 2. On information and belief, CROWDSTAR INTERNATIONAL LIMITED is an Irish
28 corporation with a place of business at 330 Primrose Road Suite 306, Burlingame, CA 94010.

1 Further, on information and belief, CROWDSTAR INC. is a Delaware Corporation with a place of
2 business at 330 Primrose Road Suite 306, Burlingame, CA 94010.

3 3. On information and belief, CROWDSTAR NETWORK, LLC is a Delaware limited
4 liability corporation with a place of business at 330 Primrose Road Suite 306, Burlingame, CA
5 94010. CROWDSTAR INTERNATIONAL LIMITED; CROWDSTAR INC.; and CROWDSTAR
6 NETWORK, LLC are collectively referred to as “CROWDSTAR.”
7

8 **JURISDICTION AND VENUE**

9 4. 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 5. 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 6. 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 7. 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 8. 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 9. 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 10. On information and belief, CROWDSTAR 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 Happy Aquarium, Happy Pets, Happy Island, Mighty Pirates,
5 Zoo Paradise.
6

7 11. Further, on information and belief, CROWDSTAR makes, uses, and hosts the game
8 known as Happy Aquarium.

9 12. Further, on information and belief, CROWDSTAR makes, uses, and hosts the game
10 known as Happy Pets.

11 13. Further, on information and belief, CROWDSTAR makes, uses, and hosts the game
12 known as Happy Aquarium.
13

14 14. Further, on information and belief, CROWDSTAR makes, uses, and hosts the game
15 known as Happy Island.

16 15. Further, on information and belief, CROWDSTAR makes, uses, and hosts the game
17 known as Mighty Pirates.
18

19 16. Further, on information and belief, CROWDSTAR makes, uses, and hosts the game
20 known as Zoo Paradise.

21 17. As a result of CROWDSTAR's infringing conduct, CROWDSTAR has damaged
22 GAMETEK. CROWDSTAR is liable to GAMETEK in an amount that adequately compensates
23 GAMETEK for its infringement, which by law, can be no less than a reasonable royalty.
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25 18. CROWDSTAR was put on notice of the '445 patent prior to the filing of this suit.
26 GAMTEK contends that, at a minimum, CROWDSTAR's ongoing infringement of the '445 patent
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1 since receiving notice of the '445 patent is willful, including because CROWDSTAR's infringement
2 is clear and, at a minimum, such infringement is an objectively reckless act.

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5 **PRAYER FOR RELIEF**

6 WHEREFORE, GAMETEK respectfully requests that this Court enter:

- 7 1. A judgment in favor of GAMETEK that Defendants have infringed the '445 patent;
- 8 2. A judgment that CROWDSTAR's infringement is and/or has been willful and
9 objectively reckless;
- 10 3. A permanent injunction enjoining Defendants, and their officers, directors,
11 employees, agents, affiliates and all others acting in active concert therewith from infringing the
12 '445 patent;
- 13 4. A judgment and order requiring CROWDSTAR to pay to GAMETEK its damages,
14 costs, expenses, fees, and prejudgment and post-judgment interest for CROWDSTAR's
15 infringement of the '445 patent as provided under 35 U.S.C. §§ 284 and/or 285;
- 16 5. A judgment and order finding that this is an exceptional case within the meaning of
17 35 U.S.C. § 285 and awarding to GAMETEK its reasonable attorneys' fees;
- 18 6. Any and all other relief to which GAMETEK may show itself to be entitled.
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23 **DEMAND FOR JURY TRIAL**

24 Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of
25 any issues so triable by right.
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1 Dated: December 10, 2012

Respectfully submitted,

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3 COLLINS, EDMONDS, POGORZELSKI,
SCHLATHER & TOWER, PLLC

4
5 /s/ John J. Edmonds
6 John J. Edmonds

7 Attorney for Plaintiff
8 GAMETEK LLC

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CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
GAMETEK LLC
(b) County of Residence of First Listed Plaintiff ORANGE COUNTY, CA
(c) Attorneys (Firm Name, Address, and Telephone Number)
COLLINS, EDMONDS, POGORZELSKI, SCHLATHER & TOWER, PLLC
1851 East First Street, Suite 900, SANTA ANA, CA 92705

DEFENDANTS
CROWDSTAR, INC.; CROWDSTAR INTERNATIONAL, LIMITED;
CROWDSTAR NETWORK LLC
County of Residence of First Listed Defendant SAN MATEO COUNTY
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
'12CV2931 BTM KSC
Attorneys (If Known)
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation
PTF DEF
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
110 Insurance
120 Marine
130 Miller Act
140 Negotiable Instrument
150 Recovery of Overpayment & Enforcement of Judgment
151 Medicare Act
152 Recovery of Defaulted Student Loans (Excl. Veterans)
153 Recovery of Overpayment of Veteran's Benefits
160 Stockholders' Suits
190 Other Contract
195 Contract Product Liability
196 Franchise
PERSONAL INJURY
310 Airplane
315 Airplane Product Liability
320 Assault, Libel & Slander
330 Federal Employers' Liability
340 Marine
345 Marine Product Liability
350 Motor Vehicle
355 Motor Vehicle Product Liability
360 Other Personal Injury
362 Personal Injury - Med. Malpractice
PERSONAL INJURY
365 Personal Injury - Product Liability
367 Health Care/Pharmaceutical Personal Injury Product Liability
368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
370 Other Fraud
371 Truth in Lending
380 Other Personal Property Damage
385 Property Damage Product Liability
FORFEITURE/PENALTY
625 Drug Related Seizure of Property 21 USC 881
690 Other
LABOR
710 Fair Labor Standards Act
720 Labor/Mgmt. Relations
740 Railway Labor Act
751 Family and Medical Leave Act
790 Other Labor Litigation
791 Empl. Ret. Inc. Security Act
IMMIGRATION
462 Naturalization Application
463 Habeas Corpus - Alien Detainee (Prisoner Petition)
465 Other Immigration Actions
BANKRUPTCY
422 Appeal 28 USC 158
423 Withdrawal 28 USC 157
PROPERTY RIGHTS
820 Copyrights
830 Patent
840 Trademark
SOCIAL SECURITY
861 HIA (1395ff)
862 Black Lung (923)
863 DIWC/DIWW (405(g))
864 SSID Title XVI
865 RSI (405(g))
FEDERAL TAX SUITS
870 Taxes (U.S. Plaintiff or Defendant)
871 IRS—Third Party 26 USC 7609
OTHER STATUTES
375 False Claims Act
400 State Reapportionment
410 Antitrust
430 Banks and Banking
450 Commerce
460 Deportation
470 Racketeer Influenced and Corrupt Organizations
480 Consumer Credit
490 Cable/Sat TV
850 Securities/Commodities/Exchange
890 Other Statutory Actions
891 Agricultural Acts
893 Environmental Matters
895 Freedom of Information Act
896 Arbitration
899 Administrative Procedure Act/Review or Appeal of Agency Decision
950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
35 U.S.C. 271
Brief description of cause:
Patent Infringement

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE See Attachment A.
DOCKET NUMBER

DATE 12/12/2012
SIGNATURE OF ATTORNEY OF RECORD /s John J. Edmonds

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

ATTACHMENT A – RELATED CASES

No. 3:12-cv-00502-BEN-RBB Gametek LLC v. The Playforge, Inc., USDC Southern District of California;

No. 3:12-cv-00503-BEN-RBB Gametek LLC v. NHN USA, Inc. et al., USDC Southern District of California;

No. 3:12-cv-06184-LB Gametek LLC v. Gameview Studios, USDC Northern District of California