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10 *Bally Gaming, Inc. d/b/a Bally Technologies*

11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15 BALLY GAMING, INC., a Nevada
16 corporation d/b/a/ Bally Technologies,

17 Plaintiff,

18 v.
19

20 ADAM CHARTRAND, an individual,
21 TCPW HOLDINGS LLC d/b/a TCPW
22 Gaming, an Arkansas limited liability
company, and DOES 1-10,

23 Defendants.
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CASE NO.: 2:15-cv-3206

**COMPLAINT FOR PATENT
INFRINGEMENT**

[JURY TRIAL DEMANDED]

1 Plaintiff Bally Gaming, Inc. d/b/a/ Bally Technologies (“Bally”), by and
2 through its counsel, submits this Complaint against Defendant Adam Chartrand
3 (“Chartrand”) and Defendant TCPW Holdings LLC d/b/a TCPW Gaming (“TCPW”)
4 (collectively “Defendants”) and alleges as follows:

5 **THE PARTIES**

6 1. Bally is a Nevada Corporation with its principal place of business at
7 6601 S. Bermuda Rd., Las Vegas, Nevada 89119.

8 2. On information and belief, Defendant Chartrand is an individual and a
9 managing member of Defendant TCPW with a principal place of business at 72
10 Rocky Top Road, Mayflower, AR 72106.

11 3. Bally is unaware of the true names and capacities of Defendants sued
12 hereunder as DOES 1 through 10 inclusive, and therefore sues these Defendants by
13 such fictitious names. Bally is informed and believes and thereon alleges that each of
14 the fictitiously named Defendants is responsible in some manner for the occurrences
15 herein alleged, and that Bally’s damages as herein alleged were proximately caused
16 by their conduct. Bally will amend this Complaint to allege the true names and
17 capacities of the Defendants DOES 1 through 10 when ascertained.

18 **JURISDICTION AND VENUE**

19 4. This Complaint arises under the laws of the United States, specifically
20 the patent laws of the United States, 35 U.S.C. § 271, *et seq.* This Court has subject
21 matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

22 5. Personal jurisdiction and venue are proper in this District under 28
23 U.S.C. § 1391 and 1400(b). On information and belief, Defendants offered or
24 continue to offer table games, including without limitation, “Three Card War,”
25 (“Infringing Games”) that infringe Bally’s intellectual property directed at residents
26 of California and this District, have conducted and/or solicited business in California
27 and this District, have provided infringing products or services to the residents of
28 California and this District, and/or have committed, contributed to, and/or induced

1 acts of infringement in California and this District. Defendants purposefully directed
 2 their activities toward California and this District when they willfully infringed
 3 Bally's intellectual property rights, specifically targeted consumers here, and a
 4 substantial part of the harm was felt in California and this District.

5 **BALLY'S PROPRIETARY GAMES AND INTELLECTUAL PROPERTY**

6 6. For decades, Bally has been a leading global supplier of innovative
 7 products and technologies for the gaming industry. Among other assets, Bally owns a
 8 substantial portfolio of proprietary casino table games, electronic table systems,
 9 electronic gaming machines, and website games, which feature online versions of
 10 Bally's table games as well as online play-for-fun games, and associated intellectual
 11 property rights.

12 7. Bally created and/or acquired through purchase the rights in the casino
 13 games entitled Three Card Poker and its side bet, Pair Plus ("Three Card Poker
 14 Game").

15 8. Through its marketing and promotional efforts, Bally popularized the
 16 Three Card Poker Game.

17 9. Bally has developed and continues to develop table games, including the
 18 Three Card Poker Game, for use in connection with casinos, online casinos, social
 19 gaming sites, and mobile applications.

20 10. Bally licenses the Three Card Poker Game to casino operators located in
 21 California and nationwide.

22 11. In particular, Bally extensively licenses its intellectual property,
 23 including the Three Card Poker Game, to Indian Gaming Casinos throughout
 24 Southern California and this District.

25 12. California has the largest Indian gaming casino market in the country
 26 with 60 operating Indian casinos that took in approximately \$7.0 billion in revenues
 27 in 2013, nearly 25% of the total Indian casino revenues nationwide and the most of
 28 any state. Twenty-one of those casinos are located in Southern California and thirteen

1 are located within this District.

2 13. Moreover, Southern California is the single largest source of visitors to
3 Las Vegas, accounting for 27% of the 41 million total visitors (or approximately 11
4 million visitors) in 2013, according to a survey by the Las Vegas Convention and
5 Visitors Authority. Thus, Southern California contains the single largest pool of
6 gamblers in the nation that would be interested in learning or practicing Bally Games
7 before trying their luck on Bally's tables in Las Vegas.

8 14. On information and belief, Defendants actually or constructively knew
9 that California's Indian Gaming Casino market is the largest in the country.

10 15. Bally earns a substantial portion of its business revenue through
11 licensing Three Card Poker Game and associated intellectual property rights to third
12 parties worldwide.

13 16. Bally is registered to do business in California through the California
14 Secretary of State.

15 17. Further, Bally's casino products and related services in California and
16 this District are subject to stringent regulation and approval procedures by the
17 California Gambling Control Commission ("CGCC"). Accordingly, Bally has several
18 licenses from the CGCC, including Manufacturer & Distributor of Gambling
19 Equipment – Vendor and Gaming Vendor Provider and Bally is included on the
20 CGCC's list of Gaming Resource Suppliers (Vendors) Found Suitable by the CGCC.

21 18. Bally is the exclusive owner of all rights to United States Patent No.
22 6,698,759, entitled "Player Banked Three Card Poker and Associated Games" (the
23 "'759 Patent"), including but not limited to the right to sue for past and present
24 damages. The '759 Patent was duly issued by the United States Patent and Trademark
25 Office on March 2, 2004.

26 **DEFENDANTS' WRONGFUL AND INFRINGING ACTIVITIES**

27 19. On information and belief, Defendants develop casino table games.
28 Without authorization or permission from Bally, Defendants develop, design,

1 manufacture, market, distribute, use, and/or sell the Infringing Games.

2 20. On information and belief, Defendants have been and are directly
3 infringing, inducing others to infringe, and/or contributorily infringing, literally,
4 under the doctrine of equivalents, and/or jointly, one or more claims of the '759
5 Patent in California and in this District, and elsewhere in the United States by, among
6 other things, making, using, selling, and/or offering to sell systems and methods that
7 implement, utilize or otherwise embody the patented invention, including but not
8 limited to the Infringing Games.

9 **COUNT I**

10 **INFRINGEMENT OF UNITED STATES PATENT NO. 6,698,759**

11 21. Bally realleges and incorporates by reference each and every allegation
12 contained in the above paragraphs as if fully set forth herein.

13 22. On information and belief, Defendants have been and are directly
14 infringing, inducing others to infringe, and/or contributorily infringing, literally,
15 under the doctrine of equivalents, and/or jointly, one or more claims of the '759
16 Patent in the State of California, in this District, and elsewhere in the United States
17 by, among other things, making, using, selling, and/or offering to sell systems and
18 methods that implement, utilize or otherwise embody the patented invention,
19 including by way of example the Infringing Games. Therefore, Defendants are liable
20 for infringement of the '759 Patent.

21 23. Defendants have been and are inducing and/or contributing to the direct
22 infringement of the '759 Patent by at least, but not limited to, customers and end-
23 users of Defendants' products, including but not limited to the Infringing Games,
24 which have no substantial non-infringing uses, by at least the following affirmative
25 acts: (1) advertising in public and marketing the features, benefits, and availability of
26 the accused systems, products, and services; (2) promoting the adoption and
27 installation of the accused systems, products, and services; and (3) providing
28 instructions on how to use the accused systems, products, and services.

24. Defendants have knowledge of the '759 Patent and have had the specific knowledge that their Infringing Games described above infringe the '759 Patent, since at least August 2012.

25. Bally has been and is irreparably harmed by Defendants' infringement of the '759 Patent, and monetary damages are insufficient to remedy the harm resulting from the infringement. Bally has incurred and will continue to incur substantial damages, including monetary damages, unless Defendants are enjoined from further acts of infringement.

PRAYER FOR RELIEF

WHEREFORE, Bally respectfully requests that this Court:

- a. enter judgment in favor of Bally that Defendants have infringed, and continued to infringe, a valid and enforceable '759 Patent;
- b. enjoin Defendants, their officers, subsidiaries, agents, servants, employees, and all persons in active concert with any of them, from any further infringement of the '759 Patent;
- c. award Bally all monetary relief available under the patent laws of the United States, including but not limited to actual damages, pre- and post- judgment interest, enhanced damages, and costs pursuant to 35 U.S.C. § 284;
- d. award Bally enhanced damages for Defendants' willful infringement;
- e. declare this case exceptional and award Bally its reasonably attorneys' fees pursuant to 35 U.S.C. § 285; and
- f. grant Bally such other relief as the Court deems just and equitable.

Date: April 29, 2015

Respectfully submitted,

/s/ Adrian M. Pruetz

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Erica J. Van Loon

Dan Liu

GLASER WEIL FINK HOWARD

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*Attorneys for Plaintiff
Bally Gaming, Inc. d/b/a Bally
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DEMAND FOR JURY TRIAL

Bally demands a trial by jury on all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Date: April 29, 2015

Respectfully submitted,

/s/ Adrian M. Pruetz

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