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16 *Attorneys for Plaintiff Konami Gaming, Inc.*

17 **UNITED STATES DISTRICT COURT**
18 **DISTRICT OF NEVADA**

20 KONAMI GAMING, INC., a Nevada
21 corporation,
22
23 Plaintiff,
24
25 v.
26 PTT, LLC d/b/a High 5 Games., a Delaware
limited liability company,
Defendant.

Case No.: 2:14-cv-01483-RFB-NJK

**AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

JURY DEMAND

27 Plaintiff, KONAMI GAMING, INC. (“Konami”), for its Amended Complaint against
28 PTT, LLC d/b/a High 5 Games (hereinafter “Defendant”), alleges as follows:

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NATURE OF THE ACTION

1
2 1. This is an action for patent infringement under 35 U.S.C. §§ 271,
3
4 283, 284 and 285.

THE PARTIES

5
6 2. Plaintiff Konami is a Nevada corporation having a principal place of business
7
8 at 585 Konami Circle, Las Vegas, Nevada 89119.

9 3. On information and belief, Defendant PTT, LLC d/b/a High 5 Games is a
10
11 Delaware limited liability company having a principal place of business at 1200
12 Macarthur Boulevard, Mahwah, New Jersey, 07430.

JURISDICTION AND VENUE

13 4. This Court has subject matter jurisdiction over this matter pursuant to
14
15 28 U.S.C. §§ 1331 and 1338(a).

16 5. On information and belief, Defendant is subject to personal jurisdiction in the
17
18 District of Nevada (the “District”), consistent with the principles of due process and the Nevada
19
20 Long Arm Statute, because Defendant operates and offers their products for sale in this District
21
22 including at the G2E Gaming Conference in Las Vegas where Defendant displayed, used and
23
24 offered for sale to potential customers, manufacturers and distributors, have transacted business
25
26 in this District with local distributors and manufacturers, have committed and/or induced acts of
27
28 patent infringement in this District, and/or have placed infringing products into the stream of
29
30 commerce through established distribution channels with the expectation that such products will
31
32 be purchased by residents of this District.

33 6. Venue over Defendant is proper in this judicial district under 28 U.S.C.
34
35 §§ 1391(d) and 1400(b).

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,096,869

1
2 7. Konami restates the allegations contained in paragraphs 1-6.

3 8. Konami is the owner of all right, title, and interest in U.S. Patent No.
4 8,096,869 (the ‘869 patent), entitled “Gaming Machines with Runs of Consecutive Identical
5 Symbols,” duly and properly issued by the U.S. Patent and Trademark Office on January 17,
6 2012. A copy of the ‘869 patent is attached as **Exhibit A**.

7
8 9. The ‘869 patent is part of Konami’s Action Stacked Symbol technology and
9 games. Konami’s Action Stacked Symbol technology and games disclose and claim the use
10 of consecutive runs of identical symbols that change for each game played that garners
11 excitement and increased anticipation of winning for a player. Specifically, a specific symbol
12 is randomly selected for placement in a consecutive run of symbol positions on one or more
13 reels to create a run of identical symbols. This selection and placement action is repeated
14 anew with each game played. Exhibit A, 2:6-14, claims 1, 19. By displaying to the player a
15 consecutive run of identical symbols as the reels are spinning, a heightened sense of interest,
16 excitement and anticipation of potentially winning is provided. Exhibit A, 5:11-17. In other
17 words, the player is able to see the repeating, consecutive identical symbol as the reels spin
18 (e.g., a high payout symbol), thereby increasing the excitement and anticipation that the
19 player may experience a big win.
20
21
22

23 10. Defendant has in the past, or is currently, directly infringing the claims of the
24 ‘869 patent under 35 U.S.C. § 271(a) by making, using, offering for sale, or selling without
25 Konami’s authority, games that include game proofs and associated math that embody one or
26 more of the claims of the ‘869 patent.

27 11. Upon information and belief, Defendant was aware of the ‘869 patent at least
28 by the filing of the Complaint, if not sooner. It is believed that the gaming industry is well

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1 aware of Konami's patented Action Stacked Symbol technology and games, including the
2 '869 patent. Further, upon information and belief, as of at least January 2014, High 5 was
3 aware of Konami's Action Stacked technology based upon United States Patent Publication
4 2013/0084494, which is a family member of the '869 patent, being identified in High's 5
5 United States Patent 9,022,852.
6

7 12. At least upon the filing of this Amended Complaint, Defendant is inducing and
8 contributing to the direct infringement of the '869 patent claims in violation of 35 U.S.C.
9 §§ 271(b) and (c), by making, using, offering for sale, or selling without Konami's authority,
10 games and/or game proofs and associated math with knowledge of the '869 patent and its
11 claims; knowing that others will use the same in their own machines and as such will use the
12 games in an infringing manner; knowing that their games and/or game proofs and associated
13 math are a material part of the invention claimed in the '869 patent; knowing that their games
14 and/or game proofs and associated math are especially made or especially adapted for use in
15 an infringement of the '869 patent; and knowing that their games and/or game proofs and
16 associated math are not staple articles or commodities of commerce that are suitable for
17 substantial non-infringing use.
18
19

20 13. By way of example and not limitation, Defendant has in the past, or is
21 currently, making, using, offering for sale, or selling games that include a "Super Stack"
22 (sometimes referred to as "Mystery Stack") feature. Specifically, upon information and
23 belief, Defendant provides games having the Super Stack feature through (1) physical gaming
24 machines placed, for example, on a casino gaming floor, known as land based gaming; (2)
25 internet based gambling, known as real money gaming; and (3) free-to-play internet gaming,
26 for example as a Facebook gaming platform or other electronic device, such as an Ipad or the
27 like.
28

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1 14. By way of example and not limitation, Defendant has in the past, or is
2 currently, making, using, offering for sale, or selling games and/or game proofs and
3 associated game math that include the “Super Stack” feature that their customers use in casino
4 slot machines. Specifically, upon information and belief, Defendant provides game proofs
5 and associated game math for at least the Super Stack feature, if not the entire game, to its
6 customer so that it can be incorporated into its customer’s land based gaming machine.
7

8 15. By way of example and not limitation, Defendant has in the past, or is
9 currently, making, using, offering for sale, or selling or providing games and/or game proofs
10 and associated game math to manufacturers or distributors who are making, using, offering
11 for sale, or selling at least the following land based games that include the “Super Stack”
12 feature:
13

- 14 • Bai She
- 15 • Black Widow
- 16 • Brazilia
- 17 • Chang E
- 18 • Cherry Mischief
- 19 • Dangerous Beauty
- 20 • Diamonds of Athens
- 21 • Glory on Ice
- 22 • Golden Goddess
- 23 • Golden Tower
- 24 • Island Eyes
- Jaguar Princess
- Kings of Gibraltar
- Liang Zhu
- Madame Monarch
- Miss Universe: Crowning Moment
- Night of the Wolf
- Parfum Adore
- Red Cliffs
- Rum City
- Shadow Diamond
- Shadow of the Panther
- The Dream
- The Legend of Robin and Marian
- The Mighty Atlas
- The Prince of Lightning
- The Royal Promise
- The Vanishing Act
- Venice Masquerade
- Vivaldi's Seasons
- West Journey Treasure Hunt
- Zhi Nu

25 16. Upon information and belief, the land based gaming machines directly infringe
26 at least claims 1 and 19 of the ‘869 patent.

27 17. Further, Defendant provided the manufacturers or distributors with the game
28 proofs and math necessary to incorporate the Super Stack feature into the land based games.

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1 High 5 actively induces infringement of the ‘869 patent by providing its manufacturer and
2 distributors with such game proofs and math for the Super Stack feature.

3 18. Additionally, High 5 is liable for contributory infringement of the ‘869 patent.
4 High 5 knew that its manufactures or distributors would use the game proofs and math in
5 branded gaming machines and web-based gaming applications, knew that the game proofs
6 and math are a material part of the invention claimed in the ‘869 patent; knew that the same
7 are especially made or adapted for use in an infringement of the ‘869 patent; and such are not
8 staple articles or commodities of commerce that are suitable for substantial non-infringing
9 use.
10

11
12 19. Upon information and belief, these land based games are playable at various
13 properties in Clark County, Nevada, including, but not limited to, the Silverton Casino and
14 Paris Las Vegas Hotel and Casino.

15 20. By way of example and not limitation, Defendant has in the past, or is
16 currently, making available for play by players the following real money games that include
17 the “Super Stack” feature:
18

- 19
- 20 • Cat Prince
 - 20 • Shanghai Rose
 - 21 • Brazilia
 - 21 • Cherry Mischief
 - 22 • Dangerous Beauty
 - 22 • Diamonds of Athens
 - 23 • Island Eyes
 - 24 • Jaguar Princess
 - 24 • Madame Monarch
 - 25 • Miss Universe: Crowning Moment
 - 25 • Night of the Wolf
 - 25 • Silk and Steel
 - 25 • Shadow of the Panther
 - 25 • The Dream
 - 25 • The Legend of Robin and Marian
 - 25 • The Mighty Atlas
 - 25 • The Prince of Lightning
 - 25 • The Vanishing Act
 - 25 • Vivaldi's Seasons
 - 25 • West Journey Treasure Hunt

26 21. Upon information and belief, Defendant’s real money games directly infringe
27 at least claims 1 and 19 of the ‘869 patent. At least during design and development of the real
28 money games, upon and information belief, High 5 would necessarily have tested and

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1 validated the performance and operation of the real money games prior to releasing the same.
2 Further, upon information and belief, executing and playing the real money games require
3 connectively and communication with High 5 servers and processors resulting in
4 infringement.
5

6 22. Upon information and belief, Defendant provided the real money games with
7 the Super Stack feature for play by players, thereby inducing infringement of the '869 patent,
8 since the players directly infringe at least claims 1 and 19 of the '869 patent. Additionally,
9 High 5 is liable for contributory infringement of the '869 patent because High 5 knew that its
10 real money games with the Super Stack feature would be played by players, knew that the real
11 money games with the Super Stack feature are a material part of the invention claimed in the
12 '869 patent; knew that the same was especially made or adapted for use in an infringement of
13 the '869 patent; and such are not staple articles or commodities of commerce that are suitable
14 for substantial non-infringing use.
15

16
17 23. By way of example and not limitation, Defendant has in the past, or is
18 currently, making available for play by players the following internet games that include the
19 "Super Stack" feature:

- 20
- 21 • Bai She
 - 22 • Cat Prince
 - 23 • Shanghai Rose
 - 24 • Miyuki and Friends
 - 25 • Empress Josephine
 - 26 • Cirque Chinois
 - 27 • Brazilia
 - 28 • Prince Nezha
 - Aegean Sunset
 - Chang E
 - Cherry Mischief
 - Dangerous Beauty
 - Diamonds of Athens
 - Escape.Reset.Recharge
 - Golden Sheep
 - Haunted Hearts
 - Bah, Humbug!
 - Golden Tower
 - Tales of the Jungle
 - What I Like About You
 - Zombie Zone
 - Island Eyes
 - Who's My Candy Prince
 - Jaguar Princess
 - Kings of Gibraltar
 - Liang Zhu
 - Rev it Up
 - Guitar Kings

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- | | | |
|----|----------------------------------|----------------------------------|
| 1 | • Purrfect | • The Dream |
| 2 | • Glamorous Getaway | • Desert Rose |
| 3 | • Madame Monarch | • The Legend of Robin and Marian |
| 4 | • Miss Universe: Crowning Moment | • She-Wolf |
| 5 | • Night of the Wolf | • Bollywood Bride |
| 6 | • The Palladium Deluxe | • The Mighty Atlas |
| 7 | • Parfum Adore | • The Prince of Lightning |
| 8 | • Red Cliffs | • The Royal Promise |
| 9 | • Rum City | • The Vanishing Act |
| 10 | • Shadow Diamond | • The Newsmen |
| 11 | • Silk and Steel | • Curious Kingdom |
| 12 | • Ringside Riches | • Vivaldi's Seasons |
| 13 | • Sinbad and the Sultan of Fire | • West Journey Treasure Hunt |
| 14 | • Shadow of the Panther | • Zhi Nu |

15 24. Upon information and belief, Defendant’s internet games directly infringe at
 16 least claims 1 and 19 of the ‘869 patent. At least during design and development of the
 17 internet money games, upon and information belief, High 5 would necessarily have tested and
 18 validated the performance and operation of internet games prior to releasing the same.
 19 Further, upon information and belief, executing and playing the internet games require
 20 connectively and communication with High 5 servers and processors resulting in
 21 infringement.

22 25. Upon information and belief, Defendant provided the internet games with the
 23 Super Stack feature for play by players, thereby inducing infringement of the ‘869 patent,
 24 since the players directly infringe at least claims 1 and 19 of the ‘869 patent. Additionally,
 25 High 5 is liable for contributory infringement of the ‘869 patent because High 5 knew that its
 26 internet games with the Super Stack feature would be played by players, knew that the
 27 internet games with the Super Stack feature are a material part of the invention claimed in the
 28 ‘869 patent; knew that the same was especially made or adapted for use in an infringement of
 the ‘869 patent; and such are not staple articles or commodities of commerce that are suitable
 for substantial non-infringing use.

1 aware of Konami’s Action Stacked technology based upon United States Patent Publication
2 2013/0084494, which is a family member of the ‘540 patent, being identified in High’s 5
3 United States Patent 9,022,852.

4
5 34. At least upon the filing of this Amended Complaint, Defendant is inducing and
6 contributing to the direct infringement of the ‘540 patent claims in violation of 35 U.S.C.
7 §§ 271(b) and (c), by making, using, offering for sale, or selling without Konami’s authority,
8 games and/or game proofs and associated math with knowledge of the ‘540 patent and its
9 claims; knowing that others will use the same in their own machines and as such will use the
10 games in an infringing manner; knowing that their games are a material part of the invention
11 claimed in the ‘540 patent; knowing that their games and/or game proofs and associated math
12 are especially made or especially adapted for use in an infringement of the ‘540 patent; and
13 knowing that their games and/or game proofs and associated math are not staple articles or
14 commodities of commerce that are suitable for substantial non-infringing use.

15
16
17 35. By way of example and not limitation, Defendant has in the past, or is
18 currently, making, using, offering for sale, or selling games that include a “Super
19 Stack”(sometimes referred to as “Mystery Stack”) feature. Specifically, upon information and
20 belief, Defendant provides games having the Super Stack feature through (1) physical gaming
21 machines placed, for example, on a casino gaming floor, known as land based gaming; (2)
22 internet based gambling, known as real money gaming; and (3) free-to-play internet gaming,
23 for example as a Facebook gaming platform or other electronic device, such as an Ipad or the
24 like.
25

26
27 36. By way of example and not limitation, Defendant has in the past, or is
28 currently, making, using, offering for sale, or selling games and/or game proofs and
associated math that include a “Super Stack” feature that their customers use in casino slot

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1 machines. Specifically, upon information and belief, Defendant provides game proofs and
2 associated game math for at least the Super Stack feature, if not the entire game, to its
3 customer so that it can be incorporated into its customer’s land based gaming machine.
4

5 37. By way of example and not limitation, Defendant has in the past, or is
6 currently, making, using, offering for sale, or selling or providing games and/or game proofs
7 and associated math to manufacturers or distributors who are making, using, offering for sale,
8 or selling at least the following land based games that include the “Super Stack” feature:
9

- 10 • Bai She
- 11 • Black Widow
- 12 • Brazilia
- 13 • Chang E
- 14 • Cherry Mischief
- 15 • Dangerous Beauty
- 16 • Diamonds of Athens
- 17 • Glory on Ice
- 18 • Golden Goddess
- 19 • Golden Tower
- 20 • Island Eyes
- 21 • Jaguar Princess
- 22 • Kings of Gibraltar
- 23 • Liang Zhu
- 24 • Madame Monarch
- 25 • Miss Universe: Crowning Moment
- 26 • Night of the Wolf
- 27 • Parfum Adore
- 28 • Red Cliffs
- Rum City
- Shadow Diamond
- Shadow of the Panther
- The Dream
- The Legend of Robin and Marian
- The Mighty Atlas
- The Prince of Lightning
- The Royal Promise
- The Vanishing Act
- Venice Masquerade
- Vivaldi’s Seasons
- West Journey Treasure Hunt
- Zhi Nu

20 38. Upon information and belief, the land based gaming machines directly infringe
21 at least claims 1 and 21 of the ‘540 patent.
22

23 39. Further, Defendant provided the manufacturers or distributors with the game
24 proofs and math necessary to incorporate the Super Stack feature into the land based games.
25 High 5 actively induces infringement of the ‘540 patent by providing its manufacturer and
26 distributors with such game proofs and math for the Super Stack feature.
27

28 40. Additionally, High 5 is liable for contributory infringement of the ‘540 patent.
High 5 knew that its manufactures or distributors would use the game proofs and math in

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1 branded gaming machines and web-based gaming applications, knew that the game proofs
2 and math are a material part of the invention claimed in the '540 patent; knew that the same
3 are especially made or adapted for use in an infringement of the '540 patent; and such are not
4 staple articles or commodities of commerce that are suitable for substantial non-infringing
5 use.
6

7 41. Upon information and belief, these land based games are playable at various
8 properties in Clark County, Nevada, including, but not limited to, the Silverton Casino and
9 Paris Las Vegas Hotel and Casino.
10

11 42. By way of example and not limitation, Defendant has in the past, or is
12 currently, making available for play by players the following real money games that include
13 the "Super Stack" feature:

- 14 • Cat Prince
- 15 • Shanghai Rose
- 16 • Brazilia
- 17 • Cherry Mischief
- 18 • Dangerous Beauty
- 19 • Diamonds of Athens
- 20 • Island Eyes
- 21 • Jaguar Princess
- 22 • Madame Monarch
- 23 • Miss Universe: Crowning Moment
- 24 • Night of the Wolf
- 25 • Silk and Steel
- 26 • Shadow of the Panther
- 27 • The Dream
- 28 • The Legend of Robin and Marian
- The Mighty Atlas
- The Prince of Lightning
- The Vanishing Act
- Vivaldi's Seasons
- West Journey Treasure Hunt

21 43. Upon information and belief, Defendant's real money games directly infringe
22 at least claims 1 and 21 of the '540 patent. At least during design and development of the real
23 money games, upon and information belief, High 5 would necessarily have tested and
24 validated the performance and operation of the real money games prior to releasing the same.
25 Further, upon information and belief, executing and playing the real money games require
26 connectively and communication with High 5 servers and processors resulting in
27 infringement.
28

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1 44. Upon information and belief, Defendant provided the real money games with
 2 the Super Stack feature for play by players, thereby inducing infringement of the ‘540 patent,
 3 since the players directly infringe at least claims 1 and 21 of the ‘540 patent. Additionally,
 4 High 5 is liable for contributory infringement of the ‘540 patent because High 5 knew that its
 5 real money games with the Super Stack feature would be played by players, knew that the real
 6 money games with the Super Stack feature are a material part of the invention claimed in the
 7 ‘540 patent; knew that the same was especially made or adapted for use in an infringement of
 8 the ‘540 patent; and such are not staple articles or commodities of commerce that are suitable
 9 for substantial non-infringing use.
 10
 11

12 45. By way of example and not limitation, Defendant has in the past, or is
 13 currently, making available for play by players the following internet games that include the
 14 “Super Stack” feature:

- | | | |
|----|-------------------------|----------------------------------|
| 15 | • Bai She | • Who's My Candy Prince |
| 16 | • Cat Prince | • Jaguar Princess |
| 17 | • Shanghai Rose | • Kings of Gibraltar |
| 18 | • Miyuki and Friends | • Liang Zhu |
| 19 | • Empress Josephine | • Rev it Up |
| 20 | • Cirque Chinois | • Guitar Kings |
| 21 | • Brazilia | • Purrfect |
| 22 | • Prince Nezha | • Glamorous Getaway |
| 23 | • Aegean Sunset | • Madame Monarch |
| 24 | • Chang E | • Miss Universe: Crowning Moment |
| 25 | • Cherry Mischief | • Night of the Wolf |
| 26 | • Dangerous Beauty | • The Palladium Deluxe |
| 27 | • Diamonds of Athens | • Parfum Adore |
| 28 | • Escape.Reset.Recharge | • Red Cliffs |
| | • Golden Sheep | • Rum City |
| | • Haunted Hearts | • Shadow Diamond |
| | • Bah, Humbug! | • Silk and Steel |
| | • Golden Tower | • Ringside Riches |
| | • Tales of the Jungle | • Sinbad and the Sultan of Fire |
| | • What I Like About You | • Shadow of the Panther |
| | • Zombie Zone | • The Dream |
| | • Island Eyes | • Desert Rose |

- 1 • The Legend of Robin and Marian
- 2 • She-Wolf
- 3 • Bollywood Bride
- 4 • The Mighty Atlas
- 5 • The Prince of Lightning
- 6 • The Royal Promise
- 7 • The Vanishing Act
- 8 • The Newsmen
- 9 • Curious Kingdom
- 10 • Vivaldi's Seasons
- 11 • West Journey Treasure Hunt
- 12 • Zhi Nu

13 46. Upon information and belief, Defendant's internet games directly infringe at
14 least claims 1 and 21 of the '540 patent. At least during design and development of the
15 internet money games, upon and information belief, High 5 would necessarily have tested and
16 validated the performance and operation of internet games prior to releasing the same.
17 Further, upon information and belief, executing and playing the internet games require
18 connectively and communication with High 5 servers and processors resulting in
19 infringement.

20 47. Upon information and belief, Defendant provided the internet games with the
21 Super Stack feature for play by players, thereby inducing infringement of the '540 patent,
22 since the players directly infringe at least claims 1 and 21 of the '540 patent. Additionally,
23 High 5 is liable for contributory infringement of the '540 patent because High 5 knew that its
24 internet games with the Super Stack feature would be played by players, knew that the
25 internet games with the Super Stack feature are a material part of the invention claimed in the
26 '540 patent; knew that the same was especially made or adapted for use in an infringement of
27 the '540 patent; and such are not staple articles or commodities of commerce that are suitable
28 for substantial non-infringing use.

48. Defendants have also made its real money games and internet games available
for play through Facebook, other electronic gaming platforms, High 5's "VAULT" and other
online locations.

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1 2013/0084494, which is a family member of the '810 patent, being identified in High's 5
2 United States Patent 9,022,852.

3 56. At least upon the filing of this Amended Complaint, Defendant is inducing and
4 contributing to the direct infringement of the '810 patent claims in violation of 35 U.S.C.
5 §§ 271(b) and (c), by making, using, offering for sale, or selling without Konami's authority,
6 games and/or game proofs and associated math with knowledge of the '810 patent and its
7 claims; knowing that others will use the same in their own machines and as such will use the
8 games in an infringing manner; knowing that their games and/or game proofs and associated
9 math are a material part of the invention claimed in the '810 patent; knowing that their games
10 and/or game proofs and associated math are especially made or especially adapted for use in
11 an infringement of the '810 patent; and knowing that their games and/or game proofs and
12 associated math are not staple articles or commodities of commerce that are suitable for
13 substantial non-infringing use.

14 57. By way of example and not limitation, Defendant has in the past, or is
15 currently, making, using, offering for sale, or selling games that include a "Super Stack"
16 (sometimes referred to as "Mystery Stack") feature. Specifically, upon information and
17 belief, Defendant provides games having the Super Stack feature through (1) physical gaming
18 machines placed, for example, on a casino gaming floor, known as land based gaming; (2)
19 internet based gambling, known as real money gaming; and (3) free-to-play internet gaming,
20 for example as a Facebook gaming platform or other electronic device, such as an Ipad or the
21 like.

22 58. By way of example and not limitation, Defendant has in the past, or is
23 currently, making, using, offering for sale, or selling games and/or game proofs and
24 associated math that include a "Super Stack" feature that their customers use in casino slot
25

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1 machines. Specifically, upon information and belief, Defendant provides game proofs and
2 associated game math for at least the Super Stack feature, if not the entire game, to its
3 customer so that it can be incorporated into its customer's land based gaming machine.

4
5 59. By way of example and not limitation, Defendant has in the past, or is
6 currently, making, using, offering for sale, or selling or providing games and/or game proofs
7 and associated math to manufacturers or distributors who are making, using, offering for sale,
8 or selling at least the following land based games that include the "Super Stack" feature:

- 9
- 10 • Bai She
 - 11 • Black Widow
 - 12 • Brazilia
 - 13 • Chang E
 - 14 • Cherry Mischief
 - 15 • Dangerous Beauty
 - 16 • Diamonds of Athens
 - 17 • Glory on Ice
 - 18 • Golden Goddess
 - 19 • Golden Tower
 - 20 • Island Eyes
 - 21 • Jaguar Princess
 - 22 • Kings of Gibraltar
 - 23 • Liang Zhu
 - 24 • Madame Monarch
 - 25 • Miss Universe: Crowning Moment
 - 26 • Night of the Wolf
 - 27 • Parfum Adore
 - 28 • Red Cliffs
 - Rum City
 - Shadow Diamond
 - Shadow of the Panther
 - The Dream
 - The Legend of Robin and Marian
 - The Mighty Atlas
 - The Prince of Lightning
 - The Royal Promise
 - The Vanishing Act
 - Venice Masquerade
 - Vivaldi's Seasons
 - West Journey Treasure Hunt
 - Zhi Nu

20 60. Upon information and belief, the land based gaming machines directly infringe
21 at least claims 1, 8, and 15 of the '810 patent.

22
23 61. Further, Defendant provided the manufacturers or distributors with the game
24 proofs and math necessary to incorporate the Super Stack feature into the land based games.
25 High 5 actively induces infringement of the '810 patent by providing its manufacturer and
26 distributors with such game proofs and math for the Super Stack feature.

27
28 62. Additionally, High 5 is liable for contributory infringement of the '810 patent.
High 5 knew that its manufactures or distributors would use the game proofs and math in

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1 branded gaming machines and web-based gaming applications, knew that the game proofs
2 and math are a material part of the invention claimed in the '810 patent; knew that the same
3 are especially made or adapted for use in an infringement of the '810 patent; and such are not
4 staple articles or commodities of commerce that are suitable for substantial non-infringing
5 use.
6

7 63. Upon information and belief, these land based games are playable at various
8 properties in Clark County, Nevada, including, but not limited to, the Silverton Casino and
9 Paris Las Vegas Hotel and Casino.
10

11 64. By way of example and not limitation, Defendant has in the past, or is
12 currently, making available for play by players the following real money games that include
13 the "Super Stack" feature:

- | | |
|----------------------------------|----------------------------------|
| 14 • Cat Prince | • Night of the Wolf |
| 15 • Shanghai Rose | • Silk and Steel |
| 16 • Brazilia | • Shadow of the Panther |
| 17 • Cherry Mischief | • The Dream |
| 18 • Dangerous Beauty | • The Legend of Robin and Marian |
| 19 • Diamonds of Athens | • The Mighty Atlas |
| 20 • Island Eyes | • The Prince of Lightning |
| • Jaguar Princess | • The Vanishing Act |
| • Madame Monarch | • Vivaldi's Seasons |
| • Miss Universe: Crowning Moment | • West Journey Treasure Hunt |

21 65. Upon information and belief, Defendant's real money games directly infringe
22 at least claims 1, 8, and 15 of the '810 patent. At least during design and development of the
23 real money games, upon and information belief, High 5 would necessarily have tested and
24 validated the performance and operation of the real money games prior to releasing the same.
25 Further, upon information and belief, executing and playing the real money games require
26 connectively and communication with High 5 servers and processors resulting in
27 infringement.
28

1 66. Upon information and belief, Defendant provided the real money games with
 2 the Super Stack feature for play by players, thereby inducing infringement of the ‘810 patent,
 3 since the players directly infringe at least claims 1, 8, and 15 of the ‘810 patent. Additionally,
 4 High 5 is liable for contributory infringement of the ‘810 patent because High 5 knew that its
 5 real money games with the Super Stack feature would be played by players, knew that the real
 6 money games with the Super Stack feature are a material part of the invention claimed in the
 7 ‘810 patent; knew that the same was especially made or adapted for use in an infringement of
 8 the ‘810 patent; and such are not staple articles or commodities of commerce that are suitable
 9 for substantial non-infringing use.
 10

11 67. By way of example and not limitation, Defendant has in the past, or is
 12 currently, making available for play by players the following internet games that include the
 13 “Super Stack” feature:
 14

- | | | |
|----|-------------------------|----------------------------------|
| 15 | • Bai She | • Who's My Candy Prince |
| 16 | • Cat Prince | • Jaguar Princess |
| 17 | • Shanghai Rose | • Kings of Gibraltar |
| 18 | • Miyuki and Friends | • Liang Zhu |
| 19 | • Empress Josephine | • Rev it Up |
| 20 | • Cirque Chinois | • Guitar Kings |
| 21 | • Brazilia | • Purrfect |
| 22 | • Prince Nezha | • Glamorous Getaway |
| 23 | • Aegean Sunset | • Madame Monarch |
| 24 | • Chang E | • Miss Universe: Crowning Moment |
| 25 | • Cherry Mischief | • Night of the Wolf |
| 26 | • Dangerous Beauty | • The Palladium Deluxe |
| 27 | • Diamonds of Athens | • Parfum Adore |
| 28 | • Escape.Reset.Recharge | • Red Cliffs |
| | • Golden Sheep | • Rum City |
| | • Haunted Hearts | • Shadow Diamond |
| | • Bah, Humbug! | • Silk and Steel |
| | • Golden Tower | • Ringside Riches |
| | • Tales of the Jungle | • Sinbad and the Sultan of Fire |
| | • What I Like About You | • Shadow of the Panther |
| | • Zombie Zone | • The Dream |
| | • Island Eyes | • Desert Rose |

- 1 • The Legend of Robin and Marian
- 2 • She-Wolf
- 3 • Bollywood Bride
- 4 • The Mighty Atlas
- 5 • The Prince of Lightning
- 6 • The Royal Promise
- 7 • The Vanishing Act
- 8 • The Newsmen
- 9 • Curious Kingdom
- 10 • Vivaldi's Seasons
- 11 • West Journey Treasure Hunt
- 12 • Zhi Nu

13 68. Upon information and belief, Defendant’s internet games directly infringe at
14 least claims 1, 8, and 15 of the ‘810 patent. At least during design and development of the
15 internet money games, upon and information belief, High 5 would necessarily have tested and
16 validated the performance and operation of internet games prior to releasing the same.
17 Further, upon information and belief, executing and playing the internet games require
18 connectively and communication with High 5 servers and processors resulting in
19 infringement.

20 69. Upon information and belief, Defendant provided the internet games with the
21 Super Stack feature for play by players, thereby inducing infringement of the ‘810 patent,
22 since the players directly infringe at least claims 1, 8, and 15 of the ‘810 patent. Additionally,
23 High 5 is liable for contributory infringement of the ‘810 patent because High 5 knew that its
24 internet games with the Super Stack feature would be played by players, knew that the
25 internet games with the Super Stack feature are a material part of the invention claimed in the
26 ‘810 patent; knew that the same was especially made or adapted for use in an infringement of
27 the ‘810 patent; and such are not staple articles or commodities of commerce that are suitable
28 for substantial non-infringing use.

70. Defendants have also made its real money games and internet games available
for play through Facebook, other electronic gaming platforms, High 5’s “VAULT” and other
online locations.

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1 71. Defendant's infringing activities are directly and proximately causing
2 immediate and irreparable injury to Konami for which Konami has no adequate remedy at
3 law.

4 72. Defendant will continue their infringing activities unless enjoined from doing
5 so by the Court.

6 73. Defendant's infringing activities have and continue to directly and proximately
7 cause damages to Konami.

8
9 **COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 8,616,955**

10 74. Konami restates the allegations contained in paragraphs 1-73.

11 75. Konami is the owner of all right, title, and interest in U.S. Patent No.
12 8,616,955 (the '955 patent), entitled "Gaming machine with runs of symbols populated with
13 identical symbols during spinning of reels," duly and properly issued by the U.S. Patent and
14 Trademark Office on December 31, 2013. A copy of the '955 patent is attached as **Exhibit D**.

15 76. Defendant has in the past, or is currently, directly infringing the claims of the
16 '955 patent under 35 U.S.C. § 271(a) by making, using, offering for sale, or selling without
17 Konami's authority, games and/or game proofs and associated math that embody one or more
18 of the claims of the '955 patent.

19 77. Upon information and belief, Defendant was aware of the '955 patent at least
20 by the filing of the Complaint, if not sooner. It is believed that the gaming industry is well
21 aware of Konami's patented Action Stacked Symbol technology and games, including the
22 '955 patent. Further, upon information and belief, as of at least January 2014, High 5 was
23 aware of Konami's Action Stacked technology based upon United States Patent Publication
24 2013/0084494, which is the publication of the '955 patent, being identified in High's 5 United
25 States Patent 9,022,852.

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1 78. At least upon the filing of this Amended Complaint, Defendant is inducing and
2 contributing to the direct infringement of the ‘955 patent claims in violation of 35 U.S.C.
3 §§ 271(b) and (c), by making, using, offering for sale, or selling without Konami’s authority,
4 games and/or game proofs and associated math with knowledge of the ‘955 patent and its
5 claims; knowing that others will use the same in their own machines and as such will use the
6 games in an infringing manner; knowing that their games and/or game proofs and associated
7 math are a material part of the invention claimed in the ‘955 patent; knowing that their games
8 and/or game proofs and associated math are especially made or especially adapted for use in
9 an infringement of the ‘955 patent; and knowing that their games and/or game proofs and
10 associated math are not staple articles or commodities of commerce that are suitable for
11 substantial non-infringing use.

14 79. By way of example and not limitation, Defendant has in the past, or is
15 currently, making, using, offering for sale, or selling games that include a “Super Stack”
16 feature. Specifically, upon information and belief, Defendant provides games having the
17 Super Stack feature through (1) physical gaming machines placed, for example, on a casino
18 gaming floor, known as land based gaming; (2) internet based gambling, known as real
19 money gaming; and (3) free-to-play internet gaming, for example as a Facebook gaming
20 platform or other electronic device, such as an Ipad or the like.

23 80. By way of example and not limitation, Defendant has in the past, or is
24 currently, making, using, offering for sale, or selling games and/or game proofs and
25 associated math that include a “Super Stack” feature that their customers use in casino slot
26 machines. Specifically, upon information and belief, Defendant provides game proofs and
27 associated game math for at least the Super Stack feature, if not the entire game, to its
28 customer so that it can be incorporated into its customer’s land based gaming machine.

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1 81. By way of example and not limitation, Defendant has in the past, or is
2 currently, making, using, offering for sale, or selling or providing games and/or game proofs
3 and associated math to manufacturers or distributors who are making, using, offering for sale,
4 or selling at least the following land based games that include the “Super Stack” feature:
5

- | | | |
|----|----------------------------------|----------------------------------|
| 6 | • Bai She | • Night of the Wolf |
| 7 | • Black Widow | • Parfum Adore |
| 8 | • Brazilia | • Red Cliffs |
| 9 | • Chang E | • Rum City |
| 10 | • Cherry Mischief | • Shadow Diamond |
| 11 | • Dangerous Beauty | • Shadow of the Panther |
| 12 | • Diamonds of Athens | • The Dream |
| 13 | • Glory on Ice | • The Legend of Robin and Marian |
| 14 | • Golden Goddess | • The Mighty Atlas |
| 15 | • Golden Tower | • The Prince of Lightning |
| 16 | • Island Eyes | • The Royal Promise |
| 17 | • Jaguar Princess | • The Vanishing Act |
| 18 | • Kings of Gibraltar | • Venice Masquerade |
| 19 | • Liang Zhu | • Vivaldi's Seasons |
| 20 | • Madame Monarch | • West Journey Treasure Hunt |
| 21 | • Miss Universe: Crowning Moment | • Zhi Nu |

22 82. Upon information and belief, the land based gaming machines directly infringe
23 at least claims 1, 10 and 19 of the ‘955 patent.

24 83. Further, Defendant provided the manufacturers or distributors with the game
25 proofs and math necessary to incorporate the Super Stack feature into the land based games.
26 High 5 actively induces infringement of the ‘955 patent by providing its manufacturer and
27 distributors with such game proofs and math for the Super Stack feature.
28

 84. Additionally, High 5 is liable for contributory infringement of the ‘955 patent.
High 5 knew that its manufactures or distributors would use the game proofs and math in
branded gaming machines and web-based gaming applications, knew that the game proofs
and math are a material part of the invention claimed in the ‘955 patent; knew that the same
are especially made or adapted for use in an infringement of the ‘955 patent; and such are not

1 staple articles or commodities of commerce that are suitable for substantial non-infringing
2 use.

3 85. Upon information and belief, these land based games are playable at various
4 properties in Clark County, Nevada, including, but not limited to, the Silverton Casino and
5 Paris Las Vegas Hotel and Casino.
6

7 86. By way of example and not limitation, Defendant has in the past, or is
8 currently, making available for play by players the following real money games that include
9 the "Super Stack" feature:
10

- 11 • Cat Prince
- 12 • Shanghai Rose
- 13 • Brazilia
- 14 • Cherry Mischief
- 15 • Dangerous Beauty
- 16 • Diamonds of Athens
- 17 • Island Eyes
- 18 • Jaguar Princess
- 19 • Madame Monarch
- 20 • Miss Universe: Crowning Moment
- 21 • Night of the Wolf
- 22 • Silk and Steel
- 23 • Shadow of the Panther
- 24 • The Dream
- 25 • The Legend of Robin and Marian
- 26 • The Mighty Atlas
- 27 • The Prince of Lightning
- 28 • The Vanishing Act
- Vivaldi's Seasons
- West Journey Treasure Hunt

21 87. Upon information and belief, Defendant's real money games directly infringe
22 at least claims 1, 10 and 19 of the '955 patent. At least during design and development of the
23 real money games, upon and information belief, High 5 would necessarily have tested and
24 validated the performance and operation of the real money games prior to releasing the same.
25 Further, upon information and belief, executing and playing the real money games require
26 connectively and communication with High 5 servers and processors resulting in
27 infringement.
28

29 88. Upon information and belief, Defendant provided the real money games with
30 the Super Stack feature for play by players, thereby inducing infringement of the '955 patent,
31 since the players directly infringe at least claims 1, 10 and 19 of the '955 patent.

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1 Additionally, High 5 is liable for contributory infringement of the '955 patent because High 5
2 knew that its real money games with the Super Stack feature would be played by players,
3 knew that the real money games with the Super Stack feature are a material part of the
4 invention claimed in the '955 patent; knew that the same was especially made or adapted for
5 use in an infringement of the '955 patent; and such are not staple articles or commodities of
6 commerce that are suitable for substantial non-infringing use.
7

8 89. By way of example and not limitation, Defendant has in the past, or is
9 currently, making available for play by players the following internet games that include the
10

11 "Super Stack" feature:

- | | | |
|----|-------------------------|----------------------------------|
| 12 | • Bai She | • Guitar Kings |
| 13 | • Cat Prince | • Purrfect |
| 14 | • Shanghai Rose | • Glamorous Getaway |
| 15 | • Miyuki and Friends | • Madame Monarch |
| 16 | • Empress Josephine | • Miss Universe: Crowning Moment |
| 17 | • Cirque Chinois | • Night of the Wolf |
| 18 | • Brazilia | • The Palladium Deluxe |
| 19 | • Prince Nezha | • Parfum Adore |
| 20 | • Aegean Sunset | • Red Cliffs |
| 21 | • Chang E | • Rum City |
| 22 | • Cherry Mischieff | • Shadow Diamond |
| 23 | • Dangerous Beauty | • Silk and Steel |
| 24 | • Diamonds of Athens | • Ringside Riches |
| 25 | • Escape.Reset.Recharge | • Sinbad and the Sultan of Fire |
| 26 | • Golden Sheep | • Shadow of the Panther |
| 27 | • Haunted Hearts | • The Dream |
| 28 | • Bah, Humbug! | • Desert Rose |
| | • Golden Tower | • The Legend of Robin and Marian |
| | • Tales of the Jungle | • She-Wolf |
| | • What I Like About You | • Bollywood Bride |
| | • Zombie Zone | • The Mighty Atlas |
| | • Island Eyes | • The Prince of Lightning |
| | • Who's My Candy Prince | • The Royal Promise |
| | • Jaguar Princess | • The Vanishing Act |
| | • Kings of Gibraltar | • The Newsmen |
| | • Liang Zhu | • Curious Kingdom |
| | • Rev it Up | • Vivaldi's Seasons |

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- West Journey Treasure Hunt
- Zhi Nu

1 90. Upon information and belief, Defendant’s internet games directly infringe at
2 least claims 1, 10 and 19 of the ‘955 patent. At least during design and development of the
3 internet money games, upon and information belief, High 5 would necessarily have tested and
4 validated the performance and operation of internet games prior to releasing the same.
5 Further, upon information and belief, executing and playing the internet games require
6 connectively and communication with High 5 servers and processors resulting in
7 infringement.

8 91. Upon information and belief, Defendant provided the internet games with the
9 Super Stack feature for play by players, thereby inducing infringement of the ‘955 patent,
10 since the players directly infringe at least claims 1, 10 and 19 of the ‘955 patent.
11 Additionally, High 5 is liable for contributory infringement of the ‘955 patent because High 5
12 knew that its internet games with the Super Stack feature would be played by players, knew
13 that the internet games with the Super Stack feature are a material part of the invention
14 claimed in the ‘955 patent; knew that the same was especially made or adapted for use in an
15 infringement of the ‘955 patent; and such are not staple articles or commodities of commerce
16 that are suitable for substantial non-infringing use.

17 92. Defendants have also made its real money games and internet games available
18 for play through Facebook, other electronic gaming platforms, High 5’s “VAULT” and other
19 online locations.

20 93. Defendant’s infringing activities are directly and proximately causing
21 immediate and irreparable injury to Konami for which Konami has no adequate remedy at
22 law.

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- 1 F. Order an equitable accounting to determine the profits of and other sums
2 Defendant derived from the complained of patent infringement and other
3 wrongful acts, and that such amount be paid over to Konami as an equitable
4 remedy;
5
6 G. Award to Konami all damages they have sustained as a result of Defendant's
7 patent infringement in accordance with 35 U.S.C. § 284; and
8
9 H. Enter judgment granting such other and further relief and damages to Konami
10 as justice and equity may require.

11 **JURY DEMAND**

12 Konami Gaming, Inc. hereby requests a trial by jury of all issues so triable.

13 Respectfully submitted,

14 Dated: February 29, 2016.

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28

