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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

CG TECHNOLOGY DEVELOPMENT, LLC,

Plaintiff,

vs.

ZYNGA, INC.,

Defendant.

Case No.: 2:16-cv-00859-RCJ-VCF

**PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff CG Technology Development, LLC (“CG Tech” or “Plaintiff”), by and through its
2 counsel, hereby bring this Complaint against Defendant Zynga, Inc. (“Defendant” or “Zynga”), and
3 alleges as follows:

4 **NATURE OF ACTION**

5 1. This is an action for patent infringement under 35 U.S.C. § 271 *et seq.* by Plaintiff
6 against Defendant for infringement of U.S. Patent No. RE39,818¹ (“the RE’818 patent”).

7 **PARTIES**

8 2. CG Tech is a wholly owned subsidiary of CG Technology, L.P. (“CG”), a limited
9 partnership, with its principal place of business at 2575 South Highland Drive, Las Vegas, Nevada,
10 89109. CG and CG Tech are both incorporated in Nevada. CG is an innovative gaming
11 technology solutions provider for lottery, gaming, racing, and sports wagering worldwide. It
12 specializes in providing secure, scalable, mobile technology and risk management solutions to
13 integrated resorts, gaming partners, race and sports books, and lottery industries. Headquartered in
14 Las Vegas, Nevada, CG and CG Tech continue to expand into new global markets in response to
15 partner demand for their gaming and manufacturing expertise and superior technology solutions.
16 Their products include Android™- and Apple®-compatible applications for real-money and social
17 casino gaming, as well as state-of-the-art, account-based wagering systems.

18 3. Upon information and belief, Zynga is a corporation organized and existing under
19 the laws of the State of Delaware, with its principal place of business located at 699 8th Street,
20 San Francisco, California, 94103.

21 **JURISDICTION AND VENUE**

22 4. This is a civil action for patent infringement arising under the patent laws of the
23 United States, 35 U.S.C. § 271 *et seq.*

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25
26 ¹ Based on the Court’s Order on October 13, 2016 (ECF No. 54), holding U.S. Patent Nos.
27 6,899,628; 7,534,169; 6,979,267; 8,342,924; 7,029,394; 9,111,417; and 6,966,832 invalid under 35
28 U.S.C. § 101 as being directed to ineligible subject matter, these patents are not asserted in this
Amended Complaint. However, CG Tech, Interactive Games Limited, and Interactive Games LLC
reserve their rights to appeal the Order at the appropriate time.

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1 5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

2 6. Zynga is subject to personal jurisdiction in this District because, based on
3 information and belief, Defendant has transacted business in this District and has committed, by
4 itself or in concert with others, acts of patent infringement in this District. On information and
5 belief, Defendant has conducted business within the State of Nevada. In addition, Defendant
6 offered for sale, sells, advertises, and/or uses its products and services (including the products
7 accused of infringement in this lawsuit) in the United States, the State of Nevada, and this District.
8 Further, Defendant purposefully and voluntarily placed one or more infringing products and
9 services into the stream of commerce with the expectation that they will be used by consumers in
10 the State of Nevada. Defendant also advertises and has transacted business throughout the United
11 States, including in the State of Nevada, and specifically in this District. Defendant has been
12 infringing, contributing to the infringement of, and/or actively inducing others to infringe claims of
13 the RE'818 patent in the State of Nevada. Defendant has purposely availed itself of the laws of
14 this District by, among other things, advertising and selling its products and services in this
15 District.

16 7. Defendant is subject to this Court's specific and general personal jurisdiction
17 pursuant to due process and/or the Nevada Long Arm Statute, due at least to Defendant's
18 substantial business in this forum, including: (i) at least a portion of the infringements alleged
19 herein; and/or (ii) regularly doing or soliciting business, engaging in other persistent courses of
20 conduct, and/or deriving substantial revenue from goods and services provided to individuals in the
21 State of Nevada and in this District.

22 8. On information and belief, Defendant has operated and continues to operate an
23 interactive website (www.zyngagames.com) and mobile application that are accessible to all
24 residents of the State of Nevada, including in this District, through which Defendant advertises and
25 makes available for use certain services and electronic social casino games that are herein accused
26 of infringement. *See* <https://www.zyngagames.com>. On information and belief, Defendant has
27 repeatedly held events promoting and utilizing its products and services accused of infringement
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1 in this District. See, e.g., *Zynga Poker League Rules: Grand Prize*, ZYNGA,
 2 <https://www.zynga.com/games/zynga-poker/league-rules>; *Zynga Poker League Season 5 is underway—*
 3 *play to win a real Grand Prize trip to Las Vegas*, THE FIRE HOUSE MICROSOFT BLOG,
 4 [https://blogs.microsoft.com/firehose/2015/02/02/zynga-poker-league-season-5-is-underway-play-to-win-a-real-grand-prize-](https://blogs.microsoft.com/firehose/2015/02/02/zynga-poker-league-season-5-is-underway-play-to-win-a-real-grand-prize-trip-to-las-vegas/)
 5 *trip-to-las-vegas/*; *Zynga and World Series of Poker Go All-In with Major Tournament Co-*
 6 *Promotion*, BUSINESS WIRE, [http://www.businesswire.com/news/home/20090514005334/en/Zynga-World-Series-](http://www.businesswire.com/news/home/20090514005334/en/Zynga-World-Series-Poker-All-In-Major-Tournament)
 7 *Poker-All-In-Major-Tournament*; Manor, D., *A Ridiculous Mafia Wars Promotion: Zynga To Blow*
 8 *Up Armored Truck In Las Vegas*, SOCIAL TIMES, [http://www.adweek.com/socialtimes/a-ridiculous-](http://www.adweek.com/socialtimes/a-ridiculous-mafia-wars-promotion-zynga-to-blow-up-armored-truck-in-las-vegas/320500)
 9 *mafia-wars-promotion-zynga-to-blow-up-armored-truck-in-las-vegas/320500*; *Snoop Dogg Mafia Wars*
 10 *Armored Truck Explosion*, YOUTUBE, <https://www.youtube.com/watch?v=4KSCrTmY-c/>; Rodriguez, J., *Zynga*
 11 *Poker Con Comes To Las Vegas*, CARDPLOYER, [http://www.cardplayer.com/poker-news/10955-zynga-poker-con-](http://www.cardplayer.com/poker-news/10955-zynga-poker-con-comes-to-las-vegas)
 12 *comes-to-las-vegas*.

13 9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c), and/or
 14 1400(b), as Zynga is subject to personal jurisdiction in this District.

15 GENERAL ALLEGATIONS

16 10. Plaintiff owns innovative technology that is being used by Defendant in its social
 17 casino gaming business. Like traditional casino games, users are enabled to play games and place
 18 wagers on their outcomes. Social casino games, however, allow users to play casino games with
 19 hundreds of thousands of people through an online community. Remote users engage with the
 20 online community through mobile computing devices. Accordingly, social casino games are faster
 21 and provide greater diversity of players and experience levels. Social casino games also provide a
 22 better-personalized experience, more options, and greater enjoyment for the players.

23 11. On information and belief, and based on its own admissions, Zynga is one of the
 24 largest developers offering social casino gaming. See *Investor Relations*, ZYNGA,
 25 <http://investor.zynga.com>. Zynga accesses and provides access to its social casino gaming
 26 platform through its web-based interface and/or mobile applications running on computing devices,
 27 such as laptops, tablets, or mobile phones. Zynga determines whether its users are 13 years of age
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1 or older before authorizing the users to play in one of its casino games.

2 12. Zynga offers various types of social casino games to users, including slot and poker
3 games. Users can enter these games and place wagers on their outcomes using “play” chips.
4 Zynga offers these games at various minimum stakes and entry fees (or “buy-ins”). As such,
5 Zynga’s gaming platform provides an in-game store for purchasing the chips required to enter a
6 desired game and wager on the outcome. The chips are stored in a digital wallet as part of the
7 user’s profile. Zynga also monitors multiple games and game events on which play is based to
8 determine the outcome of each wager. During gameplay, the monitored game events are used to
9 generate game advice that assists the user in placing wagers and winning the game. After
10 completing the game, the winners are awarded chips according to the game’s payout rules. Zynga
11 manages and updates each user’s account to reflect the appropriate transfer of chips based on a
12 winning or losing outcome.

13 13. Zynga’s gaming platform also generates statistics information based on game events
14 and wager records associated with each user’s gameplay. The statistics information is stored in a
15 user profile that provides a viewable summary of personalized information. This personalized
16 information also includes identification information and other historical game performance
17 information. Zynga displays the user profile to the respective user and other users of the gaming
18 platform.

19 14. Upon information and belief, Zynga repeatedly uses, tests, and demonstrates its
20 social casino games on various computing devices, including portable and mobile devices such as
21 mobile phones, tablets, and laptops that include a wireless transmitter. The computing devices
22 include memory for storing personalized identification information. The computing devices also
23 include input controls for enabling a user to interactively play the social casino games.

24 15. Zynga has also induced and continues to induce acts by third parties that Zynga
25 knows or should know constitute direct infringement of the RE’818 patent. Zynga actively
26 induced infringement of the RE’818 patent by designing their social casino platform such that it
27 infringes the RE’818 patent and by purposefully directing, promoting, encouraging, and causing
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1 the use of its casino platform by third parties in ways that infringe the RE'818 patent.

2 16. On September 23, 2014, a letter was sent to Defendant providing notice of its
3 infringement of numerous patents and is attached as **Exhibit A**. Specifically, at least the RE'818
4 patent was identified as being infringed. As noted in the letter, Plaintiff wanted to reach a
5 negotiated nonlitigation arrangement with Defendant for the identified patents. A follow-up letter
6 was also sent to Defendant. (ECF No. 36-1.) An agreement was never reached, and Defendant has
7 not ceased infringing Plaintiff's patent.

8 **CLAIMS FOR RELIEF**

9 **FIRST CLAIM FOR RELIEF**
10 **(INFRINGEMENT OF U.S. PATENT NO. RE39,818)**

11 17. Plaintiff incorporates by reference paragraphs 1-16 as if fully set forth herein.

12 18. On September 4, 2007, U.S. Patent No. RE39,818 ("the RE'818 patent") was duly
13 and legally issued by the U.S. Patent and Trademark Office ("PTO") for an invention titled
14 "Personalized Wireless Video Game System" to the listed inventor, Russell D. Slifer. A certified
15 copy of the RE'818 patent is attached as **Exhibit B**.

16 19. CG Tech is the assignee and owner of the RE'818 patent, with all substantive rights
17 in and to that patent, including the sole and exclusive right to bring this action and enforce the
18 RE'818 patent against infringers, and to collect damages for all relevant times.

19 20. Defendant, directly or through its agents, customers, and/or intermediaries, has
20 made, used, tested, imported, provided, supplied, distributed, sold, and/or offered for sale products
21 and/or systems that infringe (either directly or under the doctrine of equivalents) one or more
22 claims of the RE'818 patent. For instance, on information and belief, Defendant's accused
23 products and/or systems provide a processor that executes a gaming application for displaying
24 video images on a display screen. Defendant uses and tests its products and/or systems on portable
25 controls that are personalized to a specific user after the user registers an account to interact with
26 the gaming application. Once registration is complete, the portable control stores in its memory
27 identification information including the user's age and game data. The personalized portable
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1 control includes control switches for generating game control signals during gameplay. The
2 portable control also includes a wireless transmitter for sending the identification and control
3 signals to the processor. Here, the processor uses the received identification signals to determine
4 whether the user is authorized to play the game based at least in part on the user's age. This is
5 done in a manner that infringes at least claims 1, 16, 20, 21, 24, 31, and 32 of the RE'818 patent.

6 21. Upon information and belief, Zynga uses and tests its products on various
7 computing devices, including portable and mobile devices such as mobile phones, tablets, and
8 laptops that include wireless transmitters. For example, Zynga uses and tests its social casino
9 products in conjunction with making its social casino products available through and/or on Apple
10 and Android devices. *See, e.g., Launching Your App on Devices*, APPLE APP DISTRIBUTION GUIDE,
11 [https://developer.apple.com/library/content/documentation/IDEs/Conceptual/AppDistributionGuid](https://developer.apple.com/library/content/documentation/IDEs/Conceptual/AppDistributionGuide/LaunchingYourApponDevices/LaunchingYourApponDevices.html)
12 [e/LaunchingYourApponDevices/LaunchingYourApponDevices.html](https://developer.apple.com/library/content/documentation/IDEs/Conceptual/AppDistributionGuide/LaunchingYourApponDevices/LaunchingYourApponDevices.html); *Run Apps on a Hardware*
13 *Device*, ANDROID STUDIO USER GUIDE, <https://developer.android.com/studio/run/device.html>; *see*
14 *also Exhibit C.*

15 22. Zynga gives demonstrations of its products on computing devices, including
16 portable and mobile devices such as mobile phones, tablets, and laptops, at conventions and trade
17 shows, such as the 2016 South by Southwest Gaming Expo. *See, e.g., Come on Down!*, ZYNGA
18 POKER TWITTER, <https://twitter.com/zyngapoker/status/710880887798308865>; *Raise the Stakes*
19 *with Zynga Poker & Twitch at South by Southwest*, ZYNGA BLOG,
20 [https://companyblogdotzynga.com/2016/03/17/raise-the-stakes-with-zynga-poker-twitch-at-south-](https://companyblogdotzynga.com/2016/03/17/raise-the-stakes-with-zynga-poker-twitch-at-south-by-southwest)
21 [by-southwest](https://companyblogdotzynga.com/2016/03/17/raise-the-stakes-with-zynga-poker-twitch-at-south-by-southwest); *see also Exhibit C.*

22 23. Defendant has indirectly infringed and continues to indirectly infringe the RE'818
23 patent, both via contributory and induced infringement. The direct infringement underlying
24 Defendant's indirect infringement of the RE'818 patent consists at least of its end-user customers'
25 use of its social casino platform on computing devices, including portable and mobile devices such
26 as mobile phones, tablets, and laptops that include wireless transmitters.

27 24. Defendant has induced and continues to induce its end-user customers to use the
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1 accused systems by purposefully directing, promoting, encouraging, and causing the use of the
 2 accused social casino games by its end-user customers in a manner that it knows infringes the
 3 RE'818 patent. Defendant has done so by (1) providing detailed instructions to its customers
 4 through training videos, demonstrations, brochures, installation and/or user guides explaining how
 5 to use its social casino platform, *see, e.g., Zynga Poker Tips and Tricks #1*, YOUTUBE,
 6 <https://youtu.be/qrqP4RW3yM4>; *Zynga Poker Live!*, YOUTUBE, <https://youtu.be/hUdO8Xns6YY>;
 7 *Zynga Poker Live Stream*, YOUTUBE, <https://youtu.be/9EFWzQfIn1Q>; *Check out our new*
 8 *showdown feature!*, ZYNGA POKER TWITTER,
 9 <https://twitter.com/zyngapoker/status/781640192742477824>; and (2) touting and advertising
 10 features of its social casino games to its customers, *see, e.g., Zynga Poker*, YOUTUBE,
 11 <https://youtu.be/5zhZgyHqJ0o>; *Zynga Poker is Here!*, YOUTUBE, <https://youtu.be/EDOir3vhdWY>;
 12 *Welcome to Zynga Poker - The World's Leading Poker Game!*, ZYNGA,
 13 <https://www.zynga.com/poker>. Defendant's inducement has led to infringement of at least claims
 14 1, 16, 20, 21, 24, 31, and 32 of the RE'818 patent.

15 25. Defendant has contributed to and is continuing to contribute to the infringement
 16 (either directly or under the doctrine of equivalents) of the RE'818 patent by end-user customers
 17 by making, offering to sell, and/or selling its social casino product, constituting a material part of
 18 the invention, which is especially made for use by end-user customers in a manner that infringes
 19 the RE'818 patent and has no substantial noninfringing uses. (*See, e.g., Plaintiff's Amended*
 20 *Complaint, supra* paragraphs 8 and 24.) In particular, its social casino platforms contains a feature
 21 that permits end-user customers to open a gaming account that may be used to authorize gameplay
 22 based on an age of the end-user customer, while also allowing the end-user customers to access the
 23 gaming account from a computing device. This feature is expressly defined by the Defendant in
 24 instructions to the end-user customer, and has no practical use other than a use that infringes the
 25 RE'818 patent. The use of this feature by end-user customers of Defendant for its intended
 26 purpose necessarily results in infringement of at least claims 1, 16, 20, 21, 24, 31, and 32 of the
 27 RE'818 patent.
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1 26. Defendant does not have a license or permission to use the RE’818 patent.

2 27. In a letter dated September 23, 2014, notice was provided to Defendant of the
3 RE’818 patent and Defendant’s infringing conduct. The letter is attached as **Exhibit A**.

4 28. Defendant had knowledge of the RE’818 patent at least since on or about September
5 23, 2014.

6 29. Since at least on or about September 23, 2014, Defendant has induced and
7 contributed to acts of direct infringement, and is continuing to do so, with the specific intent and
8 actual knowledge that others would infringe at least claims 1, 16, 20, 21, 24, 31, and 32 of the
9 RE’818 patent.

10 30. By way of example only and for purposes of this Amended Complaint, Defendant
11 tests, uses, and provides, and at least its customers use, the social casino platform in a manner that
12 infringes each limitation of at least one asserted claim of the RE’818 patent, *see, e.g.*, **Exhibit C**,
13 consistent with the information set forth in the following paragraphs.

14 31. Defendant and its customers infringe all elements of claim 20, for example, by
15 testing, using, and/or providing a “game apparatus” for playing its social casino games (such as the
16 Zynga Poker social casino game shown below), the “game apparatus comprising: a wireless
17 transmitter to transmit both an identification code and game control signals to a processor
18 executing a game.” Exhibit B at col. 7, ll. 25-28; *see also* Exhibit C, pp. 1-3, 16-19.

19 32. As shown in the two screenshots below, a user opens, registers, launches a game,
20 and plays a game on a gaming device, such as an iPhone or laptop with wireless capability, which
21 transmits identification code and game control signals to the Zynga platform, which, upon
22 information and belief, is hosted on a server that includes a processor. For example, the wireless
23 transmitter of the gaming device, highlighted below, sends log-in information, such as an Email
24 and Password, and game control signals, such as those resulting from the selection of the “Fold,”
25 “Check,” and “Call Any” buttons. *See, e.g.*, **Exhibit C**, pp. 1-3, 16-19.

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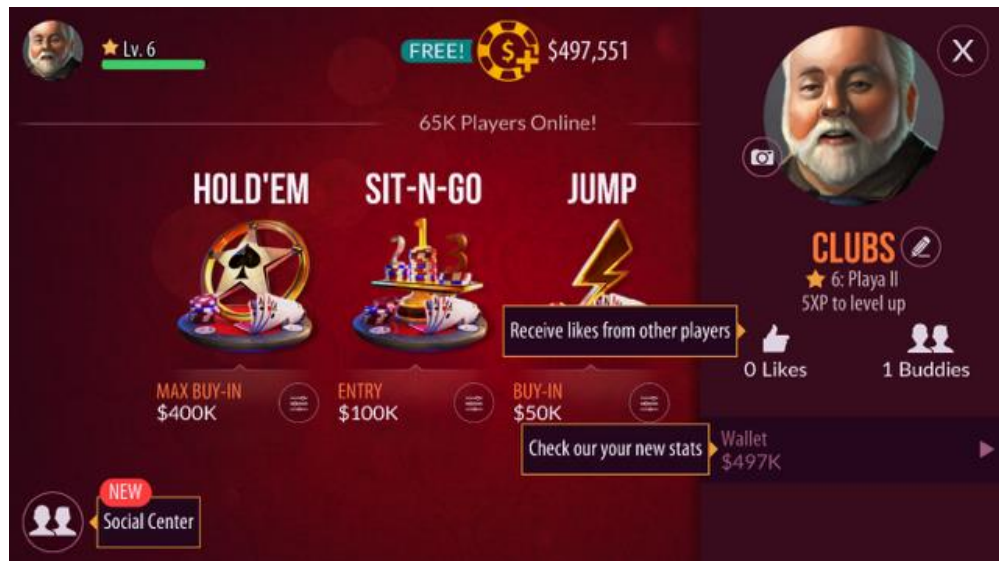
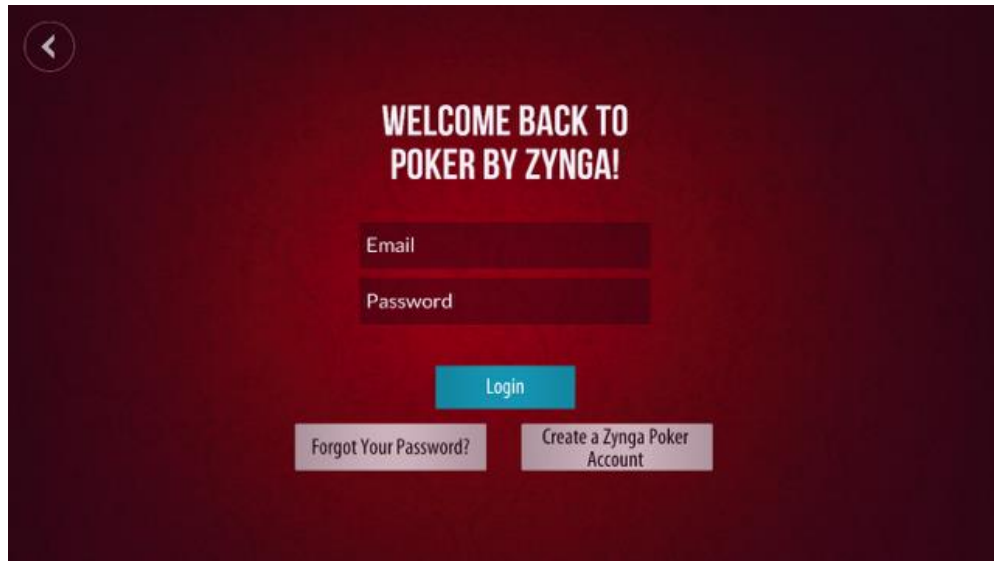
28



33. Upon information and belief, Defendant tests, uses, and provides, and at least its customers use, a processor such that an “identification code is used by the processor to retrieve identification data and authorize game play.” Exhibit B at col. 7, ll. 28-29. For example, as shown below, the user enters login information after registering an account. The Zynga platform uses the login information to retrieve the user’s profile data and authorize gameplay. See, e.g., Exhibit C, pp. 20-21.

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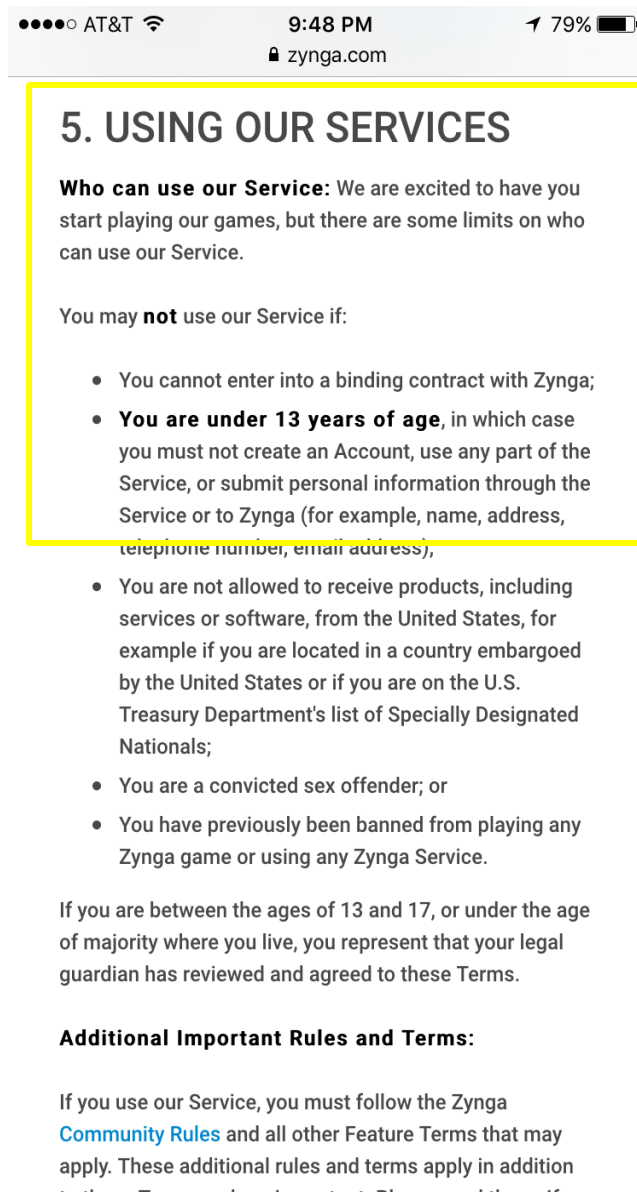
34. Upon information and belief, Defendant tests, uses, and provides, and at least its customers use, a processor such that an “identification code is used by the processor to retrieve identification data and authorize game play based at least in part on an age of a player,” as gaming first requires establishing the age of the player. Exhibit B at col. 7, ll. 28-30. For example, as shown below, each user must confirm they are at least 13 years of age to create and register an account with Zynga by agreeing to Zynga’s Terms of Service. *See, e.g., Exhibit C*, pp. 22-23.

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35. Defendant tests, uses, and provides, and at least its customers use, an apparatus for playing its social casino games that includes “a plurality of input controls to allow the player to interact with the processor to play the game.” Exhibit B at col. 7, ll. 31-32. As shown below, for example, input controls in the right-hand column of the screenshot allow the user to play a game of poker. *See, e.g., Exhibit C*, p. 24.

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36. As a result of Defendant’s infringement of the RE’818 patent, CG Tech has suffered and continues to suffer damages, in an amount not yet determined, and is entitled to an award of damages adequate to compensate for the infringement, but in no event less than a reasonable royalty.

SECOND CLAIM FOR RELIEF
(WILLFUL INFRINGEMENT)

37. Plaintiff incorporates by reference paragraphs 1-36 as if fully set forth herein.

38. Defendant’s infringement of the RE’818 patent has been and continues to be willful.

39. Zynga has been aware the RE’818 patent since receiving notice on or about September 23, 2014. *See Exhibit A.*

40. For the same reasons set forth above in paragraphs 16 and 27, Zynga’s continued offer, use, and promotion of its infringing social casino products, despite having knowledge of the RE’818 patent since at least September 2014, being on notice of its infringing conduct in September 2014, and being served with the Original Complaint in this lawsuit, constitutes willful and egregious infringement behavior.

JURY DEMAND

41. Plaintiff requests a trial by jury on all issues so triable by right.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grants Plaintiff the following relief:

1. A declaration that Zynga infringes the RE’818 patent under 35 U.S.C. § 271(a), (b), and/or (c), and a final judgment incorporating same;

2. Equitable relief under 35 U.S.C. § 283, including but not limited to an injunction that enjoins Zynga and any of its officers, agents, employees, assigns, representatives, privies, successors, and those acting in concert or participation with them from infringing, contributing to the infringement of, and/or for inducing infringement of the RE’818 patent;

3. An award of damages sufficient to compensate Plaintiff for infringement of the RE’818 patent by Zynga, together with prejudgment and post judgment interest under 35 U.S.C. § 284;

4. Entry of an order compelling Zynga to compensate Plaintiff for any ongoing and/or future infringement of the RE’818 patent, in an amount and under terms appropriate under the circumstances;

5. That this Court declare this an exceptional case and award Plaintiff its reasonable attorneys’ fees, costs, and expenses in accordance with 35 U.S.C. § 285;

6. A declaration or order finding Zynga’s infringement is willful and/or an order increasing damages under 35 U.S.C. § 284; and

7. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

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1 Dated this 14th day of November, 2016

2 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

3
4 /s/ Molly M. Rezac

5 Molly Rezac, Esq.

6 Erica J. Chee, Esq.

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INDEX OF EXHIBITS

- Exhibit A September 23, 2014 Correspondence to Defendant re notice of infringement

- Exhibit B September 4, 2007 Certified Copy U.S. Patent No RE39,818

- Exhibit C Web, Tablet & Mobile Platforms

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CERTIFICATE OF SERVICE

I hereby certify that I electronically transmitted the foregoing **PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT** to the Clerk’s Office using the CM/ECF system for filing and transmittal of a notice of electronic filing to the following CM/ECF registrants:

Brian R. Hardy, Esq.
Sonali D. Maitra, Esq. (*Admitted Pro Hac Vice*)
Timothy C. Saulsbury, Esq. (*Admitted Pro Hac Vice*)

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby further certify that service of the foregoing was also made this day by depositing a true and correct copy of same for mailing, first class mail, postage prepaid thereon, at Reno, Nevada, addressed to the following:

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DATED this 14th day of November, 2016

/s/ Wendi M. Rawson

An Employee of OGLETREE, DEAKINS, NASH,
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