

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION**

WIRELESS ACCESSORY RETAINING,  
LLC, a Georgia limited liability company;

Plaintiff.

v.

GAMESTOP CORPORATION, a  
Minnesota corporation;

Defendant.

**CASE NO.** 2:17-cv-167-RWS

**JURY TRIAL DEMANDED**

**COMPLAINT FOR DAMAGES**

**Nature of the Action**

1. This is an action for patent infringement under 35 U.S.C. § 271, *et seq.*, by Wireless Accessory Retaining, LLC against GameStop Corporation for infringement of United States Patent No. 8,472,658 (“the ‘658 Patent”). A true and correct copy of the ‘658 Patent is attached hereto as **Exhibit A**.

**The Parties**

2. Plaintiff Wireless Accessory Retaining, LLC (“Wireless”) is a Georgia limited liability company with its principal place of business at 514 River Sound Lane, Dawsonville, Georgia 30534.

3. Defendant GameStop Inc. (“GameStop”) is a Minnesota corporation authorized to do business in Georgia, with its principal office address at 625 Westport Parkway, Grapevine, TX 76051. GameStop may be served with process via service upon its registered agent, CT Corporation System, 289 S. Culver Street, Lawrenceville, GA 30046-4805. Upon information and belief, GameStop is in the business of selling and offering for sale in the United States video game products including but not limited to consoles, console systems, accessories, controllers and components of those products such as the Nintendo Switch system (“the Switch”), as well as associated video games for the Switch, including sales in this district either directly or through intermediaries. *See Exhibit B*, printout of <http://www.gamestop.com/switch>.

### **Jurisdiction and Venue**

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

5. The Switch has been sold within this judicial district, without limitation, through the websites and retail locations of GameStop. GameStop has retail locations in this judicial district which sell and offer for sale the Switch.

6. Upon information and belief, GameStop purposefully directs sales and offers for sale of various user input devices, video games and video game console systems, including but not limited to the Switch, toward the state of Georgia, including this judicial district.

7. This Court has personal jurisdiction over GameStop because, among other things, GameStop has committed, aided, abetted, contributed to and/or participated in the commission of patent infringement in violation of 35 U.S.C. § 271 in this judicial district and elsewhere that led to harm and injury to Wireless.

8. For example, GameStop has and continues to place the Switch, which infringes one or more claims of the '658 Patent, into the stream of commerce, via an established distribution channel, with the knowledge and/or understanding that such products are sold in this judicial district.

9. For example, GameStop has physical office locations in Dawsonville, Georgia, Gainesville, Georgia, Cumming, Georgia, and numerous other locations in the metro-Atlanta area. Each of these locations offers the Switch for sale, as well as associated video games for the Switch.

10. This Court has personal jurisdiction over GameStop because it has affiliations with and/or conducts business in Georgia that are so continuous and systematic as to establish minimum contacts with Georgia such that the exercise of

jurisdiction would not offend traditional notions of fair play and substantial justice. Furthermore, GameStop has transacted business in Georgia in the form of offering for sale and selling the Switch and video games which promote the use of the Switch in an infringing manner by third parties, so as to give rise to the tortious causes of action set forth herein. Additionally, GameStop has conducted sales and offers for sale nationwide which have had their tortious, patent infringing effects felt in Georgia, while conducting persistent and continuous business in Georgia through its office locations in Georgia for which it uses real estate in Georgia which is leased or purchased. GameStop derives substantial revenue from the aforementioned Georgia operations.

11. GameStop has had knowledge of the '658 Patent and its infringement since at least as early as the service of Wireless' Complaint in this action.

12. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b), at least because of acts by GameStop amounting to or in furtherance of patent infringement have been committed in this judicial district and/or GameStop is subject to personal jurisdiction in this judicial district and GameStop has a regular and established place of business in this judicial district.

### **The Patent-in-Suit**

13. On June 25, 2013, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,472,658, entitled “Hand-held, portable electronic device with retainer port for receiving retainable wireless accessory for use therewith,” to inventor Dr. Sanjeev Singh. *See* Ex. A.

14. The ‘658 Patent is the subject of a certificate of correction, which is attached hereto as **Exhibit C**.

15. Dr. Singh, the inventor of the ‘658 Patent, holds a Ph.D. in Electrical Engineering from the University of Maryland. He is the named inventor on five issued United States patents.

16. Wireless is the sole owner of the entire right, title, and interest in and to the ‘658 Patent, including the right to sue and recover past and future damages for any and all infringements thereof. The ‘658 Patent is valid and enforceable.

### **The Nintendo Switch**

17. Nintendo makes the Switch and imports it into the United States. The basic Switch system is offered for sale in the U.S., including within this Judicial District, at approximately \$300-\$500 by Nintendo’s sales partners, including GameStop (at multiple locations within this district).

18. The following is a partial screen shot from the Nintendo web site at

<http://www.nintendo.com/switch/>:



Nintendo Switch with Gray Joy-Con

\$299.99<sup>MSRP\*</sup>



Nintendo Switch with Neon Blue and  
Neon Red Joy-Con

\$299.99<sup>MSRP\*</sup>

19. Each Switch system, as sold, includes a docking station, a central console and left and right joystick controllers (“Joy-Cons”).

20. The Switch comprises a portable electronic device which is also referred to as a central console. Nintendo provides the following perspective views of the front and back of the Switch central console at

<http://www.nintendo.com/switch/features/>:



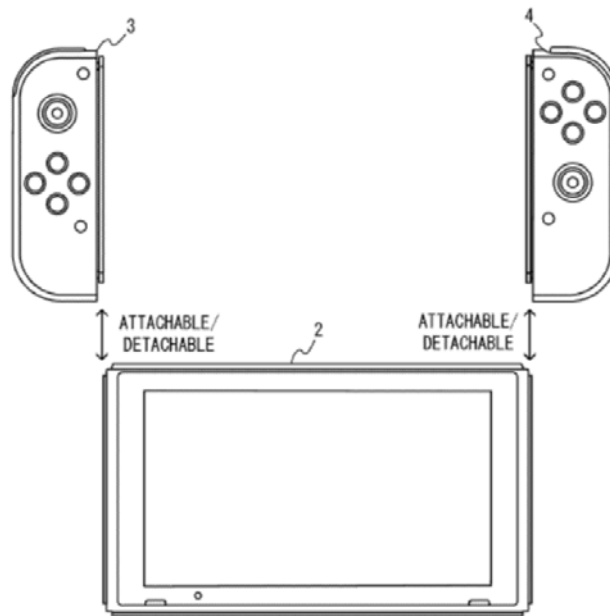
21. The reference to “Rail” in the pictures above is actually to a cavity-based structure located on each side of the central console used to affix and retain a Joy-Con.

22. The Switch is used with the Joy-Cons. The Joy-Cons have rails which are used for the purpose of attaching to the central console. They are depicted on Nintendo's web site at <http://www.nintendo.com/switch/features/> as follows:



23. Each of the Joy-Cons is attachable to the central console by sliding the Joy-Con rails into the rail cavities of the central console, as illustrated by the following diagram:





See Figure 2 of Nintendo Patent Application No. 20160361640, attached as

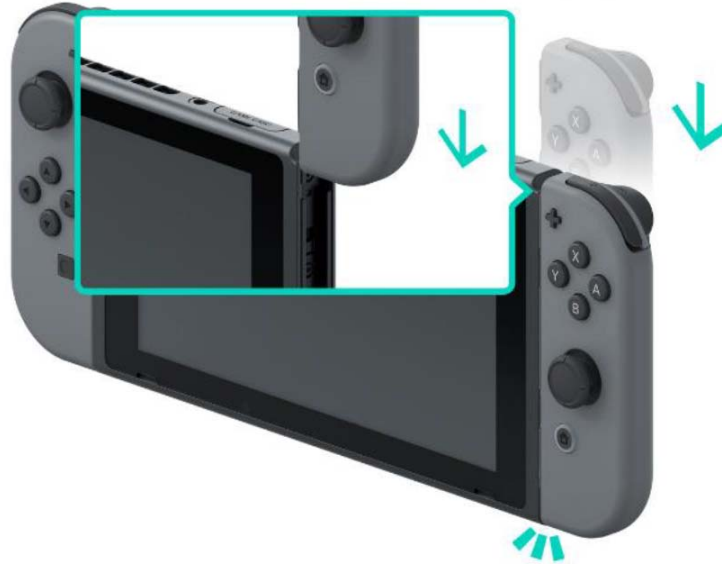
**Exhibit D.**

24. The reverse is also true. Each Joy-Con can be detached by disconnecting its rail from the central console's corresponding rail cavity.

25. During the setup process for the Switch, the Joy-Cons are attached to the central console for the purpose of registration. From that point on, they are registered and can subsequently be detached from the central console and used. This is further explained in the following excerpt taken from a Nintendo support site, [http://en-americas-support.nintendo.com/app/answers/detail/a\\_id/22335](http://en-americas-support.nintendo.com/app/answers/detail/a_id/22335):

**2. Attach the Joy-Con to the Nintendo Switch console.**

Use the rail on the side of the console, and slide the Joy-Con from top to bottom, until you hear a click.



Once the Joy-Con controllers are attached to the system, they are registered, and can now be detached and used.

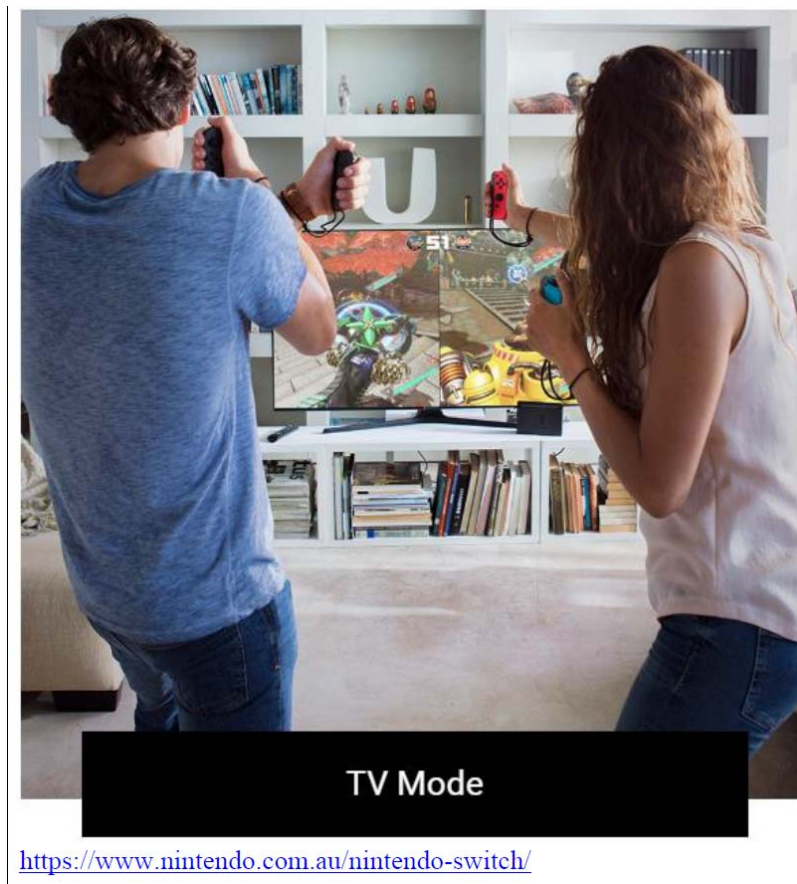
**How to detach the Joy-Con from the console:**

Press the release button at the back of the Joy-Con while sliding the Joy-Con from bottom to top.

26. The Switch is designed to be docked in a cradle for “TV Mode.” In TV mode, users play games on the Switch using a connection to a separate TV screen. This is illustrated as follows:



See <http://www.nintendo.com/switch/>.

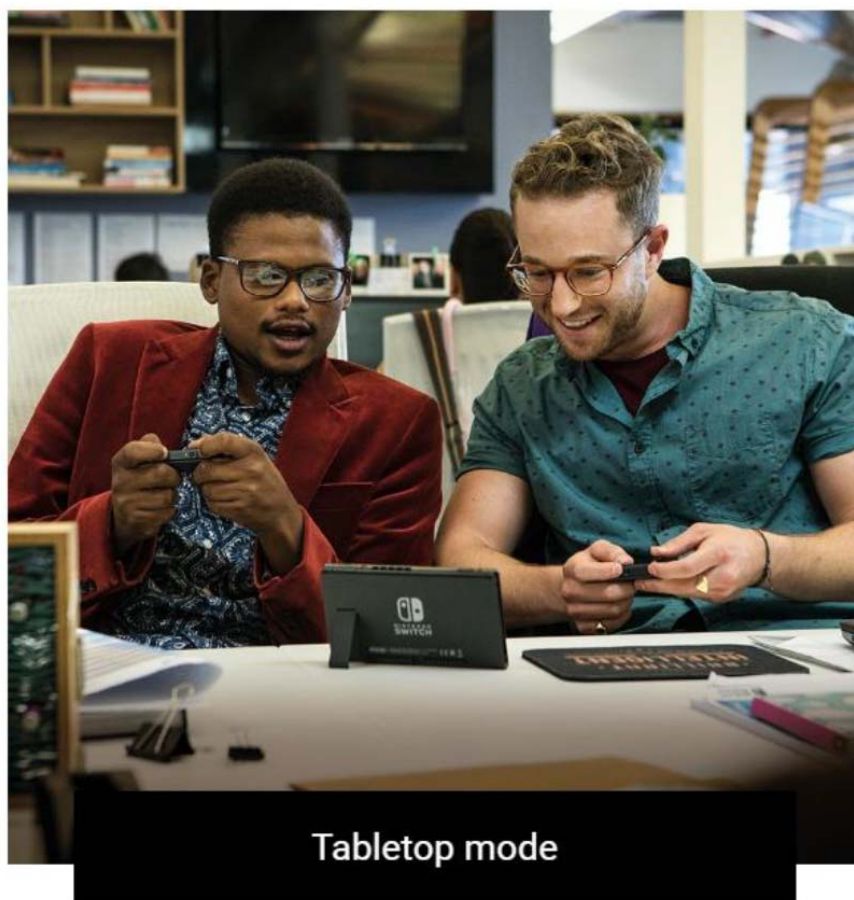


27. The Joy-Cons are stored when physically connected to the Switch console and then detached for game play once placed in TV Mode.

28. The Switch is also designed for Tabletop Mode, which allows multiple players to interact with a shared screen. Tabletop Mode is illustrated as follows:



See <http://www.nintendo.com/switch/>.



See <https://www.nintendo.com.au/nintendo-switch/>.

29. In Tabletop Mode, the Joy-Cons are initially stored while physically connected to the Switch console and then detached for game play. After game play, the Joy-Cons are stored for reuse by physically connecting the Joy-Cons to the Switch console for, *inter alia*, battery recharging.

30. Each of the Joy-Cons may be detached from the central console to play Nintendo Switch in TV Mode or Tabletop Mode. The Joy-Cons will remain paired when detached from the console, so that they can be used wirelessly, supported by a Bluetooth wireless connection. If they run out of battery, the Joy-Cons need to be attached to the central console when it is charging in order to recharge them.

31. Each of the Joy-Con rails includes a conductive member terminal that comes into contact with the central console when the Joy-Con is attached. The conductive member terminal is used to communicate with the central console. In the picture below, the red arrows point to the location of the conductive member terminal at the tip of the rail used to attach the Joy-Con to the console:



32. The Joy-Con retaining structure on each side of the central console includes a cavity into which a rail located on the Joy-Con fits. The retaining structure is shown in the picture immediately below, with a portion of the structure including a housing and terminal connection point for the conductive member terminal of the Joy-Con rail (circled in red):



33. A battery is connected to the conductive member terminal, so that when a Joy-Con is attached to the central console, the battery is charged with the power supply from the central console via the conductive member terminal.

34. The Switch is designed to permit game play regardless of whether the Joy-Cons are attached to or detached from the central console. To support gameplay when the Joy-Cons are detached from the central console, the central console includes a transceiver used to communicate with each of the Joy-Cons. The transceiver is connected to the central console's central processing unit (CPU). The communication may be wireless when the Joy-Cons are disconnected from the console.

35. Likewise, each Joy-Con contains its own transceiver used to communicate to the central console. The communication may be wireless when the Joy-Cons are disconnected from the console.

36. After gameplay is finished, the Joy-Cons are attached to the Switch central console so that they can be stored for reuse and for charging their respective batteries. The Joy-Cons, which charge while attached to the Switch central console, take about 3 hours and 30 minutes to completely charge, then offer hours of gameplay while they are detached from the Switch central console.

37. Certain games made by Nintendo for the Switch require the Joy-Cons to be detached for calibration of the motion sensors and/or game play. These include 1-2 Switch, ARMS, Just Dance and Splatoon 2. GameStop offers these games for sale, and sells these games, from its office locations throughout the United States, including those offices located in this judicial district.

38. In its first month in which the Switch was sold, March 2017, Nintendo sold 2.74 million Switch units worldwide. Nintendo has said that it expects to sell 10 million units worldwide by the end of this fiscal year. GameStop is one of a limited number of authorized retail channels used by Nintendo to sell the Switch and related games to consumers.

**FIRST CAUSE OF ACTION**  
**Direct Infringement of U.S. Patent No. 8,472,658**

39. Wireless repeats and incorporates by reference each and every allegation of the foregoing paragraphs of this Complaint, as though set forth here in its entirety.

40. Upon information and belief, GameStop has literally infringed, and continues to infringe at least Claim 1 of the '658 Patent by making, using, selling, offering for sale and/or importing into the United States the Switch in violation of 35 U.S.C. § 271(a). In the event that the Court determines that the infringement is



not literal, upon information and belief, GameStop is infringing Claim 1 under the doctrine of equivalents.

41. Claim 1 of the '658 Patent states:

1. A hand-held, portable electronic device for use with a retainable wireless accessory including a conductive member, the hand-held, portable electronic device comprising:

[1A] a device body;

[1B] a device housing that encloses the device body, said device housing having an exterior periphery; and

[1C] a retainer port that defines an accessory retaining structure formed in said exterior periphery of said device housing, said accessory retaining structure is configured to receive said conductive member of said retainable wireless accessory for storing said retainable wireless accessory substantially external to said exterior periphery of said device housing of said hand-held, portable electronic device,

[1D] wherein said hand-held, portable electronic device includes a first transceiver adapted to communicate with a wireless accessory over a wireless communication link, said wireless accessory including a second transceiver adapted to communicate with said hand-held, portable electronic device using said wireless communication link, wherein said accessory retaining structure including:

[1E] a cavity for retaining said retainable wireless accessory at said hand-held, portable electronic device by inserting said conductive member of said retainable wireless accessory within said cavity, wherein said conductive member of said retainable wireless accessory to enable flow of charge such that the retainable wireless accessory can function by wirelessly communicating with the hand-held, portable electronic device when physically not connected thereto, wherein said retainable

wireless accessory is stored for reuse when physically connected to said hand-held, portable electronic device,

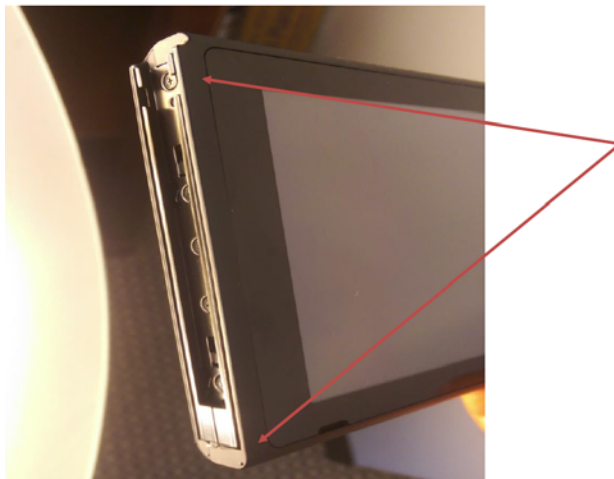
[1F] wherein said accessory retaining structure is configured to accept a male member which extends longitudinally from an end of said retainable wireless accessory.

*See Ex. A.*

42. All elements of Claim 1 are present in the Switch. The central console of the Switch is an example of a hand-held, portable electronic device. It comprises a “device body,” which is enclosed in a housing, as illustrated herein:



43. A visible device housing encloses the body of the aforesaid Switch console. The housing has a visible surrounding outside perimeter area, which serves as an exterior periphery to the housing. The side edge of this visible exterior periphery is pointed out by the red arrows in the illustration of the console below:



44. Therefore, elements [1A] and [1B] exist in the Switch.

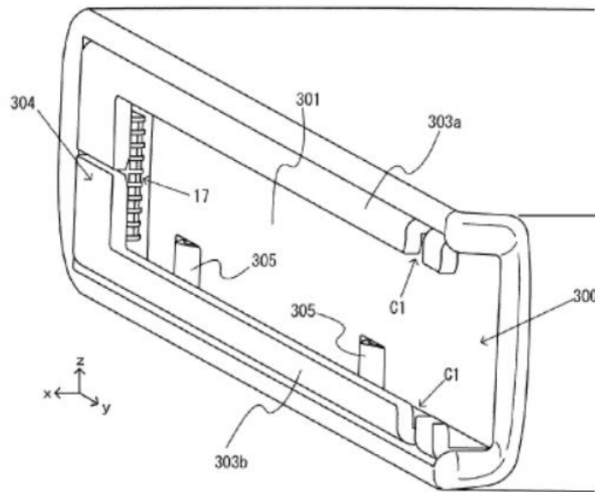
45. Next, element [1C] is also demonstrated, for the Switch has a retainer port that defines an “accessory retaining structure” for retaining a Joy-Con, which is a wireless accessory, formed in said exterior periphery of said device housing. In the illustration below, the red arrows help to demarcate the retainer port defining the retaining structure for each Joy-Con, that is formed in the exterior periphery of either side of the Switch console’s housing and held to the housing by multiple small screws:



46. In the Switch, the foregoing Joy-Con (accessory) retaining structure is configured to receive the conductive member of the Joy-Con for storing the Joy-Con mostly outside of (“substantially external to”) the exterior periphery of the console’s housing. The specific configuration to receive the conductive member of the Joy-Con is shown in the portion of the Joy-Con retainer port circled in red in the illustration below:



47. To help illustrate this point further, a cross-sectional view of this retainer port, taken from a Nintendo patent application, shows the cavity and contact pins (17) at the left-hand edge of the retaining structure, used for receiving the conductive member terminal of the Joy-Con:



See Ex. D, Figure 10.

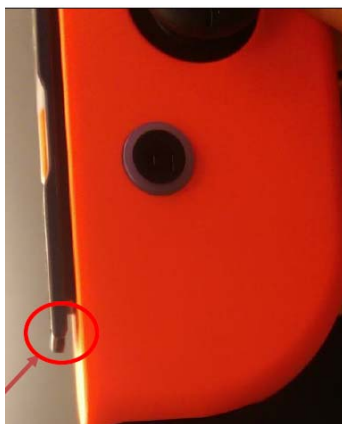
48. For at least these reasons, the Switch includes element **[1C]** of claim 1 of the '658 Patent.

49. As for element **[1D]**, the (hand-held, portable electronic) console of the Switch includes a first transceiver adapted to communicate with a wireless Joy-Con (accessory) over a Bluetooth wireless communication link. See Paragraphs 34-35, *supra*. Moreover, each Joy-Con is a wireless accessory including a second transceiver adapted to communicate with said console using said Bluetooth wireless communication link. For at least these reasons, element **[1D]** is included in the Switch.

50. As for element **[1E]**, as illustrated above, a cavity exists in the Switch console for retaining the Joy-Con at the (hand-held, portable electronic) console by way of inserting the conductive member terminal of each Joy-Con's rail within the

cavity in order to firmly attach the Joy-Con to the console, wherein said conductive member terminal of the Joy-Con enables a flow of charge such that the Joy-Con can function by wirelessly communicating with the console even when it is physically disconnected from the console. Further, the Joy-Con is stored for reuse when physically connected to the console, as exemplified in Paragraphs 29 and 36, *supra*. For at least these reasons, element [1E] is included in the Switch.

51. As for element [1F], as illustrated above, each Joy-Con retaining structure of the Switch console is configured to accept a male member which extends longitudinally from an end of said retainable wireless accessory. This is shown in the following illustration of the male member which extends several millimeters to the left (west) of the main body of the Joy-Con, and which is inserted into the cavity until it contacts the contact pins inside the cavity (the protruding end of male member for making such contact is circled in red):



52. Because all elements of claim 1 exist in the Switch, the sale and offer for sale of the Switch by GameStop infringes the '658 Patent.

53. By reason of GameStop's infringing activities, Wireless has suffered, and will continue to suffer substantial damages in an amount to be determined at trial, but no less than a reasonable royalty.

**SECOND CAUSE OF ACTION**  
**Induced Infringement of U.S. Patent No. 8,472,658**

54. Wireless repeats and incorporates by reference each and every allegation of the foregoing paragraphs of this Complaint, as though set forth here in its entirety.

55. Upon information and belief, GameStop's customers (*e.g.*, ultimate end-users) directly infringe one or more claims of the '658 Patent under 35 U.S.C. § 271(a) by using the Switch in or into the United States consistent with the guidance and instruction included with the Switch system. This includes use of the Switch to play games such as 1-2 Switch, ARMS, Just Dance and/or Splatoon 2.

56. Upon information and belief and after having knowledge of the '658 Patent as set forth in Paragraph 11 above, GameStop has actively induced, and continues to actively induce infringement of one or more claims of the '658 Patent under 35 U.S.C. § 271(b) by selling, importing, and/or offering for sale the Switch and games for the Switch such as 1-2 Switch, ARMS, Just Dance and Splatoon 2,

to end users with knowledge and intent that such actions will cause its end users to directly infringe the '658 Patent. GameStop encourages such infringement through the marketing, sales and support of the Switch and the aforementioned games for the Switch by, *inter alia*, disseminating games promoting the use of the Switch, as well as promotional and marketing materials, and other materials related to the infringing products which encourage the infringing use of the Switch by end users.

57. By reason of GameStop's infringing activities, Wireless has suffered, and will continue to suffer, substantial damages in an amount to be determined at trial.

### **Prayer for Relief**

WHEREFORE, Wireless respectfully requests the Court to enter judgment as follows:

- A. GameStop has directly infringed the '658 Patent;
- B. GameStop has induced others to infringe the '658 Patent;
- C. That GameStop be ordered to pay damages adequate to compensate Wireless for GameStop's infringement of the '658 Patent, but in no event less than a reasonable royalty, together with prejudgment and post-judgment interest thereon;



D. That GameStop be ordered to account for post-verdict infringement and pay no less than a reasonable royalty, together with interest, thereon;

E. That this case be declared an exceptional case under 35 U.S.C. § 285 and Wireless be awarded its reasonable attorneys' fees, costs, and expenses; and

F. That Wireless be granted such other and additional relief as the Court deems just and proper.

### **Jury Demand**

Wireless hereby demands a jury trial as to all issues so triable.

This 9th day of August, 2017.

HILL, KERTSCHER & WHARTON, LLP



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