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15 Location Based Service, LLC

16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE NORTHERN DISTRICT OF CALIFORNIA
18 SAN JOSE DIVISION

19 **LOCATION BASED SERVICES, LLC,**

20 Plaintiff,

21 v.

22 **NIANTIC, INC.,**

23 Defendant.

Civil Action No. 5:17-04413-NC

AMENDED COMPLAINT

DEMAND FOR JURY TRIAL

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Location Based Services, LLC (“Plaintiff”) accuses Niantic, Inc. (“Defendant”), of infringing U.S. Patent Nos. 7,860,648, 8,392,114, 8,768,610, and 7,522,996 (collectively, the “Patents-in-Suit”), alleging as follows:

PARTIES

1. Plaintiff Location Based Services, LLC is a Texas limited liability company, having a principal place of business at 1400 Preston Rd., Ste. 400, Plano, TX 75093.

2. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 2 Bryant, Ste. 220, San Francisco, CA 94105. Upon information and belief Defendant can be served through its registered agent: Incorporating Services, Ltd. 3500 S. Dupont Hwy., Dover, DE 19901.

JURISDICTION AND VENUE

3. This is an action for infringement of the Patents-in-Suit arising under 35 U.S.C. §§ 271(a), 281, and 284 - 85. This Court has subject matter jurisdiction over this action under 28 U.S.C. §1331 and §1338(a).

4. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant has transacted business in this district, has committed acts of patent infringement in this district, and maintains its corporate headquarters in this district.

5. Upon information and belief, Defendant is subject to this Court’s specific and general personal jurisdiction pursuant to due process and/or the California Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct,

1 and/or deriving substantial revenue from goods and services provided to individuals in California and
2 in this Judicial District.

3 **U.S. PATENT NO. 7,860,648**

4 6. On December 28, 2010, United States Patent No. 7,860,648 (the “’648 patent”) was
5 duly and legally issued by the United States Patent and Trademark Office for an invention entitled
6 “Map Display System and Method.” A true and correct copy of the ’648 patent is attached hereto as
7 Exhibit A.
8

9 7. Edward K. Y. Jung, Royce A. Levien, and Robert W. Lord *et al.*, are the inventors of
10 the ’648 patent.
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12 8. Plaintiff is the owner by assignment of the ’648 Patent with all rights in and to that
13 patent.
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15 9. Upon information and belief, to the extent any marking was required by 35 U.S.C.
16 § 287, Plaintiff has complied with such requirements.
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18 10. Defendant directly or through intermediaries, makes, uses, imports, sells, and/or offers
19 for sale products and or/systems (“Pokémon Go” or the “Accused Instrumentality”) that infringes one
20 or more claims of the ’648 Patent. The Accused Instrumentality directly infringes claims 1, 2, 4, 6, 7,
21 9, 10, 13, and 14 of the ’648 Patent.

22 **U.S. PATENT NO. 8,392,114**

23 11. On March 5, 2013, United States Patent No. 8,392,114 (the “’114 patent”) was duly
24 and legally issued by the United States Patent and Trademark Office for an invention entitled “Map
25 Display System and Method.” A true and correct copy of the ’114 patent is attached hereto as Exhibit
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1 12. Edward K. Y. Jung, Royce A. Levien, and Robert W. Lord *et al.*, are the inventors of
2 the '114 patent.

3 13. Plaintiff is the owner by assignment of the '114 Patent with all rights in and to that
4 patent.

5 14. Upon information and belief, to the extent any marking was required by 35 U.S.C.
6 § 287, Plaintiff has complied with such requirements.

7 15. Defendant directly or through intermediaries, makes, uses, imports, sells, and/or offers
8 for sale products and or/systems (“Pokémon Go” or the “Accused Instrumentality”) that infringes one
9 or more claims of the '114 Patent. The Accused Instrumentality directly infringes claims 1, 4, 5, 6
10 and 7 of the '114 Patent.
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12 **U.S. PATENT NO. 8,768,610**

13 16. On July 1, 2014, United States Patent No. 8,768,610 (the “'610 patent”) was duly and
14 legally issued by the United States Patent and Trademark Office for an invention entitled “Map
15 Display System and Method.” A true and correct copy of the '610 patent is attached hereto as Exhibit
16 C.
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18 17. Edward K. Y. Jung, Royce A. Levien, and Robert W. Lord *et al.*, are the inventors of
19 the '610 patent.
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21 18. Plaintiff is the owner by assignment of the '610 Patent with all rights in and to that
22 patent.
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24 19. Upon information and belief, to the extent any marking was required by 35 U.S.C.
25 § 287, Plaintiff has complied with such requirements.

26 20. Defendant directly or through intermediaries, makes, uses, imports, sells, and/or offers
27 for sale products and or/systems (“Pokémon Go” or the “Accused Instrumentality”) that infringes one
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1 or more claims of the '610 Patent. The Accused Instrumentality directly infringes claims 3, 7, 8, 9,
2 10, 11, 13, 14, 16, 17, 21, and 22 of the '610 Patent.

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4 **U.S. PATENT NO. 7,522,996**

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6 21. On April 21, 2009, United States Patent No. 7,522,996 (the "'996 patent") was duly
7 and legally issued by the United States Patent and Trademark Office for an invention entitled "Map
8 Display System and Method." A true and correct copy of the '996 patent is attached hereto as Exhibit
9 D.

10 22. Edward K. Y. Jung, Royce A. Levien, and Robert W. Lord *et al.*, are the inventors of
11 the '996 patent.

12 23. Plaintiff is the owner by assignment of the '996 Patent with all rights in and to that
13 patent.
14

15 24. Upon information and belief, to the extent any marking was required by 35 U.S.C.
16 § 287, Plaintiff has complied with such requirements.

17 25. Defendant directly or through intermediaries, makes, uses, imports, sells, and/or offers
18 for sale products and or/systems ("Pokémon Go" or the "Accused Instrumentality") that infringes one
19 or more claims of the '996 Patent. The Accused Instrumentality directly infringes claim 3 of the '996
20 Patent.
21

22 **COUNT I**
23 **DIRECT INFRINGEMENT OF U.S. PATENT NO. 7,860,648**

24 26. Defendant directly or through intermediaries, makes, uses, offers to sell, or sells
25 Mapping applications which infringe the '648 Patent, shown in Exhibit A-1.

26 27. Upon information and belief, Defendant and its end users have been and are now
27 infringing claims 1, 2, 3, 4, 6, 7, 9, 11, 13, 14, and 15 of the '648 Patent in the State of California, in
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1 this judicial district, and elsewhere in the United States, by, among other things, directly or through
2 intermediaries, making, using, selling, and/or offering for sale the Accused Instrumentality to the
3 injury of Plaintiff. Defendant and its end users are directly infringing, literally infringing, and/or
4 infringing the '648 Patent under the doctrine of equivalents. Defendant is thus liable for direct
5 infringement of the '648 Patent pursuant to 35 U.S.C. § 271(a).
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7 28. For example, the use of the Accused Instrumentality by Defendant, its resellers, or
8 end-user customers, directly infringes claim 1 of the '648 Patent. It performs a method for a display
9 device to receive a map through a predefined area, the method comprising: transmitting a request for
10 the map including one or more locations, the request including an identifier associated with a user of
11 the display device (*e.g.*, in order to access the map the user is required to create an account and sign
12 in); receiving the map at the display device, the map including one or more locations, at least one
13 location of the one or more locations associated with one or more location interaction rules verifiable
14 via one or more monitoring devices (*e.g.*, the map includes rules such as number of players required
15 for a single or multi-person gym or raid battle, and the gym affiliation and allowed user interaction);
16 and interacting with the one or more monitoring devices to alter the map on the display device as a
17 function of the one or more location interaction rules (*e.g.*, the map is altered based on raid presence,
18 time left for raid, or gym affiliation through actions taken by other users). *See* Ex. A-1, Figs. 1-27.
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21 29. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
22 customers, directly infringes claim 2 of the '648 Patent. It receives a status associated with the at
23 least one of the one or more locations on the map (*e.g.*, gym affiliation, level, Pokémon presence, raid
24 presence, and/or raid time). *See* Ex. A-1, Figs. 1-11.
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26 30. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
27 customers, directly infringes claim 3 of the '648 Patent. It receives data related to illustrating
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1 location detail for the at least one of the one or more locations, the location detail shown being a
2 function of the status (*e.g.*, Gym affiliation, Pokémon presence, raid presence and/or raid time). *See*
3 Ex. A-1, Figs. 1-11.

4 31. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
5 customers, directly infringes claim 4 of the '648 Patent. It periodically updates the status in
6 accordance with the location interaction rule associated with the at least one of the one or more
7 locations (*e.g.*, Gym affiliation, Pokémon presence, raid presence and/or raid time is periodically
8 updated). *See* Ex. A-1, Figs. 1-11.

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10 32. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
11 customers, directly infringes claim 6 of the '648 Patent. It wirelessly transmits the request to a server
12 over a wireless network (*e.g.*, the request occurs over a cellular or wi-fi network). *See* Ex. A-1, Figs.
13 1-27.

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15 33. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
16 customers, directly infringes claim 7 of the '648 Patent. It transmits via at least one of a wireless
17 LAN (WLAN), an IEEE 802 type wireless network, a Bluetooth type wireless network, and/or a
18 satellite network (*e.g.*, the transmitted request for the map occurs over a wi-fi network). *See* Ex. A-1,
19 Figs. 1-27.

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21 34. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
22 customers, directly infringes claim 9 of the '648 Patent. It is a computer program product
23 comprising: a computer-readable medium (*e.g.*, the Accused Instrumentalities software is contained
24 in a computer readable file) bearing one or more instructions for transmitting a request for the map
25 including one or more locations, the request including an identifier associated with a user of the
26 display device (*e.g.*, the request for the map is associated with the user's account); one or more
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1 instructions for receiving the map including one or more locations, at least one location of the one or
2 more locations associated with one or more location interaction rules verifiable via one or more
3 monitoring devices (*e.g.*, the map includes rules such as number of players required for a single or
4 multi-person gym or raid battle, and the gym affiliation and allowed user interaction, which are
5 verified via other users); and one or more instructions for interacting with the one or more monitoring
6 devices to alter the map on the display device as a function of the one or more location interaction
7 rules (*e.g.*, it includes instructions for verified the presence or actions of other players in relation to
8 the required rules such as gym affiliation, Pokémon presence, raid presence and/or raid time). *See Ex.*
9 *A-1, Figs. 1-27.*

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11 35. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
12 customers, directly infringes claim 11 of the '648 Patent. It contains one or more instructions for
13 receiving one or more icons representing one or more locations on the map, the one or more location
14 interaction rules determining one or more of an obfuscation of the one or more icons and/or an
15 activation of metadata associated with the one or more locations on the map. (*e.g.*, it contains
16 instructions for receiving gym, Pokémon, raid presence and/or raid time icons based on meta data
17 associated with the location). *See Ex. A-1, Figs. 1-27.*

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20 36. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
21 customers, directly infringes claim 13 of the '648 Patent. It contains instructions for transmitting a
22 request for the map including one or more locations, the request including an identifier associated
23 with a user of the display device includes one or more instructions for wirelessly transmitting the
24 request to a server over a wireless network (*e.g.*, the transmitted request for the map occurs over a wi-
25 fi network or cellular network and requires a user account). *See Ex. A-1, Figs. 1-27.*

1 37. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
2 customers, directly infringes claim 14 of the '648 Patent. It contains instructions for wirelessly
3 transmitting the request to a server over a wireless network includes one or more instructions for
4 transmitting via at least one of a wireless LAN (WLAN), an IEEE 802 type wireless network, a
5 Bluetooth type wireless network, and/or a satellite network (*e.g.*, the transmitted request for the map
6 occurs over a wi-fi network). *See* Ex. A-1, Figs. 1-27.

8 38. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
9 customers, directly infringes claim 15 of the '648 Patent. It contains one or more instructions for
10 receiving an indication shown on the map related to whether one or more user interaction rules
11 associated with the identifier affect the map (*e.g.*, it contains instructions for receiving an indication
12 of gym presence, Pokémon presence, gym affiliation, raid even and/or raid timer which affect the
13 map). *See* Ex. A-1, Figs. 1-27.

15 39. As a result of Defendant's direct infringement of the '648 Patent, Plaintiff has suffered
16 monetary damages and is entitled to a money judgment in an amount adequate to compensate for
17 Defendant's infringement, but in no event less than a reasonable royalty for the use made of the
18 invention by Defendant, together with interest and costs as fixed by the court, and Plaintiff will
19 continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this
20 Court.

22 40. Unless a permanent injunction is issued enjoining Defendant and its agents, servants,
23 employees, representatives, affiliates, and all others acting on in active concert therewith from
24 infringing the '648 Patent, Plaintiff will be greatly and irreparably harmed.

26 **COUNT II**
27 **INDUCED INFRINGEMENT OF U.S. PATENT NO. 7,860,648**

1 41. Upon information and belief, Defendant has been and is now inducing the
2 infringement by its resellers and end-use customers of claims 1, 2, 4, 6, and 7 of the '648 Patent in
3 the State of California, in this Judicial District, and elsewhere in the United States, by, among other
4 things, directly or through intermediaries, making, using, importing, selling and/or offering for sale
5 the Accused Instrumentality to the injury of Plaintiff. Defendant's resellers and end-use customers
6 are directly infringing, literally infringing, and/or infringing the '648 Patent under the doctrine of
7 equivalents. Defendant is thus liable for infringement of the '648 Patent pursuant to 35 U.S.C. §
8 271(b).
9

10 42. Defendant has and continues to indirectly infringe the '648 Patent by inducing the
11 infringement by its end-users and resellers of claims 1, 2, 4, 6, and 7 of the '648 Patent in accordance
12 with 35 U.S.C. 271(b).
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14 43. As shown above, Defendant, its resellers, distributors, and end-users of the Accused
15 Instrumentality have engaged in and currently engage in activities that constitute direct infringement
16 of claims 1, 2, 3, 4, 6, and 7 of the '648 Patent.
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18 44. As shown above, the operation and use of the by Defendant, its resellers, or end-user
19 customers of the Accused Instrumentality constitutes a direct infringement of claims 1, 2, 3, 4, 6, and
20 7 of the '648 Patent.
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22 45. Defendant's affirmative act of selling and/or offering for sale the Accused
23 Instrumentality and providing instruction manuals, advertisement of the infringing features, and
24 support for the Accused Instrumentality have induced and continues to induce Defendant's resellers
25 and end users to use the Accused Instrumentality in its normal and customary way to infringe claims
26 1, 2, 3, 4, 6, and 7 of the '648 Patent. *See* <https://support.pokemongo.nianticlabs.com/hc/en-us>.
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46. Through its making, selling, and/or offering for sale the Accused Instrumentality, Defendant specifically intends that its resellers and end-users directly infringe 1, 2, 4, 6, and 7 of the '648 Patent. Defendant has had knowledge of the '648 Patent since the filing of the original complaint and actually induces others, such as resellers and end-use customers, to directly infringe by using, selling, supplying, and or distributing the Accused Instrumentality within the United States. Defendant is aware since at least the filing of the original complaint that such actions would induce actual infringement. Furthermore, Defendant remains aware that these normal and customary activities would infringe the '648 Patent.

47. For example, in connection with the sale and/or offering for sale of the Accused Instrumentality, Defendant provides guides and support to resellers and end-use customers regarding the user and operation of the Accused Instrumentality. Specifically, Defendant provides manuals and support, see, e.g., <https://support.pokemongo.nianticlabs.com/hc/en-us>. When end-users follow such instructions and support, they directly infringe the '648 Patent. Defendant knows or should have known that by providing such instructions and support, resellers and end-use customers follow these instructions and support and directly infringe the '648 Patent.

48. Accordingly, Defendant has performed and continues to perform acts that constitute indirect infringement, and would induce actual infringement, with the knowledge of the '648 Patent and with the knowledge or willful blindness to the fact that the induced acts would constitute infringement.

COUNT III
DIRECT INFRINGEMENT OF U.S. PATENT NO. 8,392,114

49. Defendant directly or through intermediaries, makes, uses, offers to sell, or sells Mapping applications which infringe the '114 Patent, shown in Exhibit B-1.

1 50. Upon information and belief, Defendant and its end users has been and are now
2 infringing claims 1, 4, 5, 6, 7, 13, and 17 of the '114 Patent in the State of California, in this judicial
3 district, and elsewhere in the United States, by, among other things, directly or through
4 intermediaries, making, using, selling, and/or offering for sale navigation devices, *i.e.*, the Accused
5 Instrumentality to the injury of Plaintiff. Defendant is directly infringing, literally infringing, and/or
6 infringing the '114 Patent under the doctrine of equivalents. Defendant is thus liable for direct
7 infringement of the '114 Patent pursuant to 35 U.S.C. § 271(a).
8

9 51. For example, the use of the Accused Instrumentality by Defendant, its resellers, or
10 end-user customers, directly infringes claim 1 of the '114 Patent. It performs a method for a display
11 device to receive a map through a predefined area, the method comprising: transmitting a request for
12 the map including one or more locations, the request including an identifier associated with a user of
13 the display device (*e.g.*, in order to access the map the user is required to create an account and sign
14 in); receiving the map including one or more locations, at least one location of the one or more
15 locations associated with one or more location interaction rules verifiable via one or more monitoring
16 devices (*e.g.*, the map includes rules such as number of players required for a single or multi-person
17 gym or raid battle, and the gym affiliation and allowed user interaction, which are verifiable via other
18 players); and interacting with the one or more monitoring devices to alter the map on the display
19 device as a function of the one or more location interaction rules as modified by one or more user
20 interaction rules associated with the user of the display device (*e.g.*, the map is altered based on raid
21 presence, time left for raid, or gym affiliation through actions taken by other users). *See* Ex. B-1,
22 Figs. 1-17.
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26 52. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
27 customers, directly infringes claim 4 of the '114 Patent by use of the Accused Instrumentality. It
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1 wirelessly transmits the request to a server over a wireless network (*e.g.*, the request for the map
2 takes place over a Wi-Fi or cellular network). *See Ex. Ex. B-1, Figs. 1-17.*

3 53. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
4 customers, directly infringes claim 5 of the '114 Patent by use of the Accused Instrumentality. It
5 transmits via at least one of a wireless LAN (WLAN), an IEEE 802 type wireless network, a
6 Bluetooth type wireless network, or a satellite network (*e.g.*, it transmits over a wireless LAN 802.11
7 network). *See Ex. B-1, Figs. 1-17.*

8 54. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
9 customers, directly infringes claim 6 of the '114 Patent by use of the Accused Instrumentality. It
10 receives the map including one or more locations, at least one location of the one or more locations
11 associated with one or more location interaction rules verifiable via one or more monitoring devices
12 comprising receiving an indication shown on the map related to whether one or more user interaction
13 rules associated with the identifier affect the map (*e.g.*, it receives the map which includes an
14 indication of gym presence, Pokémon presence, gym affiliation, raid even and/or raid timer which
15 affect the map, and required number of players for single or multi-person battles, which are verifiable
16 via other users). *See Ex. B-1, Figs. 1-8.*

17 55. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
18 customers, directly infringes claim 7 of the '114 Patent by use of the Accused Instrumentality. It
19 receives an indication shown on the map related to whether one or more user interaction rules
20 associated with the identifier affect the map (*e.g.*, it receives the map which includes an indication of
21 gym presence, Pokémon presence, gym affiliation, raid even and/or raid timer which affect the map).
22 *See Ex. Ex. B-1, Figs. 1-17.*

1 56. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
2 customers, directly infringes claim 13 of the '114 Patent by use of the Accused Instrumentality. It
3 receives the map including at least one location associated with an amount of time the user of the
4 display device is permitted for a location (e.g., length of time remaining on a raid battle). See Ex. Ex.
5 B-1, Figs. 1-17.
6

7 57. The use of the Accused Instrumentality by Defendant, its resellers, or end-user
8 customers, directly infringes claim 17 of the '114 Patent by use of the Accused Instrumentality. It
9 receives the map altered in accordance with the one or more location interaction rules, the map
10 altered via making a visual representation of at least one location disappear from the map (e.g., the
11 received map is altered based on raid presence, time left for raid, or gym affiliation through actions
12 taken by other users). See Ex. Ex. B-1, Figs. 1-17.
13

14 58. As a result of Defendant's direct infringement of the '114 Patent, Plaintiff has suffered
15 monetary damages and is entitled to a money judgment in an amount adequate to compensate for
16 Defendant's infringement, but in no event less than a reasonable royalty for the use made of the
17 invention by Defendant, together with interest and costs as fixed by the court, and Plaintiff will
18 continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this
19 Court.
20

21 59. Unless a permanent injunction is issued enjoining Defendant and its agents, servants,
22 employees, representatives, affiliates, and all others acting on in active concert therewith from
23 infringing the '114 Patent, Plaintiff will be greatly and irreparably harmed.
24

25 **COUNT IV**
26 **INDUCED INFRINGEMENT OF U.S. PATENT NO. 8,392,114**

27 60. Upon information and belief, Defendant has been and is now inducing the
28 infringement by its resellers and end-use customers of claims 1, 4, 5, 6, 7, 13, and 17 of the '114

1 Patent in the State of California, in this Judicial District, and elsewhere in the United States, by,
2 among other things, directly or through intermediaries, making, using, importing, selling and/or
3 offering for sale the Accused Instrumentality to the injury of Plaintiff. Defendant's resellers and end-
4 use customers are directly infringing, literally infringing, and/or infringing the '114 Patent under the
5 doctrine of equivalents. Defendant is thus liable for infringement of the '114 Patent pursuant to 35
6 U.S.C. § 271(b).

8 61. Defendant has and continues to indirectly infringe the '114 Patent by inducing the
9 infringement by its end-users and resellers of claims 1, 4, 5, 6, 7, 13, and 17 of the '114 Patent in
10 accordance with 35 U.S.C. 271(b).

12 62. As shown above, Defendant, its resellers, distributors, and end-users of the Accused
13 Instrumentality have engaged in and currently engage in activities that constitute direct infringement
14 of claims, 1, 4, 5, 6, 7, 13, and 17 of the '114 Patent.

16 63. As shown above, the operation and use of the by Defendant, its resellers, or end-user
17 customers of the Accused Instrumentality constitutes a direct infringement of claims

19 64. Defendant's affirmative act of selling and/or offering for sale the Accused
20 Instrumentality and providing instruction guides, manuals, advertisement of the infringing features,
21 and support for the Accused Instrumentality have induced and continues to induce Defendant's
22 resellers and end users to use the Accused Instrumentality in its normal and customary way to
23 infringe claims 1, 4, 5, 6, 7, 13, and 17 of the '114 Patent. See
24 <https://support.pokemongo.nianticlabs.com/hc/en-us>.

26 65. Through its making, selling, and/or offering for sale the Accused Instrumentality,
27 Defendant specifically intends that its resellers and end-users directly infringe 1, 4, 5, 6, 7, 13, and 17
28 of the '114 Patent. Defendant has had knowledge of the '114 Patent since the filing of this original

1 complaint and actually induces others, such as resellers and end-use customers, to directly infringe by
2 using, selling, supplying, and or distributing the Accused Instrumentality within the United States.
3 Defendant is aware since at least the filing of the original complaint that such actions would induce
4 actual infringement. Furthermore, Defendant remains aware that these normal and customary
5 activities would infringe the '114 Patent.
6

7 66. For example, in connection with the sale and/or offering for sale of the Accused
8 Instrumentality, Defendant provides manuals and support to resellers and end-use customers
9 regarding the user and operation of the Accused Instrumentality. Specifically, Defendant provides
10 manuals and support, see, *e.g.*, <https://support.pokemongo.nianticlabs.com/hc/en-us>. When end-users
11 follow such instructions and support, the directly infringe the '114 Patent. Defendant knows or
12 should have known that by providing such instructs and support, resellers and end-use customers
13 follow these instructions and support and directly infringe the '114 Patent.
14

15 67. Accordingly, Defendant has performed and continues to perform acts that constitute
16 indirect infringement, and would induce actual infringement, with the knowledge of the '114 Patent
17 and with the knowledge or willful blindness to the fact that the induced acts would constitute
18 infringement.
19

20 **COUNT V**
21 **INFRINGEMENT OF U.S. PATENT NO. 8,768,610**

22 68. Defendant directly or through intermediaries, makes, uses, offers to sell, or sells
23 Mapping applications which infringe the '610 Patent, shown in Exhibit C-1.

24 69. Upon information and belief, Defendant has been and is now infringing claims 5, 7, 8,
25 9, 10, 11, 13, 14, 18, 21, and 26 of the '610 Patent in the State of California, in this judicial district,
26 and elsewhere in the United States, by, among other things, directly or through intermediaries,
27 making, using, selling, and/or offering for sale Mapping applications, *i.e.*, the Accused
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1 Instrumentality, covered by one or more claims of the '610 Patent to the injury of Plaintiff.
2 Defendant is directly infringing, literally infringing, and/or infringing the '610 Patent under the
3 doctrine of equivalents. Defendant is thus liable for direct infringement of the '610 Patent pursuant
4 to 35 U.S.C. § 271(a).

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6 70. The Accused Instrumentality infringes claim 5 of the '610 Patent. It meets the
7 limitations of claim 1, and is a computer system comprising: a processor (*e.g.*, it operates on a
8 computer service which includes a processor); a memory (*e.g.*, RAM, ROM, and a disk drive)
9 coupled to the processor; a receiver coupled to the processor (*e.g.*, a network adapter); and a map
10 display module coupled to the receiver and the memory, the map display module including a data
11 store configurable to hold data related to one or more interaction rules associated with one or more
12 locations in a predefined area and one or more identifiers (*e.g.*, the map includes rules such as
13 number of players required for a single or multi-person gym or raid battle, and the gym affiliation and
14 allowed user interaction); and a status module configurable to determine a status associated with at
15 least one of the one or more locations on the map, the status being a function of one or more location
16 interaction rules associated with the at least one of the locations (*e.g.*, it determines whether the rules
17 for the location are met based on user interactions with the rules associated with the location such as
18 gym affiliation or number of players present). *See* Ex. C-1, Figs. 1-21. The Accused Instrumentality
19 infringes claim 5 of the '610 patent. It includes a transmitter coupled to the processor, the transmitter
20 configurable to transmit the map display to a display device, the display device configurable to
21 transmit a request for the map display (*e.g.*, a network adapter for sending the information via cellular
22 or internet connection). *See* Ex. C-1, Figs. 1-21.

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26 71. When downloaded and installed onto a smart phone as done by Defendant and its end
27 user customers, the Accused Instrumentality infringes claim 7 of the '610 Patent. It is a system for
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1 receiving a map through a predefined area at a display device, the system comprising: circuitry for
2 transmitting a request for the map including one or more locations, the request including an identifier
3 associated with a user of the display device (*i.e.*, a user's Niantic account); circuitry for receiving the
4 map including one or more locations (*i.e.*, a cellular or Cellular or Wi-Fi transmitter/receiver), at least
5 one location of the one or more locations associated with one or more location interaction rules
6 verifiable via one or more monitoring devices (*i.e.*, the map includes rules such as number of players
7 required for a single or multi-person gym or raid battle, and the gym affiliation and allowed user
8 interaction); and circuitry for interacting with the one or more monitoring devices to alter the map on
9 the display device as a function of the one or more location interaction rules as modified by one or
10 more user interaction rules associated with the user of the display device (*i.e.*, it includes circuitry for
11 verified the presence or actions of other players in relation to the required rules such as gym
12 affiliation, Pokémon presence, raid presence and/or raid time). *See* Ex. C-1, Figs. 1-21.

15 72. When downloaded and installed onto a smart phone as done by Defendant and its end
16 user customers, the Accused Instrumentality infringes claim 8 of the '610 Patent. It is a system for
17 receiving a map through a predefined area at a display device, comprising circuitry for transmitting a
18 request for the map including one or more locations, the request including an identifier associated
19 with a user of the display device (*e.g.*, it includes a Wi-Fi or cellular transmitter/receiver for
20 transmitting a request for the map, including the users Niantic account); circuitry for receiving the
21 map including one or more locations, at least one location of the one or more locations associated
22 with one or more location interaction rules verifiable via one or more monitoring devices (*e.g.*, it
23 includes a cellular or Wi-Fi transmitter/receiver for receiving the map which includes rules such as
24 number of players required for a single or multi-person gym or raid battle, and the gym affiliation and
25 allowed user interaction); and circuitry for interacting with the one or more monitoring devices to
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1 alter the map on the display device as a function of the one or more location interaction rules (*e.g.*, it
2 includes circuitry for verified the presence or actions of other players in relation to the required rules
3 such as gym affiliation, Pokémon presence, raid presence and/or raid time). *See* Ex. C-1, Figs. 1-21.

4 73. When downloaded and installed onto a smart phone as done by Defendant and its end
5 user customers, the Accused Instrumentality infringes claim 9 of the '610 Patent. It meets the
6 limitations of claim 8 and also include circuitry for receiving a status associated with the at least one
7 of the one or more locations on the map (*e.g.*, a cellular or Wi-Fi transmitter for receiving
8 information associated with the locations on the map such as gym affiliation, Pokémon presence, raid
9 presence and/or raid time). *See* Ex. C-1, Figs. 1-21.

10 74. When downloaded and installed onto a smart phone as done by Defendant and its end
11 user customers, the Accused Instrumentality infringes claim 10 of the '610 Patent. It meets the
12 limitations of claim 9 and also include circuitry for receiving data related to illustrating location detail
13 for the at least one of the one or more locations, the location detail shown being a function of the
14 status (*e.g.*, a cellular or Wi-Fi transmitter/receiver for information associated with the locations on
15 the map such as gym affiliation, Pokémon presence, raid presence and/or raid time). *See* Ex. C-1,
16 Figs. 1-21.

17 75. When downloaded and installed onto a smart phone as done by Defendant and its end
18 user customers, the Accused Instrumentality infringes claim 11 of the '610 Patent. It meets the
19 limitations of claim 9 and also include circuitry for periodically updating the status in accordance
20 with the location interaction rule associated with the at least one of the one or more locations (*e.g.*, a
21 cellular or Wi-Fi transmitter which periodically updates information associated with the locations on
22 the map such as gym affiliation, Pokémon presence, raid presence and/or raid time). *See* Ex. C-1,
23 Figs. 1-21.

1 76. When downloaded and installed onto a smart phone as done by Defendant and its end
2 user customers, the Accused Instrumentality infringes claim 13 of the '610 Patent. It meets the
3 limitations of claim 8 and also include circuitry for wirelessly transmitting the request to a server
4 over a wireless network (*e.g.*, a cellular or Wi-Fi transmitter/receiver). *See* Ex. C-1, Figs. 1-21.
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6 77. When downloaded and installed onto a smart phone as done by Defendant and its end
7 user customers, the Accused Instrumentality infringes claim 14 of the '610 Patent. It meets the
8 limitations of claim 13 and also include circuitry for transmitting via at least one of a wireless LAN
9 (WLAN), an IEEE 802 type wireless network, a cellular network, a Bluetooth type wireless network,
10 or a satellite network (*e.g.*, a cellular or Wi-Fi transmitter/receiver). *See* Ex. C-1, Figs. 1-21.
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12 78. When downloaded and installed onto a smart phone as done by Defendant and its end
13 user customers, the Accused Instrumentality infringes claim 18 of the '610 Patent. It meets the
14 limitations of claim 8 and also includes circuitry for transmitting at least one GPS location associated
15 with the display device (*e.g.*, a cellular or Wi-Fi transmitter/receiver). *See* Ex. C-1, Figs. 1-21.
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17 79. When downloaded and installed onto a smart phone as done by Defendant and its end
18 user customers, the Accused Instrumentality infringes claim 21 of the '610 Patent. It meets the
19 limitations of claim 8 and also include circuitry for transmitting a request for the map including one
20 or more locations to a server, the server configured for at least relaying data received from one or
21 more display devices to another of the one or more display devices (*e.g.*, a cellular or Wi-Fi
22 transmitter/receiver which sends data to a server which transmits that data to other devices). *See* Ex.
23 C-1, Figs. 1-21.
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25 80. When downloaded and installed onto a smart phone as done by Defendant and its end
26 user customers, the Accused Instrumentality infringes claim 26 of the '610 Patent. It meets the
27 limitations of claim 8 and also include circuitry for receiving at least one status associated with at
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1 least one location, the at least one status indicating a prior presence at the at least one location by at
2 least one other user. (e.g., a cellular or Wi-Fi transmitter/receiver which receives information
3 associate with the map locations and a previous user’s visit, such as gym Pokémon presence as left by
4 a previous user). See Ex. C-1, Figs. 1-21.

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6 81. As a result of Defendant’s infringement of the ’610 Patent, Plaintiff has suffered
7 monetary damages and is entitled to a money judgment in an amount adequate to compensate for
8 Defendant’s infringement, but in no event less than a reasonable royalty for the use made of the
9 invention by Defendant, together with interest and costs as fixed by the court, and Plaintiff will
10 continue to suffer damages in the future unless Defendant’s infringing activities are enjoined by this
11 Court.

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13 82. Unless a permanent injunction is issued enjoining Defendant and its agents, servants,
14 employees, representatives, affiliates, and all others acting on in active concert therewith from
15 infringing the ’610 Patent, Plaintiff will be greatly and irreparably harmed.

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17 **COUNT VI**
INDUCED INFRINGEMENT OF U.S. PATENT NO. 8,768,610

18 83. Upon information and belief, Defendant has been and is now inducing the
19 infringement by its resellers and end-use customers of claims 8, 9, 10, 11, 13, 14, 18, 21, and 26 of
20 the ’610 Patent in the State of California, in this Judicial District, and elsewhere in the United States,
21 by, among other things, directly or through intermediaries, making, using, importing, selling and/or
22 offering for sale the Accused Instrumentality to the injury of Plaintiff. Defendant’s resellers and end-
23 use customers are directly infringing, literally infringing, and/or infringing the ’610 Patent under the
24 doctrine of equivalents. Defendant is thus liable for infringement of the ’610 Patent pursuant to 35
25 U.S.C. § 271(b).
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1 84. Defendant has and continues to indirectly infringe the '610 Patent by inducing the
2 infringement by its end-users and resellers of claims 8, 9, 10, 11, 13, 14, 18, 21, and 26 of the '610
3 Patent in accordance with 35 U.S.C. 271(b).

4 85. As shown above, Defendant, its resellers, distributors, and end-users of the Accused
5 Instrumentality have engaged in and currently engage in activities that constitute direct infringement
6 of claims 8, 9, 10, 11, 13, 14, 18, 21, and 26 of the '610 Patent.

7 86. As shown above, the operation and use of the by Defendant, its resellers, or end-user
8 customers of the Accused Instrumentality constitutes a direct infringement of claims 8, 9, 10, 11, 13,
9 14, 18, 21, and 26 of the '610 Patent.

10 87. Defendant's affirmative act of selling and/or offering for sale the Accused
11 Instrumentality and providing instruction manuals, advertisement of the infringing features, and
12 support for the Accused Instrumentality have induced and continues to induce Defendant's resellers
13 and end users to use the Accused Instrumentality in its normal and customary way to infringe claims
14 8, 9, 10, 11, 13, 14, 18, 21, and 26 of the '610 Patent. See
15 <https://support.pokemongo.nianticlabs.com/hc/en-us>.

16 88. Through its making, selling, and/or offering for sale the Accused Instrumentality,
17 Defendant specifically intends that its resellers and end-users directly infringe 8, 9, 10, 11, 13, 14, 18,
18 21, and 26 of the '610 Patent. Defendant has had knowledge of the '610 Patent since the filing of the
19 original complaint and actually induces others, such as resellers and end-use customers, to directly
20 infringe by using, selling, supplying, and or distributing the Accused Instrumentality within the
21 United States. Defendant is aware since at least the filing of the original complaint that such actions
22 would induce actual infringement. Furthermore, Defendant remains aware that these normal and
23 customary activities would infringe the '610 Patent.
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1 89. For example, in connection with the sale and/or offering for sale of the Accused
2 Instrumentality, Defendant provides guides and support to resellers and end-use customers regarding
3 the user and operation of the Accused Instrumentality. Specifically, Defendant provides manuals and
4 support, see, e.g., <https://support.pokemongo.nianticlabs.com/hc/en-us>. When end-users follow such
5 instructions and support, the directly infringe the '610 Patent. Defendant knows or should have
6 known that by providing such instructs and support, resellers and end-use customers follow these
7 instructions and support and directly infringe the '610 Patent.

9 90. Accordingly, Defendant has performed and continues to perform acts that constitute
10 indirect infringement, and would induce actual infringement, with the knowledge of the '648 Patent
11 and with the knowledge or willful blindness to the fact that the induced acts would constitute
12 infringement.
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15 **COUNT VII**
16 **INFRINGEMENT OF U.S. PATENT NO. 7,522,996**

17 91. Defendant directly or through intermediaries, makes, uses, offers to sell, or sells
18 software for providing map related data which infringes the '996 Patent, shown in Exhibit D-1.

19 92. Upon information and belief, Defendant has been and is now infringing claims 1, 2, 3,
20 5, 7, 8, 9, 12, 15, 19, 22, 23, 24, 25, and 28 of the '996 Patent in the State of California, in this
21 judicial district, and elsewhere in the United States, by, among other things, directly or through
22 intermediaries, making, using, selling, and/or offering for sale software with map related data,
23 specifically the Accused Instrumentality, covered by one or more claims of the '996 Patent to the
24 injury of Plaintiff. Defendant is directly infringing, literally infringing, and/or infringing the '996
25 Patent under the doctrine of equivalents. Defendant is thus liable for direct infringement of the '996
26 Patent pursuant to 35 U.S.C. § 271(a).
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1 93. The Accused Instrumentality infringes claim 1 of the '996 Patent. It performs a
2 method for providing map-related data, the method comprising: receiving a request for a map display
3 illustrating information relative to one or more locations in a predetermined area (*i.e.*, it receives
4 requests from users for a map including information regarding locations in the area, such as
5 Pokéstops, gym locations, raid events and/or raid timers); determining a status associated with at least
6 one of the locations on the map display; the status being a function of one or more location
7 interaction rules associated with at least one of the locations on the map display (*i.e.*, gym affiliation,
8 level, Pokémon presence, raid presence, and/or raid time); and generating a signal to indicating on the
9 map display the status regarding a permitted traverse or visit that is allowed under an applicable
10 location interaction rule associated with the at least one of the locations on the map display (*e.g.*, it
11 generates a signal which indicates on the map rules such as number of players required for a single or
12 multi-person gym or raid battle, raid presence and/or raid timer, the gym affiliation, and allowed user
13 interaction). *See* Ex. D-1, Figs. 1-12.

14 94. The Accused Instrumentality infringes claim 2 of the '996 Patent. It periodically
15 updates the status associated with the at least one of the locations (*e.g.*, it periodically updates the
16 status associated with the location, such as whether or not a lure has been used, or whether or not a
17 user is allowed to interact with the location) and generate a signal related to indicating on the map
18 display an updated status associated with the at least one of the locations (*e.g.*, it generates a signal
19 which alters the display of the location to reflect an updated status, such as displaying a lure or
20 changing the color of the location). *See* Ex. D-1, Figs. 1-12.

21 95. The Accused Instrumentality infringes claim 3 of the '996 Patent. It receives data from
22 one or more monitoring devices capable of determining a user interaction with the at least one of the
23 locations on the map display (*e.g.*, it receives data from user devices running the Pokémon Go
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1 application which can determine whether the user is allowed to interact with the location). *See* Ex. D-
2 1, Figs. 1-12.

3 96. The Accused Instrumentality infringes claim 5 of the '996 Patent. It interacts with one
4 or more monitoring devices to alter the map display as a function of the location interaction rules as
5 modified by one or more user interaction rules associated with the individual user or group of users
6 (e.g., it interacts with smartphones running the Pokémon Go app to alter the map display as a
7 function of the interaction rules, such as changing the color of a gym to reflect the team in control,
8 placing a lure on a Pokéstop, or changing the Pokémon displayed atop a gym). *See* Ex. D-1, Figs. 1-
9 12.

10 97. The Accused Instrumentality infringes claim 7 of the '996 Patent. It receives an
11 identifier associated with a user in a predefined area (*i.e.*, the user's account), the identifier also
12 associated with one or more applicable user interaction rules regarding the permitted traverse or visit
13 by the user for the at least one of the locations on the map display (e.g., whether or not a user is
14 allowed to access a Pokéstop based on rules associated with the location). *See* Ex. D-1, Figs. 1-12.

15 98. The Accused Instrumentality infringes claim 8 of the '996 Patent. It receives the
16 identifier regarding one or more of a time limit and/or a minimum number of visits and/or a
17 maximum number of visits permitted for the user at the at least one of the locations on the map
18 display (e.g., the user identify is associated with a time limit associated with the last visit to a
19 Pokéstop). *See* Ex. D-1, Figs. 1-12.

20 99. The Accused Instrumentality infringes claim 9 of the '996 Patent. It provides an
21 indication shown on the map display related to whether one or more user interaction rules associated
22 with the identifier affect the map (e.g., the color of a Pokéstop changes to purple to indicate that
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1 interaction with the location is not allowed until the rule associated with the location is met—5
2 minutes has passed). *See* Ex. D-1, Figs. 1-12.

3 100. The Accused Instrumentality infringes claim 12 of the '996 Patent. It receives the
4 request via one or more of a wireless connection and/or a wired connection, the wireless connection
5 including one or more of a wireless LAN (WLAN), an IEEE 802.11, a Bluetooth, and/or a satellite
6 connection (*e.g.*, a Wi-Fi connection). *See* Ex. D-1, Figs. 1-12.

8 101. The Accused Instrumentality infringes claim 15 of the '996 Patent. It generates the
9 signal related to indicating on the map display a progress indication (*e.g.*, the user profile, buddy
10 progress, *etc.*) relating to a motivator for a user of the map display (*e.g.*, the indications displayed to
11 motivate a user to engage more). *See* Ex. D-1, Figs. 1-12.

13 102. The Accused Instrumentality infringes claim 19 of the '996 Patent. It is a signal
14 bearing computer-readable medium (*i.e.*, it includes computer software stored on computer-readable
15 medium) bearing one or more instructions for receiving a request for a map illustrating data
16 information regarding one or more locations in a predefined area (*e.g.*, it contains software modules
17 containing instructions for receiving requests for a map from smartphones running the Pokémon go
18 app), one or more instructions for determining a status associated with at least one of the locations on
19 the map, the status being a function of one or more location interaction rules correlated with one or
20 more user interaction rules applicable to a permitted traverse or visit by an individual user or group of
21 users to least one of the locations on the map (*e.g.*, it contains instructions to determine whether user
22 interaction with the location is allowed under the rule associated with the location is met—5 minutes
23 has passed has a user last visited), and one or more instructions for generating a signal related to
24 indicating the status in accordance with a specific interaction rule associated with the at least one of
25 the locations on the map (*e.g.*, it contains instructions for generating a signal related to the status
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1 according to the rule, such changing the color of a Pokéstop to reflect whether interact is allowed
2 based on the time rules). *See* Ex. D-1, Figs. 1-12.

3 103. The Accused Instrumentality infringes claim 22 of the '996 Patent. It contains one or
4 more instructions for periodically updating the status in accordance with the specific interaction rule
5 associated with the at least one of the one or more locations (*e.g.*, it contains instructions which
6 periodically updates the status associated with the location, such as whether or not a lure has been
7 used, or whether or not a user is allowed to interact with the location); and one or more instructions
8 for generating a signal related to indicating on the map an updated status in accordance with the
9 specific interaction rule associated with the at least one of the one or more locations (*e.g.*, it contains
10 instructions which generate a signal indicating the status associated with the location, such as whether
11 or not a lure has been used, or whether or not a user is allowed to interact with the location). *See* Ex.
12 D-1, Figs. 1-12.

13 104. The Accused Instrumentality infringes claim 23 of the '996 Patent. It contains one or
14 more instructions for maintaining a copy of the map at a location independent of a user of the map
15 (*e.g.*, copies of the map are maintained on the server, a location which is independent of the user). *See*
16 Ex. D-1, Figs. 1-12.

17 105. The Accused Instrumentality infringes claim 24 of the '996 Patent. It contains one or
18 more instructions for receiving an identifier associated with a user in the predefined area (*e.g.*, the
19 user's account), the identifier associated with the one or more user interaction rules for the at least
20 one location of the one or more locations on the map (*e.g.*, whether or not a user is allowed to access
21 a Pokéstop based on rules associated with the location). *See* Ex. D-1, Figs. 1-12.

22 106. The Accused Instrumentality infringes claim 25 of the '996 Patent. It contains one or
23 more instructions for receiving an identifier associated with an interaction rule that includes a time
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1 limit at the at least one location, and/or a minimum number of user visits and/or maximum number of
2 user visits permitted for the at least one location (*e.g.*, the user identify is associated with a time limit
3 associated with the last visit to a Pokéstop). *See* Ex. D-1, Figs. 1-12.

4 107. The Accused Instrumentality infringes claim 28 of the '996 Patent. It contains one or
5 more instructions for generating a signal related to illustrating location detail for the at least one of
6 the one or more locations, the location detail shown being a function of the status (*e.g.*, it contains
7 instructions for generating a signal related to the status of the location, such as which team controls a
8 gym, the Pokémon in the gym, the precedence of a lure, or whether or not the user is allowed to visit
9 the location given the time limits on interaction). *See* Ex. D-1, Figs. 1-12.

10 108. As a result of Defendant's infringement of the '996 Patent, Plaintiff has suffered
11 monetary damages and is entitled to a money judgment in an amount adequate to compensate for
12 Defendant's infringement, but in no event less than a reasonable royalty for the use made of the
13 invention by Defendant, together with interest and costs as fixed by the court, and Plaintiff will
14 continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this
15 Court.
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19 109. Unless a permanent injunction is issued enjoining Defendant and its agents, servants,
20 employees, representatives, affiliates, and all others acting on in active concert therewith from
21 infringing the '996 Patent, Plaintiff will be greatly and irreparably harmed.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff respectfully requests that this Court enter:

- 24 1. A judgment in favor of Plaintiff that Defendant has infringed the Patents-in-
25 Suit;
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2. a permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing the infringement of, or contributing to the infringement of the Patents-in-Suit, or such other equitable relief the Court determines is warranted;

3. a judgment and order requiring Defendant pay to Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant’s infringement of the Patents-in-Suit as provided under 35 U.S.C. § 284, and an accounting of ongoing post-judgment infringement; and

4. any and all other relief, at law or equity, to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

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Dated: August 20, 2017

By: /s/ Kris S. LeFan
Kris S. LeFan

**Attorney for Plaintiff
Location Based Services, LLC**

CERTIFICATE OF SERVICE

I certify that all counsel of record is being served on August 20, 2017, with a copy of this document via the Court’s CM/ECF system.

/s/ Kris S. LeFan

KRIS S. LEFAN