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11 Supercell Oy

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 SUPERCCELL OY,
16 Plaintiff,
17 v.
18 GREE, INC.,
19 Defendant.

Case No.: 3:19-cv-01106-JCS
**FIRST AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT
REGARDING PATENT NON-
INFRINGEMENT AND INVALIDITY;
BREACH OF CONTRACT**

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23 **Public Redated Version of Document**
24 **Sought To Be Sealed**
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1 Pursuant to Federal Rule of Civil Procedure 15(a), Plaintiff Supercell Oy (“Supercell”)
2 files this First Amended Complaint against Defendant GREE, Inc. (“GREE” or “Defendant”) and
3 alleges the following:

4 **NATURE OF THE ACTION**

5 1. This is an action for a declaratory judgment relating to U.S. Patent Nos. 9,597,594
6 (the “’594 patent”); 9,636,583 (the “’583 patent”); 9,770,659 (the “’659 patent”); 9,956,481 (the
7 “’481 patent”); 9,604,137 (the “’137 patent”) 9,968,843 (the “’843 patent”); 9,457,273 (the “’273
8 patent”); 9,795,873 (the “’873 patent”); and U.S. Patent No. 9,774,655 (the “’655 patent”)
9 (collectively the “patents-in-suit”) arising under the Declaratory Judgment Act, 28 U.S.C. §§
10 2201 and, 2202, and the patent laws of the United States, including Title 35, United States Code.
11 Specifically, Supercell seeks a declaratory judgment of non-infringement as to the ’594, ’583,
12 ’659, ’481, ’137, ’843, ’273, ’873, and ’655 patents. Supercell also seeks a declaratory judgment
13 of invalidity as to the ’594, ’583, and ’659 patents.

14 2. A dispute exists between Supercell and GREE. GREE has alleged that Supercell’s
15 Clash of Clans game infringes a Japanese patent to which the ’594 patent claims priority,
16 Supercell’s Clash Royale game infringes Japanese patents to which the ’583, ’659, ’481, ’137,
17 and ’273 patents claim priority, Supercell’s Boom Beach game infringes a Japanese patent to
18 which the ’843 patent claims priority, and Supercell’s Brawl Stars game infringes the ’873 patent.
19 GREE has also alleged that Supercell’s Clash Royale game infringes the ’655 patent. Supercell
20 contends that it has the right to engage in this activity without license. Supercell thus seeks a
21 declaration that it does not infringe the patents-in-suit and that certain patents are invalid, as noted
22 above. An actual, substantial, and continuing justiciable controversy exists between Supercell
23 and GREE.

24 3. This is an action for breach of contract [REDACTED]

25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

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4. [REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

The '873 patent was filed on December 13, 2016 and issued October 27, 2017. Brawl Stars was released globally December 12, 2018, and previously had been released in several countries, including Canada, as early as June 2017. [REDACTED]

6. [REDACTED]

[REDACTED]

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7. [REDACTED]

[REDACTED] GREE's February 27, 2019 patent litigation actions include: *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00070-JRG (asserting the '137 patent, the '481 patent, the '655 patent, and the '873 patent against Supercell's Clash Royale game); *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00071-JRG (asserting the '594 patent against Supercell's Clash of Clans game); and *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00072-JRG (asserting the '583 patent and the '659 patent against Supercell's Clash Royale game). The declaratory judgment action is thus part and parcel of the breach of contract action, and arises out of GREE's breach of the Agreement. GREE, by refusing and failing to follow the express and agreed upon terms of the Agreement, left Supercell with no choice but to file a declaratory judgment action.

PARTIES

8. Supercell Oy is a corporation organized under the laws of Finland, with a principal place of business at Itämerenkatu 11-13, Helsinki, Uusimaa, 00180, Finland. Supercell maintains its principal U.S. office at 555 California St., San Francisco, California, 94104.

9. On information and belief Defendant GREE, Inc. is a corporation organized under the laws of Japan with a principal place of business at 6-10-1, Roppongi, Roppongi Hills Mori Tower Minato-Ku, Tokyo, Japan.

JURISDICTION AND VENUE

10. Supercell hereby restates and re-alleges the allegations set forth in paragraphs 1 through 9.

11. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202; the patent laws of the United States, 35 U.S.C. § 1 et seq.; and as a breach of contract [REDACTED]

12. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1367, 1338(a), 2201, and 2202.

13. Subject matter jurisdiction is proper over the breach of contract claims as the breach of contract arises from the same case or controversy as the claims arising under to 28

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1 U.S.C. §§ 1331, 1338(a), 2201, and 2202. Supercell and GREE entered into a valid contract in
2 which both Parties agreed [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 [REDACTED] Supercell does not believe that it infringes any of GREE’s
6 patents. Supercell has conveyed this belief to GREE. [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 14. Personal jurisdiction over Defendant is proper in this District. [REDACTED]

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 15. Personal jurisdiction over Defendant is proper in this District because it has
21 availed itself of the rights and benefits of the laws of California. On May 17, 2018, GREE
22 admitted in a pleading to this Court that it “transact[s] and conduct[s] business in this District and
23 the State of California, and [is] subject to the personal jurisdiction of this Court.” *See Supercell*
24 *Oy v. GREE, Inc.*, 4:17-cv-05556-YGR, Dkt. No. 65, ¶10 (N.D. Cal. May 17, 2017). GREE
25 further admitted that this Court has personal jurisdiction over GREE, Inc. and several of its
26 subsidiaries. *Id.* at ¶¶10-14, 16-17. On information and belief, GREE, by and through its
27 affiliates and subsidiaries, including GREE VR Capital, LLC, GREE International Entertainment,
28 Inc., and Funzio Games, Inc., maintains or maintained offices in the Northern District of

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1 California at 1350 Bayshore Highway, Suite 920, Burlingame, California 94010, 185 Berry
2 Street, San Francisco, California 94107, and 642 Harrison Street, San Francisco, California
3 94107.

4 16. Personal jurisdiction over Defendant is proper in this District because Defendant
5 has chosen to conduct business relating to the licensing and enforcement activities of its U.S. and
6 world-wide patent portfolio within the Northern District of California. On September 12, 2016,
7 GREE sent a letter seeking to enforce its rights in U.S. Patent Application 14/983,984 (which
8 issued as the '594 patent) to Supercell, whose main U.S. location is within this District. Further,
9 GREE specifically chose counsel located within this District to represent its efforts relating to the
10 licensing and enforcement of GREE's patent portfolio. GREE's lead counsel for negotiating the
11 Agreement at issue in this litigation is located within the Northern District of California. [REDACTED]

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 [REDACTED] Furthermore, GREE retained counsel located in the Northern District of
23 California to represent it in post-grant review actions relating to the validity of the '594, '583, and
24 '659 patents, each of which claim priority to patents identified in demand letters GREE sent to
25 Supercell. Finally, on information and belief, GREE sent a representative from its Tokyo
26 headquarters to attend a mediation between GREE and Supercell in the case *Supercell Oy v.*
27 *GREE, Inc.*, 4:17-cv-05556-YGR, Dkt. No. 65, ¶10 (N.D. Cal. May 17, 2017), which took place
28 in San Francisco, California.

1 17. Personal jurisdiction over Defendant is proper in this District because it has
2 systematic and continuous business contacts with California. GREE has systematic and
3 continuous business contacts with the state through its distribution of mobile game applications
4 through third-party distributors located in this district to users located within this district. GREE,
5 by and through its affiliates and subsidiaries, including GREE VR Capital, LLC, GREE
6 International Entertainment, Inc., Fantasy Legend Studios, Inc., and Funzio Games, Inc.,
7 maintains or maintained offices in the Northern District of California at 1350 Bayshore Highway,
8 Suite 920, Burlingame, California 94010, 185 Berry Street, San Francisco, California 94107, and
9 642 Harrison Street, San Francisco, California 94107.

10 18. Venue is proper in this district under 28 U.S.C. § 1391(b) because GREE is subject
11 to personal jurisdiction in this judicial district, [REDACTED]

12 [REDACTED]
13 [REDACTED] and GREE has directed its business activities at this judicial district, which GREE
14 admitted in a pleading to this Court. In addition, GREE has directed licensing and enforcement
15 activities at this judicial district, and a substantial part of events giving rise to the claim occurred
16 in this judicial district. As noted above, GREE sent a letter seeking to enforce its rights in U.S.
17 Patent Application 14/983,984 (which issued as the '594 patent) to Supercell, whose main U.S.
18 location is within this District. Further, GREE specifically chose counsel located within this
19 District to lead its efforts relating to the licensing and enforcement of GREE's patent portfolio,
20 [REDACTED] and defend the validity of patents at issue in this
21 case before the Patent Trial and Appeal Board. Further, on information and belief, GREE sent a
22 representative from its Tokyo headquarters to attend a mediation between GREE and Supercell in
23 the case *Supercell Oy v. GREE, Inc.*, 4:17-cv-05556-YGR, Dkt. No. 65, ¶10 (N.D. Cal. May 17,
24 2017), which took place in San Francisco, California. Finally, on information and belief, GREE,
25 by and through its affiliates and subsidiaries, including GREE VR Capital, LLC, GREE
26 International Entertainment, Inc., and Funzio Games, Inc., maintains or maintained offices in the
27 Northern District of California at 1350 Bayshore Highway, Suite 920, Burlingame, California
28

1 94010, 185 Berry Street, San Francisco, California 94107, and 642 Harrison Street, San
2 Francisco, California 94107.

3 **INTRADISTRICT ASSIGNMENT**

4 19. Pursuant to Civil L.R. 3-2(c), this action is to be assigned on a district-wide basis
5 because it is an intellectual property action.

6 **FACTUAL BACKGROUND**

7 20. Supercell hereby restates and re-alleges the allegations set forth in paragraphs 1
8 through 19.

9 21. On March 21, 2017, the United States Patent and Trademark Office (“USPTO”)
10 issued the ’594 patent entitled “Computer Control Method, Control Program and Computer.” The
11 ’594 patent states on its face that it was filed on December 30, 2015 and that it was assigned to
12 GREE, Inc. The ’594 patent claims priority to Japanese Patent Application 2013-202721, which
13 GREE identified as being infringed by Supercell’s Clash of Clans game. A true and correct copy
14 of the ’594 patent is attached to this Complaint as Exhibit C.

15 22. On May 2, 2017, the USPTO issued the ’583 patent entitled “Storage Medium
16 Storing Game Program, Game Processing Method, And Information Processing Apparatus.” The
17 ’583 patent states on its face that it was filed on Sept. 1, 2016 and that it was assigned to GREE,
18 Inc. The ’583 patent claims priority to Japanese Patent Application 2013-116039, which GREE
19 identified as being infringed by Supercell’s Clash Royale game. A true and correct copy of the
20 ’583 patent is attached to this Complaint as Exhibit D.

21 23. On September 26, 2017, the USPTO issued the ’659 patent entitled “Storage
22 Medium Storing Game Program, Game Processing Method, And Information Processing
23 Apparatus.” The ’659 patent states on its face that it was filed on Dec. 27, 2016 and that it was
24 assigned to GREE, Inc. The ’659 patent claims priority to Japanese Patent Application 2013-
25 116039, which GREE identified as being infringed by Supercell’s Clash Royale game. A true
26 and correct copy of the ’659 patent is attached to this Complaint as Exhibit E.

27 24. On May 1, 2018, the USPTO issued the ’481 patent entitled “Server, Control
28 Method Therefor, Computer-Readable Recording Medium, and Game System.” The ’481 patent

1 states on its face that it was filed on Dec. 27, 2016 and that it was assigned to GREE, Inc. The
 2 '481 patent claims priority to Japanese Patent Application 2013-042162, which GREE identified
 3 as being infringed by Supercell's Clash Royale game. A true and correct copy of the '481 patent
 4 is attached to this Complaint as Exhibit F.

5 25. On March 28, 2017, the USPTO issued the '137 patent entitled "Server, Control
 6 Method Therefor, Computer-Readable Recording Medium, and Game System." The '137 patent
 7 states on its face that it was filed on Nov. 2, 2015 and that it was assigned to GREE, Inc. The
 8 '137 patent claims priority to Japanese Patent Application 2013-042162, which GREE identified
 9 as being infringed by Supercell's Clash Royale game. A true and correct copy of the '137 patent
 10 is attached to this Complaint as Exhibit G.

11 26. On May 15, 2018, the USPTO issued the '843 patent entitled "Communication
 12 System, Method for Controlling Communication System, and Program." The '843 patent states
 13 on its face that it was filed on Jan 24, 2014 and that it was assigned to GREE, Inc. The '843
 14 patent claims priority to Japanese Patent Application 2013-017917, which GREE identified as
 15 being infringed by Supercell's Boom Beach game. A true and correct copy of the '843 patent is
 16 attached to this Complaint as Exhibit H.

17 27. On October 4, 2016, the USPTO issued the '273 patent entitled "Storage Medium
 18 Storing Game Program, Game Processing Method, and Information Processing Apparatus." The
 19 '273 patent states on its face that it was filed on May 30, 2014 and that it was assigned to GREE,
 20 Inc. The '273 patent claims priority to Japanese Patent Application 2013-116039, which GREE
 21 identified as being infringed by Supercell's Clash Royale game. A true and correct copy of the
 22 '273 patent is attached to this Complaint as Exhibit I.

23 28. On October 24, 2017, the USPTO issued the '873 patent entitled "Shooting Game
 24 Control Method and Game System." The '873 patent states on its face that it was filed on
 25 December 13, 2016 and that it was assigned to GREE, Inc. [REDACTED]

26 [REDACTED]
 27 [REDACTED] A true and correct copy of the '873
 28 patent is attached to this Complaint as Exhibit P.

1 29. On September 26, 2017, the USPTO issued the '655 patent entitled "Server and
2 Method for Transferring an Object Between Users in a Service Provided by the Server." The
3 '655 patent states on its face that it was filed as PCT Application No. PCT/JP2013/075047 on
4 September 17, 2013 and that it was assigned to GREE, Inc. [REDACTED]

5 [REDACTED]
6 [REDACTED] A true and correct copy of
7 the '655 patent is attached to this Complaint as Exhibit Q.

8 30. On February 27, 2019, GREE filed three separate patent infringement actions
9 against Supercell in the U.S. District Court for the Eastern District of Texas, including: *GREE,*
10 *Inc. v. Supercell OY*, Case No. 2:19-cv-00070-JRG (identifying the '655 patent to Supercell, and
11 asserting it and the '137 patent, the '481 patent, and the '873 patent against Supercell's Clash
12 Royale game); *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00071-JRG (asserting the '594
13 patent against Supercell's Clash of Clans game); and *GREE, Inc. v. Supercell OY*, Case No. 2:19-
14 cv-00072-JRG (asserting the '583 patent and the '659 patent against Supercell's Clash Royale
15 game). A true and correct copy of GREE's Complaint filed in *GREE, Inc. v. Supercell OY*, Case
16 No. 2:19-cv-00070-JRG is attached to this Complaint as Exhibit R. A true and correct copy of
17 GREE's Complaint filed in *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00071-JRG is attached
18 to this Complaint as Exhibit S. A true and correct copy of GREE's Complaint filed in *GREE, Inc.*
19 *v. Supercell OY*, Case No. 2:19-cv-00072-JRG is attached to this Complaint as Exhibit T. GREE
20 is the owner of all right, title, and interest in the patents-in-suit.

21 31. There is an actual controversy within the jurisdiction of this Court under 28 U.S.C.
22 §§2201 and 2202 as to each of the patents-in-suit.

23 32. On September 12, 2016, Naoki Yoshida from the law firm of Finnegan,
24 Henderson, Farabow, Garrett & Dunner, LLP, former counsel for GREE, Inc., sent a letter to
25 Iikka Paananen, CEO of Supercell Oy. In the September 12 letter, GREE identified and asserted
26 it is the legal owner of 19 Japanese patents and U.S. Patent Application 14/983,984. The letter
27 further notes "GREE owns patent applications currently pending in Japan, Europe, the U.S., and
28 other countries, that are directed to on-line gaming products and plan to file more applications to

1 protect its invention in the technical area.” GREE further stated, “It has come to GREE’s
2 attention that Supercell is currently distributing at least four mobile game products worldwide:
3 ‘Boom Beach,’ ‘Clash of Clans,’ ‘Clash Royale,’ and ‘Hay Day.’ Upon review of the products,
4 GREE believes that these products may infringe one or more of GREE’s patents and may be
5 encompassed by the allowed claims of the U.S. patent application.” GREE further asserted
6 “GREE would rather reach a reasonable agreement with Supercell than to take on a patent fight;
7 however, GREE is willing to take that fight on if this cannot be accomplished.” Exhibit J.

8 33. On October 6, 2016, Michael Sacksteder of Fenwick & West LLP, attorneys for
9 Supercell, responded to the September 12 letter, and directed GREE to correspond with Mr.
10 Sacksteder going forward. Exhibit K.

11 34. On October 14, 2016, Mr. Yoshida representing GREE, wrote a letter to Mr.
12 Sacksteder for Supercell. In the October 14 letter, GREE provided Supercell with “exemplary
13 claim charts including English translations of GREE’s Japanese patent claims.” GREE further
14 asserted, “In addition to the claims in the [exemplary claim charts], we believe that other claims
15 in GREE’s patents are infringed by one or more of the Supercell products.” Exhibit L.

16 35. On December 21, 2016, Hiroyuki Hagiwara from Paul Hastings LLP, new counsel
17 for GREE, wrote an email to Mr. Sacksteder for Supercell seeking to arrange a phone call “to
18 discuss GREE’s terms for licensing.” Exhibit M.

19 36. On December 22, 2016, Mr. Hagiwara and Mr. Sacksteder spoke on the phone
20 regarding GREE’s terms for licensing GREE’s patents. Mr. Hagiwara followed the December 22
21 phone call with an email on December 22, 2016 to Mr. Sacksteder. Mr. Hagiwara attached two
22 documents to the email that comprised “a list of GREE patents GREE is currently prepared to
23 license and a set of additional claim charts.” The list of GREE patents and patent applications
24 identified Supercell’s games as “Related products” corresponding to GREE’s patents and patent
25 applications. Exhibit N.

26 37. The “list of GREE patents GREE is currently prepared to license” included
27 Japanese patent applications to which each of the patents-in-suit claim priority. *Id.*

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1 38. Starting in 2017, GREE initiated a patent monetization litigation campaign in
2 Japan. In 2017 and 2018, GREE filed more than 30 preliminary injunction and formal patent
3 infringement actions against Supercell in Japan.

4 39. In response, Supercell filed patent infringement actions against GREE and its
5 subsidiaries in Japan, China, and the United States. Supercell also filed 16 petitions for post-
6 grant review, nine of which have been instituted. Post-grant review petitions have been instituted
7 as to all claims of the '594, '583, and '659 patents. The Patent Trial and Appeal Board found
8 claims 1, 8, and 10–20 of the '594 patent unpatentable under 35 U.S.C. § 101, and found that the
9 petitioner had not shown claims 2–7 and 9 to be unpatentable under § 101. The Patent Trial and
10 Appeal Board has not issued a final written decision as to the '583 and '659 patent.

11 40. GREE filed patent invalidity actions against Supercell in China and filed two
12 petitions for *inter partes* review in the United States.

13 41. [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 42. [REDACTED]
18 [REDACTED]

19 43. [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

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1 44. [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 45. [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 46. [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 47. [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 48. [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 49. [REDACTED]
24 [REDACTED]
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26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 50. [REDACTED]
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10 [REDACTED]
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12 51. [REDACTED]
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26 52. [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 53. [REDACTED]

6 [REDACTED] GREE commenced three separate patent

7 infringement actions against Supercell in the U.S. District Court for the Eastern District of Texas

8 on February 27, 2019: *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00070-JRG (asserting the

9 '137 patent, the '481 patent, the '655 patent, and the '873 patent against Supercell's Clash Royale

10 game); *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00071-JRG (asserting the '594 patent

11 against Supercell's Clash of Clans game); and *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-

12 00072-JRG (asserting the '583 patent and the '659 patent against Supercell's Clash Royale

13 game).

14 54. [REDACTED]

15 [REDACTED]

16 55. [REDACTED]

17 56. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 57. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 58. [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 59. [REDACTED]

27 [REDACTED]

28 [REDACTED]

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1 60. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 61. Supercell does not infringe the patents-in-suit, and the '594, '583, and '659 are
 7 invalid under 35 U.S.C. §§ 101, 102, 103 and/or 112. For example, the '594 patent is anticipated
 8 or rendered obvious by various printed publications describing prior art games such as *StarCraft*
 9 *II*, *Civilization IV*, and/or *Clash of Clans*; and, the '583 and '659 patents are anticipated or
 10 rendered obvious by various printed publications describing prior art games such as *Kings and*
 11 *Legends*, *Yu-Gi-Oh: The Duelist of Roses*, and/or *Genpei-Taisen*.

12 62. On information and belief, GREE may believe Supercell infringes other patents in
 13 its patent portfolio. [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 63. Based on the foregoing, a justiciable controversy exists between Supercell and
 18 GREE as to whether Supercell infringes the patents-in-suit and whether the claims of the '594,
 19 '583, and '659 patents are valid. Absent a declaration of noninfringement, invalidity, or release
 20 of all claims, GREE will continue to wrongly assert the patents-in-suit against Supercell, and
 21 thereby cause Supercell irreparable harm.

22 **COUNT I: DECLARATORY RELIEF REGARDING**
 23 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,597,594**

24 64. Supercell restates and incorporates by reference each of the allegations set forth in
 25 paragraphs 1 through 63 above, as if fully set forth herein.

26 65. GREE contends that Supercell has or is infringing one or more claims of the '594
 27 patent.

28

1 pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101,
2 102, 103, and/or 112.

3 **COUNT III: DECLARATORY RELIEF REGARDING**
4 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,636,583**

5 76. Supercell restates and incorporates by reference each of the allegations set forth in
6 paragraphs 1 through 75 above, as if fully set forth herein.

7 77. GREE contends that Supercell has or is infringing one or more claims of the '583
8 patent.

9 78. On information and belief, GREE claims to be the owner of all right, title and
10 interest in the '583 patent, including the right to assert all causes of action arising under that
11 patent and the right to any remedies for infringement of it.

12 79. Supercell does not infringe any claim of the '583 patent, directly or indirectly,
13 contributorily or otherwise, through its or its customer's activities in conjunction with any of
14 Supercell's products or services.

15 80. As set forth above, an actual and justiciable controversy exists between Supercell
16 and GREE as to Supercell's noninfringement of the '583 patent.

17 81. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
18 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
19 theory of infringement, any valid claim of the '583 patent.

20 **COUNT IV: DECLARATORY RELIEF REGARDING**
21 **INVALIDITY OF U.S. PATENT NO. 9,636,583**

22 82. Supercell restates and incorporates by reference each of the allegations set forth in
23 paragraphs 1 through 81 above, as if fully set forth herein.

24 83. Upon information and belief, GREE contends all claims of the '583 patent are
25 valid.

26 84. All claims of the '583 patent are invalid for failure to comply with one or more of
27 the conditions for patentability set forth in Title 35 of the United States Code, including without
28 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

1 85. For example, the '583 patent is anticipated or rendered obvious by various printed
2 publications describing prior art games such as *Kings and Legends*, *Yu-Gi-Oh: The Duelist of*
3 *Roses*, and/or *Genpei-Taisen*.

4 86. As set forth above, an actual and justiciable controversy exists between Supercell
5 and GREE as to Supercell's noninfringement and the invalidity of the '583 patent.

6 87. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
7 Supercell requests that this Court enter a judgment that all claims of the '583 patent are invalid
8 pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101,
9 102, 103, and/or 112.

10 **COUNT V: DECLARATORY RELIEF REGARDING**
11 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,770,659**

12 88. Supercell restates and incorporates by reference each of the allegations set forth in
13 paragraphs 1 through 87 above, as if fully set forth herein.

14 89. GREE contends that Supercell has or is infringing one or more claims of the '659
15 patent.

16 90. On information and belief, GREE claims to be the owner of all right, title and
17 interest in the '659 patent, including the right to assert all causes of action arising under that
18 patent and the right to any remedies for infringement of it.

19 91. Supercell does not infringe any claim of the '659 patent, directly or indirectly,
20 contributorily or otherwise, through its or its customer's activities in conjunction with any of
21 Supercell's products or services.

22 92. As set forth above, an actual and justiciable controversy exists between Supercell
23 and GREE as to Supercell's noninfringement of the '659 patent.

24 93. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
25 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
26 theory of infringement, any valid claim of the '659 patent.

**COUNT VI: DECLARATORY RELIEF REGARDING
INVALIDITY OF U.S. PATENT NO. 9,770,659**

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3 94. Supercell restates and incorporates by reference each of the allegations set forth in
4 paragraphs 1 through 91 above, as if fully set forth herein.

5 95. Upon information and belief, GREE contends all claims of the '659 patent are
6 valid.

7 96. All claims of the '659 patent are invalid for failure to comply with one or more of
8 the conditions for patentability set forth in Title 35 of the United States Code, including without
9 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

10 97. For example, the '659 patent is anticipated or rendered obvious by various printed
11 publications describing prior art games such as *Kings and Legends*, *Yu-Gi-Oh: The Duelist of*
12 *Roses*, and/or *Genpei-Taisen*.

13 98. As set forth above, an actual and justiciable controversy exists between Supercell
14 and GREE as to Supercell's noninfringement and the invalidity of the '659 patent.

15 99. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
16 Supercell requests that this Court enter a judgment that all claims of the '659 patent are invalid
17 pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101,
18 102, 103, and/or 112.

19 **COUNT VII: DECLARATORY RELIEF REGARDING
20 NON-INFRINGEMENT OF U.S. PATENT NO. 9,956,481**

21 100. Supercell restates and incorporates by reference each of the allegations set forth in
22 paragraphs 1 through 99 above, as if fully set forth herein.

23 101. GREE contends that Supercell has or is infringing one or more claims of the '481
24 patent.

25 102. On information and belief, GREE claims to be the owner of all right, title and
26 interest in the '481 patent, including the right to assert all causes of action arising under that
27 patent and the right to any remedies for infringement of it.
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1 103. Supercell does not infringe any claim of the '481 patent, directly or indirectly,
2 contributorily or otherwise, through its or its customer's activities in conjunction with any of
3 Supercell's products or services.

4 104. As set forth above, an actual and justiciable controversy exists between Supercell
5 and GREE as to Supercell's noninfringement of the '481 patent.

6 105. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
7 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
8 theory of infringement, any valid claim of the '481 patent.

9 **COUNT VIII: DECLARATORY RELIEF REGARDING**
10 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,604,137**

11 106. Supercell restates and incorporates by reference each of the allegations set forth in
12 paragraphs 1 through 105 above, as if fully set forth herein.

13 107. GREE contends that Supercell has or is infringing one or more claims of the '137
14 patent.

15 108. On information and belief, GREE claims to be the owner of all right, title and
16 interest in the '137 patent, including the right to assert all causes of action arising under that
17 patent and the right to any remedies for infringement of it.

18 109. Supercell does not infringe any claim of the '137 patent, directly or indirectly,
19 contributorily or otherwise, through its or its customer's activities in conjunction with any of
20 Supercell's products or services.

21 110. As set forth above, an actual and justiciable controversy exists between Supercell
22 and GREE as to Supercell's noninfringement of the '137 patent.

23 111. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
24 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
25 theory of infringement, any valid claim of the '137 patent.

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**COUNT IX: DECLARATORY RELIEF REGARDING
NON-INFRINGEMENT OF U.S. PATENT NO. 9,968,843**

112. Supercell restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 111 above, as if fully set forth herein.

113. GREE contends that Supercell has or is infringing one or more claims of the '843 patent.

114. On information and belief, GREE claims to be the owner of all right, title and interest in the '843 patent, including the right to assert all causes of action arising under that patent and the right to any remedies for infringement of it.

115. Supercell does not infringe any claim of the '843 patent, directly or indirectly, contributorily or otherwise, through its or its customer's activities in conjunction with any of Supercell's products or services.

116. As set forth above, an actual and justiciable controversy exists between Supercell and GREE as to Supercell's noninfringement of the '843 patent.

117. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Supercell requests that this Court enter a judgment that Supercell does not infringe under any theory of infringement, any valid claim of the '843 patent.

**COUNT X: DECLARATORY RELIEF REGARDING
NON-INFRINGEMENT OF U.S. PATENT NO. 9,457,273**

118. Supercell restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 118 above, as if fully set forth herein.

119. GREE contends that Supercell has or is infringing one or more claims of the '273 patent.

120. On information and belief, GREE claims to be the owner of all right, title and interest in the '273 patent, including the right to assert all causes of action arising under that patent and the right to any remedies for infringement of it.

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1 121. Supercell does not infringe any claim of the '273 patent, directly or indirectly,
2 contributorily or otherwise, through its or its customer's activities in conjunction with any of
3 Supercell's products or services.

4 122. As set forth above, an actual and justiciable controversy exists between Supercell
5 and GREE as to Supercell's noninfringement of the '273 patent.

6 123. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
7 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
8 theory of infringement, any valid claim of the '273 patent.

9 **COUNT XI: DECLARATORY RELIEF REGARDING**
10 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,457,873**

11 124. Supercell restates and incorporates by reference each of the allegations set forth in
12 paragraphs 1 through 124 above, as if fully set forth herein.

13 125. GREE contends that Supercell has or is infringing one or more claims of the '873
14 patent.

15 126. On information and belief, GREE claims to be the owner of all right, title and
16 interest in the '873 patent, including the right to assert all causes of action arising under that
17 patent and the right to any remedies for infringement of it.

18 127. Supercell does not infringe any claim of the '873 patent, directly or indirectly,
19 contributorily or otherwise, through its or its customer's activities in conjunction with any of
20 Supercell's products or services.

21 128. As set forth above, an actual and justiciable controversy exists between Supercell
22 and GREE as to Supercell's noninfringement of the '873 patent.

23 129. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
24 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
25 theory of infringement, any valid claim of the '873 patent.

26 **COUNT XII: BREACH OF CONTRACT**

27 130. Supercell restates and incorporates by reference each of the allegations set forth in
28 paragraphs 1 through 129 above, as if fully set forth herein.

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1 131. [REDACTED]

2 [REDACTED]

3 132. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 133. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 134. [REDACTED]

15 [REDACTED]

16 135. [REDACTED]

17 [REDACTED]

18 136. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 137. [REDACTED]

22 filing three separate patent infringement suits against Supercell in the U.S. District Court for the
23 Eastern District of Texas on February 27, 2019, [REDACTED]

24 138. As a result of Defendant’s breach, Plaintiff has suffered damages, which continue
25 to accrue, in an amount to be proven at trial.

26 139. Plaintiff has been damaged in the form of in the form of loss of trade, commerce,
27 opportunity and goodwill, which are impossible to quantify.

28

1 140. [REDACTED] GREE's breach has materially and
2 irreparably harmed Plaintiffs; money damages shall accordingly not be an adequate remedy, and
3 Plaintiffs are entitled to injunctive relief in order to enforce and prevent violations of the
4 Agreement.

5 **COUNT XIII: DECLARATORY RELIEF REGARDING**
6 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,774,655**

7 141. Supercell restates and incorporates by reference each of the allegations set forth in
8 paragraphs 1 through 140 above, as if fully set forth herein.

9 142. GREE contends that Supercell has or is infringing one or more claims of the '655
10 patent.

11 143. On information and belief, GREE claims to be the owner of all right, title and
12 interest in the '655 patent, including the right to assert all causes of action arising under that
13 patent and the right to any remedies for infringement of it.

14 144. Supercell does not infringe any claim of the '655 patent, directly or indirectly,
15 contributorily or otherwise, through its or its customer's activities in conjunction with any of
16 Supercell's products or services.

17 145. As set forth above, an actual and justiciable controversy exists between Supercell
18 and GREE as to Supercell's noninfringement of the '655 patent.

19 146. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
20 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
21 theory of infringement, any valid claim of the '655 patent.

22 **DEMAND FOR JURY TRIAL**

23 147. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Supercell hereby
24 demands trial by jury of all issues so triable.
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PRAYER FOR RELIEF

148. WHEREFORE, Supercell respectfully requests that this Court enter judgment in its favor and against GREE as follows:

149. Judgment in favor of Supercell and against GREE on all causes of action alleged in this Complaint;

A. For a judicial determination and declaration that Supercell has not infringed and is not infringing, directly or indirectly, any claim of the patents-in-suit;

B. For a judicial determination and declaration that each claim of U.S. Patent Nos. 9,597,594; 9,636,583; and 9,770,659 is invalid;

C. For injunctive relief against GREE, and all persons acting on its behalf or in concert with it, restraining them from further prosecuting or instituting any action against Supercell or Supercell’s customers claiming that the patents-in-suit are infringed or that the U.S. Patent Nos. 9,597,594; 9,636,583; and 9,770,659 are valid, or for representing that Supercell’s products or services, or that others’ use thereof, infringe the patents-in-suit;

D. For injunctive relief against GREE, enjoining GREE from filing any patent infringement action against Supercell [REDACTED]

E. For injunctive relief against GREE, and all persons acting on its behalf or in concert with it, from maintaining or prosecuting the following actions filed on February 27, 2019 [REDACTED] *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00070-JRG; *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00071-JRG; and *GREE, Inc. v. Supercell OY*, Case No. 2:19-cv-00072-JRG.

F. For an order finding that this is an exceptional case under 35 U.S.C. § 285 and awarding relief, including reasonable attorneys’ fees, costs, and expenses;

G. For recovery of actual and compensatory damages, according to proof at trial;

H. For an award of restitution, according to proof at trial;

I. For an award of punitive damages, according to proof at trial;

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1 J. For an award of costs, expenses and reasonable attorneys' fees incurred by
2 Plaintiff in bringing and prosecuting this Complaint;

3 K. Prejudgment and post-judgment interest as provided by law; and

4 L. For such other and further relief as this Court may deem just and proper.
5

6 Dated: March 1, 2019

FENWICK & WEST LLP

7
8 By: /s/ Michael J. Sacksteder

9 Michael J. Sacksteder
10 Attorneys for Plaintiff
11 Supercell OY
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