

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

AML IP, LLC,)	
Plaintiff,)	
)	Civil Action No. 1:21-cv-00266-RGA
v.)	
)	
KONGREGATE INC.)	JURY TRIAL DEMANDED
Defendant.)	

PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

AML IP, LLC (“AML”) files this First Amended Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 7,177,838 (“the ‘838 patent”) and U.S. Patent No. 6,876,979 (“the ‘979 patent”) (referred to as the “Patents-in-Suit”) by Kongregate, Inc. (collectively “Kongregate”).

I. THE PARTIES

1. Plaintiff AML is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.

2. On information and belief, Kongregate is a corporation existing under the laws of the State of Delaware, with a principal place of business located at 450 Sansome St., Suite 1200, San Francisco CA 94111. On information and belief, Kongregate sells and offers to sell products and services throughout Delaware, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Delaware and this judicial district. Kongregate may be served with process through its registered agent, The Corporation Trust Company, 1209 Orange St., Wilmington, DE 19801.

II. JURISDICTION AND VENUE

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Delaware and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Delaware and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Delaware and in this judicial district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, 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 and/or deriving substantial revenue from goods and services provided to individuals in Delaware and this District.

III. INFRINGEMENT

A. Infringement of the '838 Patent

6. On February 13, 2007, U.S. Patent No. 7,177,838 ("the '838 patent", attached as Exhibit A) entitled "Method and Apparatus for Conducting Electronic Commerce Transactions Using Electronic Tokens" was duly and legally issued by the U.S. Patent and Trademark Office. AML IP, LLC owns the '838 patent by assignment.

7. The '838 patent relates to a novel and improved methods and apparatuses for conducting electronic commerce.

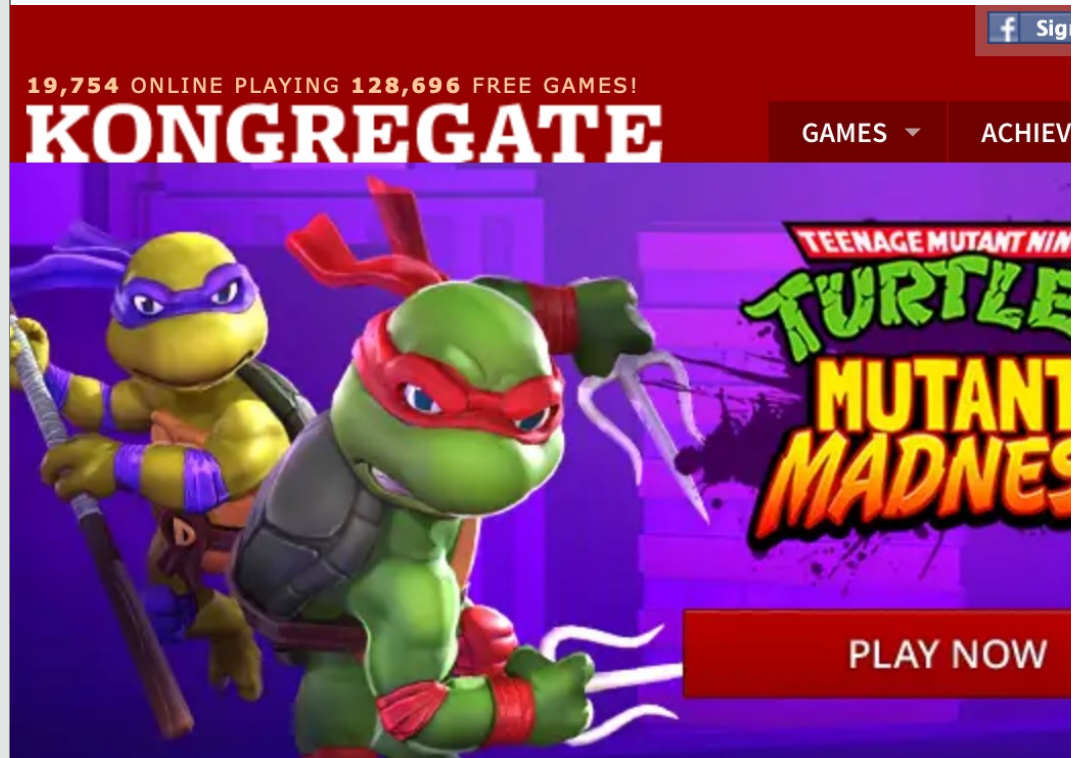
8. Kongregate maintains, operates, and administers micropayment products and services that facilitate purchases from a vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens that infringes one or more claims of the '838 patent, including one or more of claims 1-28, literally or under the doctrine of equivalents. Defendants put the inventions claimed by the '838 Patent into service (i.e., used them); but for Defendants's actions, the claimed-inventions embodiments involving Defendants's products and services would never have been put into service. Defendants's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendants's procurement of monetary and commercial benefit from it.

9. Support for the allegations of infringement may be found in the following preliminary table:

US7177838 B1

Kongregate

1. A method of conducting electronic commerce over the Internet using micropayments, the method comprising:



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<https://www.kongregate.com/>

Kongregate has a method of conducting electronic commerce over the Internet using micropayments.

The reference includes subject matter disclosed by the claims of the patent after the priority date.

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Kongregate

opening a user account
with a vendor for a user;

Sign Up Now

Or



Sign Up with Facebook

Email Address



Send me updates



Password *(min. 10 characters)*

When were you born?

Username *(4-16 characters)*

CREATE MY ACCOUNT

<https://www.kongregate.com/>

The reference describes [opening a user account with a vendor for a user.](#)

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Kongregate

issuing one or more electronic tokens from the vendor to the user account, wherein no physical manifestation, other than a database entry, of the user account occurs, each electronic token having a value of at least a fraction of a dollar;

Kreds (Virtual Goods) API

The Kreds API allows users to purchase virtual items in your game using Kongregate's "kreds" currency. The API includes both client and server-side components. The client API initiates purchases and can also check the user's inventory, which is useful for single-player game unlocks like map packs and advanced features. For games that have consumable items and currency sales, the server-side API enables the game to "use" (decrement the count of) an item in the player's Kongregate inventory.

There are also two different ways to manage your inventory of purchasable items. The first is to create items manually on our web interface. This is most useful for single-player client-side games, as well as multiplayer games that have only a few items (usually in the form of packages of premium currency) that don't change price often. The other option is to use the [dynamic item creation/pricing API](#), which uses a secure sever-side call to let Kongregate know what the item is and how much it should cost. This is useful for games with large inventories of items that are priced directly in Kreds, or games that may wish to change the price of items programmatically and regularly. It also may be easier for games currently using Facebook's Payments API to use this setup.

[<https://docs.kongregate.com/docs/concepts-virtual-goods>](https://docs.kongregate.com/docs/concepts-virtual-goods)

The reference describes [issuing one or more electronic tokens from the vendor to the user account, wherein no physical manifestation, other than a database entry, of the user account occurs, each electronic token having a value of at least a fraction of a dollar.](#)

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Kongregate

providing products and services that may be purchased from the vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens;

Kreds (Virtual Goods) API

The Kreds API allows users to purchase virtual items in your game using Kongregate's "kreds" currency. The API includes both client and server-side components. The client API initiates purchases and can also check the user's inventory, which is useful for single-player game unlocks like map packs and advanced features. For games that have consumable items and currency sales, the server-side API enables the game to "use" (decrement the count of) an item in the player's Kongregate inventory.

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[<https://docs.kongregate.com/docs/concepts-virtual-goods>](https://docs.kongregate.com/docs/concepts-virtual-goods)

[The reference describes providing products and services that may be purchased from the vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens.](#)

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Kongregate

permitting the user to select, at any participating vendor web site, a subset of the products and services for purchase from the vendor;

Kreds (Virtual Goods) API

The Kreds API allows users to purchase virtual items in your game using Kongregate's "kreds" currency. The API includes both client and server-side components. The client API initiates purchases and can also check the user's inventory, which is useful for single-player game unlocks like map packs and advanced features. For games that have consumable items and currency sales, the server-side API enables the game to "use" (decrement the count of) an item in the player's Kongregate inventory.

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[<https://docs.kongregate.com/docs/concepts-virtual-goods>](https://docs.kongregate.com/docs/concepts-virtual-goods)

The reference describes permitting the user to select, at any participating vendor web site, a subset of the products and services.

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computing at the participating vendor web site a total price for the selected subset of the products and services in units of electronic tokens;

Prices for items should be listed in Kreds, not dollars, to avoid confusion and ambiguity (since Kreds get slightly cheaper when purchased in bulk). If you would like to put an icon of Kreds in the game, please feel free to use either of these images and scale them as needed or as reference.



<https://docs.kongregate.com/docs/concepts-virtual-goods>

The reference describes computing at the participating vendor web site a total price for the selected subset of the products and services in units of electronic tokens.

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<p>authorizing a purchase transaction at the participating vendor web site without requiring any third party authentication and a physical manifestation of the user account; and</p>	<p>If you have a consumable item, or anything that is intended to only be credited once, you will need to "use" the item to make sure the status of the item is tracked on our servers. You can use an item with the use_item server-side call. Using an item decrements its "remaining uses" count on the Kongregate servers. If it is decremented to 0 it will be removed. Items that have a starting number of uses set to 0 (unlimited) cannot be used in this manner.</p> <p><https://docs.kongregate.com/docs/concepts-virtual-goods></p> <p>The reference describes authorizing a purchase transaction at the participating vendor web site without requiring any third party authentication and a physical manifestation of the user account.</p>

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<p>if the user account contains electronic tokens having a value equal to or greater than the total price, permitting the user to purchase the selected subset of the products and services without requiring the user to disclose personal information to the vendor, and subtracting the total price from the user account, wherein the purchase transaction is not subject to a minimum processing fee.</p>	<p>If you have a consumable item, or anything that is intended to only be credited once, you will need to "use" the item to make sure the status of the item is tracked on our servers. You can use an item with the use_item server-side call. Using an item decrements its "remaining uses" count on the Kongregate servers. If it is decremented to 0 it will be removed. Items that have a starting number of uses set to 0 (unlimited) cannot be used in this manner.</p> <p><https://docs.kongregate.com/docs/concepts-virtual-goods></p> <p>The reference describes if the user account contains electronic tokens having a value equal to or greater than the total price, permitting the user to purchase the selected subset of the products and services without requiring the user to disclose personal information to the vendor, and subtracting the total price from the user account, wherein the purchase transaction is not subject to a minimum processing fee.</p>

These allegations of infringement are preliminary and are therefore subject to change.

10. Kongregate has and continues to induce infringement. Kongregate has actively encouraged or instructed others (e.g., its customers and/or the customers of its related

companies), and continues to do so, on how to use its products and services (e.g., micropayment products and services that facilitate purchases from a vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens) such as to cause infringement of one or more of claims 1–28 of the ‘838 patent, literally or under the doctrine of equivalents. Moreover, Kongregate has known of the ‘838 patent and the technology underlying it from at least the date of issuance of the patent.

11. Kongregate has and continues to contributorily infringe. Kongregate has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., micropayment products and services that facilitate purchases from a vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens) and related services such as to cause infringement of one or more of claims 1–28 of the ‘838 patent, literally or under the doctrine of equivalents. Moreover, Kongregate has known of the ‘838 patent and the technology underlying it from at least the date of issuance of the patent.

12. Kongregate has caused and will continue to cause AML damage by direct and indirect infringement of (including inducing infringement of) the claims of the ‘838 patent.

B. The ‘979 Patent

13. On April 5, 2005, U.S. Patent No. 6,876,979 (“the ‘979 patent”, attached as Exhibit B) entitled “Electronic Commerce Bridge System” was duly and legally issued by the U.S. Patent and Trademark Office. AML IP, LLC owns the ‘979 patent by assignment.

14. The ‘979 patent relates to a novel and improved methods and apparatuses for conducting electronic commerce.

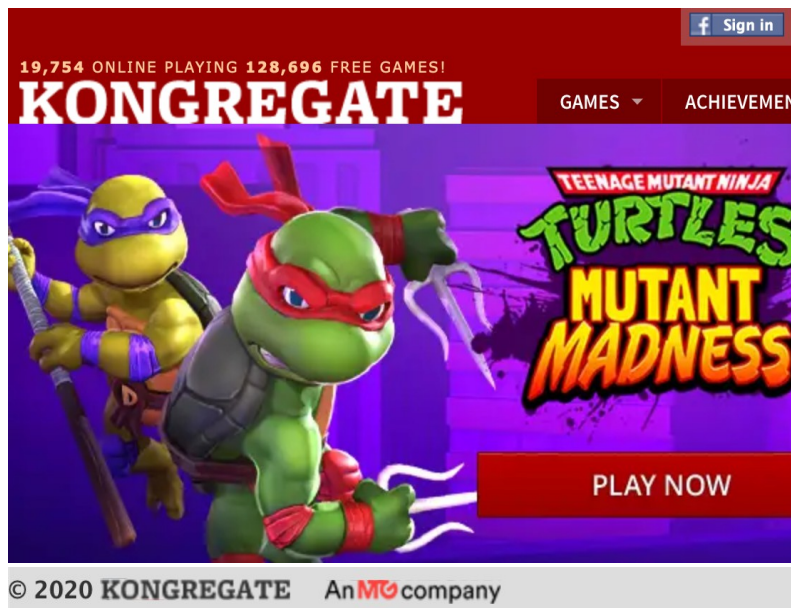
15. Kongregate maintains, operates, and administers payment products and services that facilitate purchases from a vendor using a bridge computer that infringes one or more claims of the '979 patent, including one or more of claims 1-13, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '979 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

16. Support for the allegations of infringement may be found in the following preliminary table:

US6876979 B2

Kongregate

1. A method for using an electronic commerce system having a bridge computer to allow a user at a user device to make a product purchase at a purchase price from a given vendor having a web site provided by a vendor computer over a communications network,



<https://www.kongregate.com/>

Kongregate has a method for using an electronic commerce system having a bridge computer to allow a user at a user device to make a product purchase at a purchase price from a given vendor having a web site provided by a vendor computer over a communications network.

The reference includes subject matter disclosed by the claims of the patent after the priority date.

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Kongregate

wherein the vendor is associated with at least one of a plurality of service providers wherein each of the plurality of service providers has a service provider computer, and wherein the user has a user account maintained by at least one of the plurality of service providers, the method comprising:

Sign Up Now

Or

 **Sign Up with Facebook**

Email Address

Send me updates

Password *(min. 10 characters)*

When were you born?

Username *(4-16 characters)*

CREATE MY ACCOUNT

[<https://www.kongregate.com/games/Juppiomenz/bit-heroes>](https://www.kongregate.com/games/Juppiomenz/bit-heroes)

The reference describes the vendor is associated with at least one of a plurality of service providers wherein each of the plurality of service providers has a service provider computer, and wherein the user has a user account maintained by at least one of the plurality of service providers.

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Kongregate

debiting the user's account by the purchase price when the user purchases the product from the given vendor;

Prices for items should be listed in Kreds, not dollars, to avoid confusion and ambiguity (since Kreds get slightly cheaper when purchased in bulk). If you would like to put an icon of Kreds in the game, please feel free to use either of these images and scale them as needed or as reference.



<https://docs.kongregate.com/docs/concepts-virtual-goods>

The reference describes debiting the user's account by the purchase price when the user purchases the product from the given vendor.

US6876979 B2

Kongregate

determining from among the plurality of service providers, using the bridge computer, whether the given vendor is associated with the same service provider with which the user's account is maintained or is associated with a different service provider; and

KONGREGATE CLOSE x

Username not found f Sign in

Username or Email

Password ([Forgot your password?](#))

Sign in Remember me

Not a member yet? Join for free! **Register Now**

[<https://www.kongregate.com/session/new>](https://www.kongregate.com/session/new)

The reference describes determining from among the plurality of service providers, using the bridge computer, whether the given vendor is associated with the same service provider with which the user's account is maintained or is associated with a different service provider.

US6876979 B2

Kongregate

if the service provider with which the user's account is maintained is the same as the service provider with which the vendor is associated, crediting the given vendor by the purchase price using funds from the user's account at that same service provider and,

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Password ([Forgot your password?](#))

Remember me

Not a member yet? Join for free!

[<https://www.kongregate.com/session/new>](https://www.kongregate.com/session/new)

The reference describes if the service provider with which the user's account is maintained is the same as the service provider with which the vendor is associated, crediting the given vendor by the purchase price using funds from the user's account at that same service provider.

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Kongregate

if the service provider with which the user's account is maintained is different from the service provider with which the vendor is associated, crediting the given vendor by the purchase price using funds from the service provider with which the vendor is associated and using the bridge computer to reimburse that service provider with the purchase price using funds from the user's account.

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Password ([Forgot your password?](#))

Sign in Remember me

Not a member yet? Join for free! **Register Now**

[<https://www.kongregate.com/session/new>](https://www.kongregate.com/session/new)

The reference describes if the service provider with which the user's account is maintained is different from the service provider with which the vendor is associated, crediting the given vendor by the purchase price using funds from the service provider with which the vendor is associated and using the bridge computer to reimburse that service provider with the purchase price using funds from the user's account.

These allegations of infringement are preliminary and are therefore subject to change.

17. Kongregate has and continues to induce infringement. Kongregate has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., payment products and services that facilitate purchases from a vendor using a bridge computer) such as to cause infringement of one or more of claims 1–13 of the ‘979 patent, literally or under the doctrine of equivalents. Moreover, Kongregate has known or should have known of the ‘979 patent and the technology underlying it from at least the date of issuance of the patent.

18. Kongregate has and continues to contributorily infringe. Kongregate has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., payment products and services that facilitate purchases from a vendor using a bridge computer) and related services such as to cause infringement of one or more of claims 1–13 of the ‘979 patent, literally or under the doctrine of equivalents. Moreover, Kongregate has known or should have known of the ‘979 patent and the technology underlying it from at least the date of issuance of the patent.

Kongregate has caused and will continue to cause AML damage by direct and indirect infringement of (including inducing infringement of) the claims of the ‘979 patent.

IV. JURY DEMAND

AML hereby requests a trial by jury on issues so triable by right.

V. PRAYER FOR RELIEF

WHEREFORE, AML prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '838 patent and the '979 patent;
- b. award AML damages in an amount sufficient to compensate it for Defendant's infringement of the '838 patent and the '979 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award AML an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award AML its attorneys' fees, expenses, and costs incurred in this action;
- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award AML such other and further relief as this Court deems just and proper.

Dated: March 5, 2021

STAMOULIS & WEINBLATT LLC

/s/Stamatios Stamoulis

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