

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EPIC TECH, LLC,

Plaintiff,

v.

FUSION SKILL, INC., TEXAS WIZ,
LLC d/b/a 8FUSE, JHONNY
DONNELLY, and ALEXANDER
GREGORY,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Civil Case No. 4:19-cv-02400

JURY TRIAL DEMANDED

**PLAINTIFF’S SECOND AMENDED VERIFIED
COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Epic Tech, LLC (“Plaintiff” or “Epic Tech”) hereby files this Second Amended Verified Complaint and Request for Injunctive Relief against Defendants Fusion Skill, Inc. (“Fusion”), Texas Wiz, LLC d/b/a 8fuse (“8fuse”), Jhonny Donnelly (“Donnelly”), and Alexander Gregory (“Gregory” and, collectively with Fusion, 8fuse, and Donnelly, “Defendants”), and would respectfully show the Court as follows:

**I.
INTRODUCTORY STATEMENT**

1. Plaintiff is a developer and marketer of promotional software programs and games that are used in several states throughout the country. Plaintiff exclusively licenses its software in Texas to certain third parties, who in turn distribute the software to local establishments. Plaintiff discovered that Defendants have gained unauthorized possession of Plaintiff’s proprietary sweepstakes software, and have engaged in a scheme to secretly modify, copy, counterfeit, and distribute the software to unauthorized third parties within the state of Texas. Defendants do not

have a license or any other lawful right to Plaintiff's software, and this conduct intentionally violates Plaintiff's intellectual property rights under both federal and Texas law. Therefore, Plaintiff brings this action and seeks, among other things: (1) a permanent injunction to enjoin Defendants from continuing to use, copy, distribute, or misappropriate Plaintiff's software, including any altered version of its software, (2) the return of any stolen software and equipment, and (3) the recovery of damages and attorneys' fees.

II. PARTIES

2. Plaintiff Epic Tech, LLC is a limited liability company organized under the laws of the State of Delaware that has its principal place of business in the State of Georgia.

3. Defendant Fusion Skill, Inc. is a business incorporated under the laws of the State of Texas and maintains its principal place of business at 439 Fredonia Street, Longview, Texas 75601. Fusion has appeared in this matter.

4. Defendant Texas Wiz, LLC d/b/a 8fuse is a Texas limited liability company with its principal place of business at 6200 Savoy Drive, Suite 1202, Houston, Texas 77036. 8fuse has appeared in this matter.

5. Defendant Jhonny Donnelly is an individual residing in Bowie County, Texas. Donnelly is the director of Fusion, and sole member of 8fuse. Donnelly has appeared in this matter.

6. Defendant Alexander Gregory is an individual residing in New York County, New York. Gregory is a managing member and principal operator of 8fuse, and managing director of Fusion. Gregory has appeared in this matter.

III. JURISDICTION AND VENUE

7. This action arises, at least in substantial part, under the copyright, trademark, and patent laws of the United States, 17 U.S.C. § 101 *et seq.*, 15 U.S.C. § 1051 *et seq.*, and 35 U.S.C. § 271 *et seq.*

8. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338. Additionally, this Court has jurisdiction over the state law claims alleged herein under 28 U.S.C. §§ 1338 and 1367, because these claims are joined with related claims arising under the laws of the United States and because the claims are so related to the federal claims that they form part of the same case and controversy.

9. The Court has personal jurisdiction over Defendants because their unlawful conduct is taking place within at least this judicial district.

10. Venue in this district and division are proper pursuant to 28 U.S.C. §§ 1391 and 1400.

IV. FACTUAL ALLEGATIONS

11. Pursuant to Federal Rule of Civil Procedure 65(b), Plaintiff's factual allegations, as set forth herein, are verified through the sworn declaration of Brendan Mullins (attached as Exhibit 1).

A. Epic Tech's Sweepstakes Software

12. Plaintiff is a developer and marketer of promotional software. In conjunction with its affiliates, it has developed many proprietary software programs. One of these software programs is called Legacy.

13. The Legacy software (and its derivative versions) is designed to be used as a promotional tool for independent businesses that sell valuable goods and services. When used in accordance with applicable laws, the Legacy product is an effective promotional tool. Customers of the businesses who are licensed to use the Legacy product are provided entries into a computer-based sweepstakes either through the making of a qualified purchase or after following the rules and regulations of the sweepstakes to request entries free of charge. Patrons can then either reveal the results of their entries through using entertaining games available on the computer terminals, or by requesting that the results be immediately revealed. The odds of winning are not affected by whether a patron makes a charitable donation or uses the entertaining graphics to reveal whether a prize was won.

14. The Legacy system and its derivatives, including the Phoenix system,¹ are designed to be hosted on a networked system consisting of: (1) a server, (2) a point of sale terminal, (3) computer terminals for use by customers, and (4) a management terminal (the “System”). The Legacy software is used by each hardware component of the System in order to facilitate the proper functioning of the System; thus, it is an integrated system comprised of multiple individual parts.

15. Below are screen shots of two of Plaintiff’s representative Legacy game menus, where patrons can choose a game to play to reveal the results of their sweepstakes entries:

¹ This Complaint will refer to the software at times as Legacy, but Plaintiff’s claims include infringement of Legacy and derivative versions of this system, including a system called Phoenix.



16. Each of these games includes unique graphics and icons that allow customers to reveal whether they won prizes in an entertaining fashion. For example, the screen shots below depict two such games, one called “Lucky Duck” and the other “Bustin Vegas”:





17. In addition to these games, the System integrates a second promotional system, known as the “Community Prize.” This Community Prize system allows customers to participate in a second sweepstakes pool, which uses a countdown eligibility timer. The Community Prize icon can be seen in the lower left-hand corner of the “Lucky Duck” screen shot above, which is blown up in the picture below:



18. The core of the software is a complex, proprietary system of server-based software that contains the foundational structure for the functioning of the entire sweepstakes system, including, but not limited to, highly confidential mathematical formulas developed to conduct the sweepstakes. The code forming this core of the product is never seen by patrons or customers participating in the sweepstakes. It is not even available to businesses that license use of the sweepstakes system. Access to the server is only available to high security level employees of Epic Tech, via sophisticated password protection mechanisms. In addition, the system includes a variety of entertaining games, which all have proprietary names, themes, images, sounds, and even music.

19. Plaintiff's sweepstakes software was developed from scratch and is unique in the marketplace. Each system includes certain unique and/or hidden features that are a result of the way it was developed and designed. Some of these features are visible to customers (store owners, managers, cashiers, etc.) and/or game participants. Other characteristics of the software are only visible in the code and database structure itself and can only be accessed by a trained software engineer with access to and knowledge of the code. Plaintiff designed these measures specifically to safeguard its intellectual property and to prevent illegal copying or piracy of the software.

20. The software system is an integrated combination of elements that all function together to deliver the customer sweepstakes experience described above. Plaintiff has devoted substantial time and resources to the design of the System. Competition is fierce in the industry of computer-based sweepstakes promotions. Competitive advantage in the industry is largely dependent upon the quality of the customer experience using the sweepstakes software. As a result, Epic Tech has devoted substantial resources and time to the invention of images and game themes used by the software.

21. Plaintiff has gone to great lengths to ensure that its software is not pirated. To this end, Plaintiff currently includes a "kill code" in the software versions that it licenses, which disables the software in the event that the server is taken offline (which is unauthorized) for more than three days. Further, Plaintiff uses all possible means to repossess any servers, which are always owned by Plaintiff and never by the end user, whenever that licensing relationship ends.

B. Epic Tech’s Intellectual Property Protections

1. Copyright Protections

22. All of the software for the System, including the images, sounds, and functions of the software, is an original work of authorship, and Plaintiff is the sole and exclusive holder of all rights in and to the software, including all elements of the software system.

23. Plaintiff is the owner by assignment of federal copyright registrations for various icons, graphics, images, and screens used in connection with this software. Attached to the Complaint as Exhibit 1-A are federal copyright registrations that were obtained by and assigned to Epic Tech (collectively, the “Epic Tech Copyright Registrations”).

24. For example, the following screen shot depicts the “Lucky Duck” game available through the Legacy System:



25. In connection with images specially designed to be used in Lucky Duck, Plaintiff is the owner of multiple copyright registrations, including Copyright Registration Nos. VA 1-779-200 (cherries), VA 1-745-520 (lucky duck game icons and screens), VA 1-745-457 (double bonus

icon), VA 1-746-300 (duck bonus icon), VA 1-747-784 (lucky seven icon), and VA 1-779-212 (watermelon).

2. Trademark Protections

26. Plaintiff is the owner by assignment of federal trademark registrations for various names, logos, and other designs that distinctively identify Plaintiff's software.

27. For example, On March 9, 2010, Plaintiff filed U.S. Trademark Registration No. 3,853,565 in connection with a game called "Lucky Duck" for the Lucky Duck name and logo, as shown below. The trademark was registered on September 28, 2010, and has reached incontestable status.



28. Epic Tech is also the holder of U.S. Trademark Registration No. 3,955,704 in connection with a game called "Hotter Than" for the Hotter Than name and logo, as shown below. The application for registration for the Hotter Than name and logo was filed on February 17, 2017. The trademark was registered on May 3, 2011, and has reached incontestable status.



29. Further, Epic Tech holds U.S. Trademark Registrations for the names Bustin Vegas (Reg. No. 3,959,135), Four Leaf Cash (Reg. No. 4,070,403), Fishing Mob (Reg. No. 4,258,782), and Go Bananas (Reg. No. 4,872,885), which relate to corresponding games provided by Epic Tech's software and gaming systems.

30. These trademark registrations, along with those listed above, are collectively referenced herein as the "Epic Tech Registered Trademarks." True and correct copies of the U.S. trademark registrations for the Epic Tech Registered Trademarks are attached hereto as Exhibit 1-B and are incorporated herein by reference. The table below provides more information on the Epic Tech Registered Trademarks:

Registration Number	Trademark	Goods and Services	Status
Reg. No. 4,872,885	Go Bananas	Software, namely, software for electronic slot and bingo machines, electronic casino games, electronic skill-based games, and electronic sweepstakes games.	Registered.
Reg. No. 4,258,782	Fishing Mob	Gaming equipment, namely, gaming machines.	Registered and incontestable.
Reg. No. 4,070,403	Four Leaf Cash	Gaming equipment, namely, gaming machines.	Registered and incontestable.
Reg. No. 3,853,565	Lucky Duck	Gaming equipment, namely, gaming machines.	Registered and incontestable.
Reg. No. 3,959,135	Bustin Vegas	Gaming equipment, namely, gaming machines.	Registered and incontestable.
Reg. No. 3,955,704	Hotter Than	Gaming equipment, namely, gaming machines.	Registered and incontestable.

31. Epic Tech has invested substantial sums of money in developing and promoting the Epic Tech Registered Trademarks as well as the underlying goodwill associated therewith. In addition, Epic Tech currently uses the Epic Tech Registered Trademarks in commerce in connection with software and gaming systems.

32. The Epic Tech Registered Trademarks are distinctive and, as a result of licensing of electronic sweepstakes systems provided by Epic Tech, the Epic Tech Registered Trademarks have developed and now have a secondary trademark meaning to purchasers and users of sweepstakes systems so that they have come to be recognized by the relevant consuming public as indicating Epic Tech as the source of such systems and games.

3. Trade Dress Protections

33. Epic Tech is the owner of all rights and title to, and has valid and protectable prior rights to, the total image and overall appearance of the graphical user interface for Epic Tech's sweepstakes systems, including the size, shape, color, color combinations, icons, and other graphics for the games that characterize Epic Tech's sweepstakes systems (the "Epic Tech Trade Dress").

34. The distinguishing characteristics of the Epic Tech Trade Dress are exhibited on the user display or screen when a player operates Epic Tech's Legacy System and subsequent versions of Epic Tech's sweepstakes systems. The Epic Tech Trade Dress is a combination of non-functional, distinctive components that contribute to the overall look of Epic Tech's sweepstakes systems, including the color and orientation of the icons and graphics as depicted in the example below:



35. Epic Tech and its predecessors-in-interest have made bona fide use and have continuously and extensively used the Epic Tech Trade Dress, and variants thereof, in U.S. commerce and in the ordinary course of trade, since at least as early as 2011, to identify its sweepstakes systems and to identify Epic Tech as the source of its sweepstakes systems.

36. Epic Tech owns the rights to the Epic Tech Trade Dress based on its and its predecessors-in-interest's continuous and extensive bona fide use of this trade dress in U.S. interstate commerce to promote its sweepstakes systems over at least the past eight years.

37. As a result of Epic Tech's and its predecessors-in-interest's continuous and extensive use and promotion of its sweepstakes systems, the Epic Tech Trade Dress has become well known in the marketplace and valuable to Epic Tech. The Epic Tech Trade Dress represents considerable goodwill to Epic Tech as distributors and consumers have come to know, rely upon, and recognize the Epic Tech Trade Dress as indicative of the exceptional quality of Epic Tech's sweepstakes systems.

38. Epic Tech has the right to use, and license the use of, the Epic Tech Trade Dress in accordance with Epic Tech's standards and specifications, and in accordance with state and federal law. Epic Tech has never granted Defendants a license to use the Epic Tech Trade Dress.

39. Defendants have harmed Epic Tech's reputation and goodwill associated with the Epic Tech Trade Dress by distributing and operating infringing software systems that do not meet with the standards and specifications mandated by Epic Tech and/or its affiliates. Further, because Epic Tech is incapable of discerning whether Defendants distribute and operate Epic Tech's sweepstakes systems in compliance with relevant state and federal laws, Epic Tech cannot ensure that software that is similar in appearance to its own is being used in accordance with the law, exposing Epic Tech to potentially unwarranted prosecution.

4. Patent Protections

40. On October 1, 2013, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,545,315 ("the '315 patent"), entitled "Gaming System and Method." A true and correct copy of the '315 patent is attached hereto as Exhibit 2.

41. Pursuant to 35 U.S.C. § 282, the '315 patent is presumed valid.

42. Plaintiff is the owner by assignment of all rights, title, and interest in and to the '315 patent, including the right to enforce the '315 patent against infringers.

43. The '315 patent generally is directed to an electronic sweepstakes system and method. Claim 18 is exemplary of the inventions claimed in the '315 patent:

18. A computer-implemented method comprising:
 - a. allowing a first player to access a first game terminal, wherein the first game terminal is networked to other game terminals;
 - b. receiving a first sweepstakes game request for a first sweepstakes game to be played on the first game terminal;

- c. receiving a participation credit from the first player;
- d. determining if the first player performs a predetermined action indicating that the first player wishes to participate in a first sweepstakes game-in-game;
- e. in response to determining if the first player performs the predetermined action, performing a step selected from a group consisting of:
 - i. determining that the first player is not eligible to win the first sweepstakes game-in-game if the predetermined action was not performed in accordance with a first criterion; and
 - ii. determining that the first player is eligible to win the first sweepstakes game-in-game if the predetermined action was performed in accordance with the first criterion;
- f. triggering play of the first sweepstakes game-in-game,
wherein once the first sweepstakes game-in-game is triggered to play, a first game-in-game terminal facilitates all play of the first sweepstakes game-in-game without input from the plurality of game terminals.

44. On March 7, 2017, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,589,423 (“the ’423 patent”), entitled “Method and System for Pre-Revealed Electronic Sweepstakes.” A true and correct copy of the ’423 patent is attached hereto as Exhibit 1-C.

45. Pursuant to 35 U.S.C. § 282, the ’423 patent is presumed valid.

46. Plaintiff is the owner by assignment of all rights, title, and interest in and to the ’423 patent, including the right to enforce the ’423 patent against infringers.

47. The ’423 patent generally is directed to an electronic sweepstakes system and method. Claim 10 is exemplary of the inventions claimed in the ’423 patent:

10. A method of providing a sweepstakes prize comprising:

- a. facilitating, by one or more processors, selection of a plurality of game plays;
- b. prior to a visual display of the results of the game plays, determining, by the one or more processors, the prize associated with each one of the plurality of game plays and a total value for the prizes associated with the first plurality of game plays;
- c. prior to a visual display of the results of the game plays, provisionally crediting the total value for the prizes associated with the first plurality of game plays to the user; and
- d. providing to the user at least one selection from a group consisting of:
 - i. a visual display of the plurality of game plays;
 - ii. a code that is associated with the plurality of game plays; and
 - iii. a program that is configured to cause a computer to interactively display to the user the results associated with the plurality of game plays.

C. Defendants' Infringing Activities

1. Infringement Discovery

48. Plaintiff licenses Legacy and its other software to certain authorized distributors. Plaintiff and its authorized licensees have the exclusive right to license, use, and share Plaintiff's software.

49. Defendants have obtained possession of and are distributing a sweepstakes software system known as "8fuse,"² clearly duplicating many of the icons, graphics, and games featured in Plaintiff's Legacy System. Defendants have no authorization to possess, use, copy, or distribute

² Through discovery in this matter, Plaintiff has learned that Defendants have distributed similar infringing software systems containing Plaintiff's protected games with different branding than 8fuse. In referencing "8fuse" software in this Second Amended Complaint, Plaintiff incorporates all software systems which Defendants have provided access, arranged to provide access, assisted a customer to receive access, or from which Defendants have directly or indirectly derived revenue, including, but not limited to, 8fuse, Ficus, Webgun, LuckyNudge, Unigames, Lima, White Label, or Weblima, or any software that uses or is based on the Lima, White Label, or Weblima platform.

any of Plaintiff's software. Upon information and belief, and through means unknown to Plaintiff, Defendants have gained possession of Plaintiff's software or access to Plaintiff's files, have copied many aspects of Plaintiff's software, including many of the graphics, icons, and game configurations, and are distributing this counterfeit software without Plaintiff's authorization.

50. Plaintiff first discovered that Defendants had distributed software infringing on its copyrights, trademarks, trade dress, and patents when it became aware that an infringing software was being operated at Theo's Billiards, located at 5815 Weber Road, Suite B, Corpus Christi, Texas 78413 ("Theo's"), without authorization. After discovering this rogue operation, Plaintiff was able to ascertain that the developer of the software being operated at Theo's was 8fuse.

51. Plaintiff then reviewed 8fuse's website in order to determine which of Plaintiff's copyrights, trademarks, trade dress, and patents 8fuse was infringing. In doing so, Epic Tech discovered that the 8fuse software distributed by Defendants and as shown on 8fuse's website contains many identical or substantially similar images, graphics, themes, and functions as Plaintiff's Legacy software.

52. Additionally, on March 27 and 28, 2019, Plaintiff visited Las Vegas, Nevada, for the Amusement Expo International 2019 Trade Show (the "Trade Show"). At the Trade Show, Gregory was operating a booth on behalf of 8fuse wherein Gregory brazenly and unabashedly advertised 8fuse's infringement upon Plaintiff's Legacy System including, specifically, by using the Epic Tech Copyright Registrations, the Epic Tech Trade Dress, and the Epic Tech Registered Trademarks to sell 8fuse products.








53. Upon information and belief, Defendants Donnelly and Gregory operate 8fuse and act through Defendants Fusion and Texas Wiz, among a series of other companies designed for the purpose of distributing infringing software.

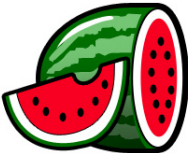

54. Upon information and belief, Defendants Fusion and Texas Wiz, in concert with Gregory, have distributed and continue to distribute the infringing 8fuse software under varying names or brands. Plaintiff has learned through discovery that Defendants have provided access, arranged to provide access, assisted a customer to receive access, directly or indirectly derived revenue from the 8fuse software system, as well as similar software systems utilizing the same or substantially similar functionality as 8fuse but with different branding. Plaintiff has discovered that the 8fuse software system is based on the Lima platform which is installed in kiosks, gaming terminals, or on a computer and sometimes referred to as the White Label or Weblima platform for remote online use, and which is white labeled with the 8fuse brand name. The Lima, White Label, and Weblima platforms are also being white labeled with other brand names by or for the Defendants, such as Ficus, Webgun, LuckyNudge, and Unigames.

2. Copyright Infringement

55. Below are side-by-side images of Plaintiff's copyrighted screens and graphics compared to Defendants' 8fuse software as advertised on 8fuse's website, which demonstrate that the two systems are materially identical:



Plaintiff's Legacy Software	8fuse Software
<p>Reg. No. VA 1-745-520 (lucky duck game icons and screens)</p>	
<p style="text-align: center;"></p> <p>Reg. No. VA 1-747-784 (lucky seven icon)</p>	<p style="text-align: center;"></p>
<p style="text-align: center;"></p> <p>Reg. No. VA 1-746-300 (duck bonus icon)</p>	<p style="text-align: center;"></p>
<p style="text-align: center;"></p> <p>Reg. No. VA 1-745-457 (double bonus icon)</p>	<p style="text-align: center;"></p>
<p style="text-align: center;"></p> <p>Reg. No. VA 1-779-200 (cherries)</p>	<p style="text-align: center;"></p>

Plaintiff's Legacy Software	8fuse Software
 <p data-bbox="277 533 764 569">Reg. No. VA 1-779-212 (watermelon)</p>	

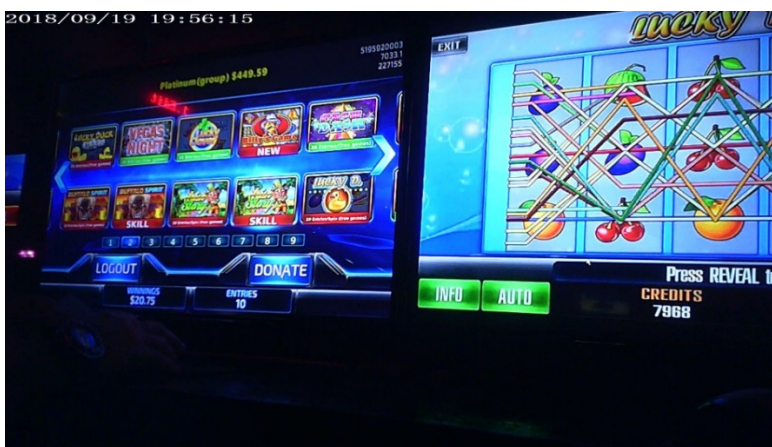
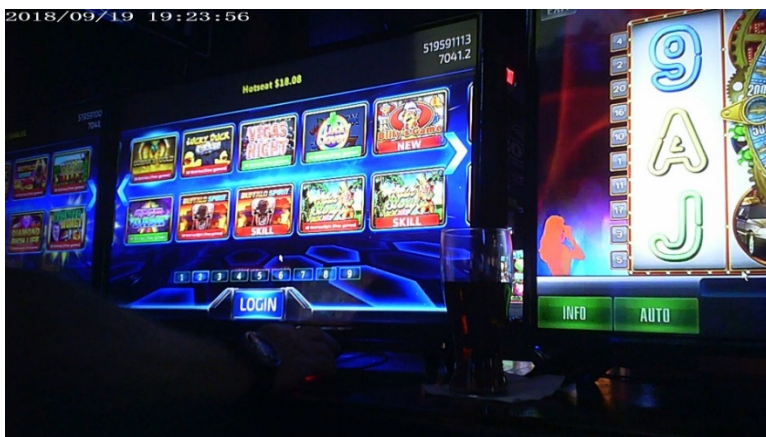
56. These screen-shot comparisons confirm without doubt that Defendants are advertising software for sale on the 8fuse website that is directly copied from Plaintiff's software. The graphics, icons, game structure and function, and pay-tables are all materially identical. The only reasonable inference is that Defendants' software is copied or substantially derived from the same core software code as Plaintiff's software.

57. Furthermore, Defendants aided Theo's in operating a sweepstakes that, upon information and belief, had identical game odds, pay tables, and sweepstakes structure as Plaintiff's software.

58. Additionally, Plaintiff has discovered that Defendants have distributed the 8fuse software and related infringing software to numerous sweepstakes locations throughout Texas and other states across the country, including Illinois, Florida, North Carolina, and several other states.

59. At Theo's, artwork used by the 8fuse software is identical or substantially similar to copyrighted artwork owned by Plaintiff. By way of example, the following photographs were taken at Theo's, showing its operation of 8fuse games:

Theo's 8fuse Gaming



Theo's 8fuse Gaming





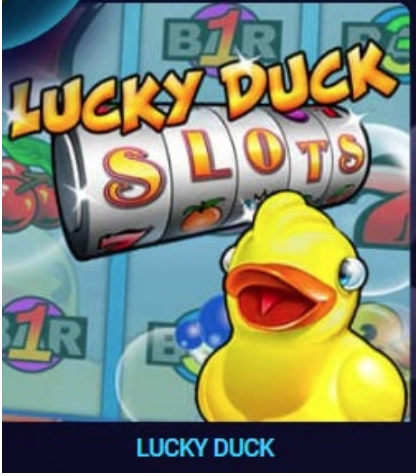

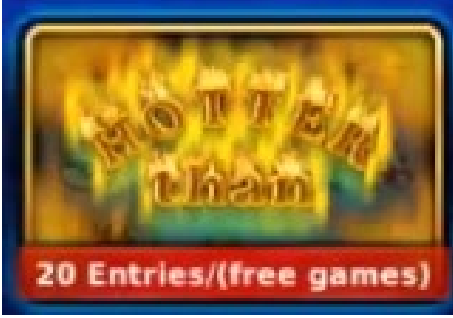
60. These screen shots demonstrate that the 8fuse software Defendants distributed throughout Texas also was copied from Plaintiff's software. Defendants' 8fuse software was not legally obtained from Plaintiff or any other authorized distributor of the Plaintiff's software. Defendants' unauthorized possession, use, and distribution of Plaintiff's software has caused significant and irreparable harm to Plaintiff. Indeed, Defendants' infringement of Plaintiff's intellectual property rights harms Plaintiff, as customers who might otherwise elect to license or use Plaintiff's software may elect to license or use the infringing sweepstakes gaming systems and devices. In addition, by distributing and offering software that is undeniably similar to Plaintiff's

software without Plaintiff’s oversight or approval, Defendants are exposing Plaintiff to potential legal exposure given that sweepstakes are a highly regulated industry in Texas.

3. Trademark and Trade Dress Infringement

61. The 8fuse software distributed by Defendants bears counterfeit and confusingly similar imitations of the Epic Tech Registered Trademarks and the Epic Tech Trade Dress in a manner likely to be confused with genuine Epic Tech products. Below are side-by-side images of the Epic Tech Registered Trademarks and the Epic Tech Trade Dress compared to Defendants’ 8fuse software names, logos, and trade dress as advertised on 8fuse’s website, which demonstrate that many of the trademarks and trade dress are materially identical:

Plaintiff’s Legacy Software	8fuse Software
<p style="text-align: center;">FOUR LEAF CASH</p> <p style="text-align: center;">Reg. No. 4,070,403</p>	
<p style="text-align: center;">BUSTIN VEGAS</p> <p style="text-align: center;">Reg. No. 3,959,135</p>	

Plaintiff's Legacy Software	8fuse Software
	 <p>The logo for 'BUSTIN' VEGAS' features a vibrant, neon-style sign with the words 'BUSTIN' and 'VEGAS' in a stylized font. The sign is set against a background of palm trees, a pink classic car, and two dice. The text 'BUSTIN' VEGAS' is written in blue at the bottom of the image.</p>
 <p>The logo for 'LUCKY DUCK' consists of the words 'LUCKY' and 'DUCK' in a bold, 3D, metallic font. The letters are rendered in shades of grey and black, giving them a three-dimensional appearance.</p> <p data-bbox="396 1262 646 1297">Reg. No. 3,853,565</p>	 <p>The logo for 'LUCKY DUCK SLOTS' features a yellow duck with its beak open, positioned in front of a slot machine. The words 'LUCKY DUCK' and 'SLOTS' are written in a stylized, colorful font. The text 'LUCKY DUCK' is written in blue at the bottom of the image.</p>
 <p>The logo for 'HOTTER than' features a devil character with horns and a tail, set against a dark, smoky background. The words 'HOTTER' and 'than' are written in a stylized, metallic font. The text 'HOTTER than' is written in blue at the bottom of the image.</p> <p data-bbox="396 1833 646 1869">Reg. No. 3,955,704</p>	 <p>The logo for 'HOTTER than' features the words 'HOTTER' and 'than' in a stylized, metallic font, set against a glowing yellow background. Below the text, it says '20 Entries/(free games)' in white text on a red background.</p>

Plaintiff's Legacy Software	8fuse Software
	 <p>The logo for 'HOTTER THAN' features a red devil character with horns and a mischievous grin, holding a golden trident. To the left is a stack of silver and red chips. The text 'HOTTER than' is written in a stylized, flame-like font. Below the image, the words 'HOTTER THAN' are printed in blue capital letters.</p>
<p>FISHING MOB</p> <p>Reg. No. 4,258,782</p>	 <p>The logo for 'FISHING MOB' shows a shark wearing a black hat and a yellow fish, both with human-like faces. An orange fish is also present. The text 'FISHING MOB' is written in a bubbly, colorful font. Below the image, the words 'FISHING MOB' are printed in blue capital letters.</p>
<p>GO BANANAS</p> <p>Reg. No. 4,872,885</p>	 <p>The logo for 'GO BANANAS' features a blue gorilla, a black monkey, and an orange monkey. The text 'GO BANANAS' is written in a bold, yellow font with a blue outline. Below the image, the words 'GO BANANAS' are printed in blue capital letters.</p>



4. Patent Infringement

62. The infringing 8fuse electronic sweepstakes gaming systems and methods include, but are not limited to, the JackPot progressive system and the Community Party Board options (collectively, the “Accused Products”).

63. 8fuse does not have any rights to the ’315 patent or the ’423 patent.

64. 8fuse has infringed and continues to infringe, directly and indirectly, the ’315 patent and the ’423 patent by engaging in acts constituting infringement under 35 U.S.C. § 271(a), (b), and/or (c) by making, using, offering to sell, selling, and/or importing the Accused Products within or into the United States without authority from Plaintiff.

65. Plaintiff therefore brings these claims and application for injunctive relief against 8fuse to enjoin continued infringement and misappropriation of Plaintiff’s software, to secure the return of any copies of the software or servers in the Defendants’ possession, and to recover money damages and attorney’s fees.

**V.
CAUSES OF ACTION**

First Cause of Action: Copyright Infringement (against all Defendants)

66. Plaintiff incorporates by reference the allegations made in the foregoing paragraphs, as if fully copied herein.

67. Plaintiff is the owner of the Epic Tech Copyright Registrations.

68. Upon information and belief, Defendants included software and works protected by Plaintiff's Copyright Registrations that were illegally pirated or copied from Plaintiff's software.

69. Defendants, without authority, and willfully and wantonly, have acted in conscious and intentional disregard of and indifference to the rights of Plaintiff by, among other things, copying, reproducing, possessing, altering, selling, distributing, infringing, publicly displaying, disclosing, and/or otherwise using and participating in the unauthorized reproduction and display of copyrighted material belonging to Plaintiff without the express or implied consent of Plaintiff.

70. Defendants knew or reasonably should have known that the software and the works protected by Plaintiff's Copyright Registrations that they were using were protected by copyright.

71. Defendants' infringement has been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

72. Defendants' conduct constitutes a violation of 17 U.S.C. §§ 501, *et seq.*

73. Defendants' infringing activities continue through the date of the filing of this complaint.

74. As a direct and proximate result of Defendants' copyright infringement, Plaintiff has suffered, and is suffering, actual, immediate, and irreparable harm for which no adequate remedy exists at law. Unless immediately restrained and enjoined, Defendants will continue to

engage in the acts complained of herein and, therefore, will continue to cause irreparable harm to Plaintiff.

75. As a direct and proximate result of its wrongful conduct, Defendants have realized and will continue to realize profits and other benefits rightly belonging to Plaintiff. Accordingly, Plaintiff is entitled to the maximum statutory damages pursuant to 17 U.S.C. § 504(c). Alternatively, at Plaintiff's election, pursuant to 17 U.S.C. § 504(b), Plaintiff is entitled to its actual damages plus Defendants' profits from infringement, to be proven at trial.

76. Plaintiff is entitled to its costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

Second Cause of Action: Infringement of Federally Registered Trademarks (against all Defendants)

77. Plaintiff incorporates by reference the allegations made in the foregoing paragraphs, as if fully copied herein.

78. Plaintiff owns the Epic Tech Registered Trademarks and has continuously and extensively used the marks in nationwide commerce in connection with electronic gaming systems.

79. Defendants' uses of Plaintiff's federally-registered Epic Tech Registered Trademarks in commerce in conjunction with gaming systems are likely to cause confusion, mistake, or deception of consumers as to an affiliation, connection, or association of Defendants with Plaintiff, or as to the origin, sponsorship, or approval of Defendants' goods, services, or commercial activities with or by Plaintiff, and such use therefore infringes Plaintiff's trademarks. Defendants, without authorization, have used and are continuing to use spurious designations that are identical to, or substantially indistinguishable from, the Epic Tech Registered Trademarks in interstate commerce. Such actions violate 15 U.S.C. § 1114.

80. Upon information and belief, Defendants had constructive and actual knowledge of Epic Tech's ownership of and priority rights in the Epic Tech Registered Trademarks prior to Defendants' junior and subsequent infringing uses of the Epic Tech Registered Trademarks. Defendants intentionally used counterfeit versions of the Epic Tech Registered Trademarks knowing such versions were counterfeit. Defendants' continued infringing conduct is knowing, intentional, and willful.

81. As a direct and proximate result of Defendants' trademark infringement, Plaintiff has suffered, and is suffering, actual, immediate, and irreparable harm for which no adequate remedy exists at law. Unless immediately restrained and enjoined, Defendants will continue to engage in the acts complained of herein and, therefore, will continue to cause irreparable harm to Plaintiff.

82. Plaintiff is entitled to injunctive relief under 15 U.S.C. § 1116 and destruction of the infringing articles under 15 U.S.C. § 1118.

83. In addition to injunctive relief, Plaintiff is entitled to recover all actual damages that it has sustained, including Defendants' profits and the costs of this action, under 15 U.S.C. § 1117.

84. For Defendants' willful infringement and exceptional conduct, Plaintiff is entitled to recover treble damages and its reasonable attorneys' fees under 15 U.S.C. § 1117.

Third Cause of Action: Federal Unfair Competition, False Designation of Origin, and False Advertising (against all Defendants)

85. Plaintiff incorporates by reference the allegations made in the foregoing paragraphs, as if fully copied herein.

86. Defendants' infringing software and electronic gaming systems are of the same or similar nature and have the same or similar forms, purposes, look, and feel of those sold by Plaintiff.

87. The Epic Tech Trade Dress is non-functional, distinctive, and has acquired secondary meaning.

88. Defendants' actions described above and specifically, without limitation, Defendants' use of marks and trade dress that are confusingly similar to the Epic Tech Trademark Registrations and the Epic Tech Trade Dress in the distribution, marketing, promotion, offering for sale, and sale of software and electronic gaming systems, constitute unfair competition and false designations of origin and false descriptions or representations. Such wrongful conduct wrongfully trades on Plaintiff's long-standing and hard-earned goodwill in its Epic Tech Trademark Registrations and the Epic Tech Trade Dress, and the reputation established by Plaintiff in connection with its products, passes-off Defendants' software and electronic gaming systems in commerce as that of Plaintiff, and limits Plaintiff's ability to interact with distributors and end user consumers and gain revenue through the sale of products using the Epic Tech Trademark Registrations and the Epic Tech Trade Dress.

89. As a result of Defendants' unlawful use in commerce of marks and trade dress that are confusingly similar to the Epic Tech Trademark Registrations and the Epic Tech Trade Dress, consumers are likely to be misled, deceived, and confused as to the origin, sponsorship, or affiliation of Defendants' software and electronic gaming systems.

90. Defendants' unauthorized and tortious conduct also has deprived and will continue to deprive Plaintiff of the ability to control the consumer perception of its products offered for sale and sold under the Epic Tech Trademark Registrations, placing the valuable reputation and goodwill of Plaintiff in the hands of Defendants.

91. By engaging in the aforesaid acts, Defendants are unfairly competing with Plaintiff.

92. The foregoing acts and conduct by the Defendants constitute false designation of origin, passing off, and false advertising in connection with products distributed in interstate commerce in violation of 15 U.S.C. § 1125(a).

93. Defendants' conduct in adopting and using the Epic Tech Trademark Registrations and Epic Tech Trade Dress is likely to cause confusion, mistake, or deception as to the affiliation, connection, and association of Defendants' infringing software with Epic Tech, and as to the sponsorship, origin, or approval of Defendants and their infringing software, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

94. Epic Tech will suffer irreparable harm unless Defendants' unlawful conduct is enjoined. As a proximate result of Defendants' actions, Epic Tech has suffered and will continue to suffer damage to its business, goodwill, reputation, profits and strength of the Epic Tech Trademark Registrations and the Epic Tech Trade Dress. The injury to Epic Tech is ongoing, continuous and irreparable. A monetary award of damages alone cannot fully compensate Epic Tech for its damages caused by Defendants, and Epic Tech lacks an adequate remedy at law.

95. Plaintiff is entitled to injunctive relief under 15 U.S.C. § 1116 and destruction of the infringing articles under 15 U.S.C. § 1118.

96. In addition to injunctive relief, Plaintiff is entitled to recover all actual damages that it has sustained, including Defendants' profits and the costs of this action, under 15 U.S.C. § 1117.

97. For Defendants' willful infringement and exceptional conduct, Plaintiff is entitled to recover treble damages and its reasonable attorneys' fees under 15 U.S.C. § 1117.

Fourth Cause of Action: Contributory and Vicarious Copyright Infringement (against all Defendants)

98. Plaintiff incorporates by reference the allegations made in the foregoing paragraphs, as if fully copied herein.

99. Plaintiff is the owner of the Epic Tech Copyright Registrations.

100. Defendants, without authority and willfully and wantonly, have acted in conscious and intentional disregard of and indifference to the rights of Plaintiff by, among other things, inducing, encouraging, and/or contributing to third parties, including sweepstakes locations such as Theo's, to infringe, operate, and otherwise use the unauthorized reproduction and display of copyrighted material belonging to Plaintiff without the express or implied consent of Plaintiff.

101. Defendants had the right and ability to supervise the copyright infringing activities at Theo's and also had and has a direct financial interest in such activities. As such, Defendants are vicariously liable for the infringing activity of Theo's.

102. Defendants knew or reasonably should have known that the software and the works protected by Plaintiff's Copyright Registrations that they were using were protected by copyright and of the infringing activity of other persons and entities that they were aiding.

103. Defendants' aiding of this infringement has been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

104. Defendants' conduct constitutes a violation of 17 U.S.C. §§ 501, *et seq.*

105. Defendants' aiding of these infringing activities continues through the date of the filing of this complaint.

106. As a direct and proximate result of Defendants' aiding of this copyright infringement, Plaintiff has suffered, and is suffering, actual, immediate, and irreparable harm for which no adequate remedy exists at law. Unless immediately restrained and enjoined, Defendants will continue to engage in the acts complained of herein and, therefore, will continue to cause irreparable harm to Plaintiff.

107. As a direct and proximate result of its wrongful conduct, Defendants have realized and will continue to realize profits and other benefits rightly belonging to Plaintiff. Accordingly, Plaintiff is entitled to the maximum statutory damages pursuant to 17 U.S.C. § 504(c). Alternatively, at Plaintiff's election, pursuant to 17 U.S.C. § 504(b), Plaintiff is entitled to its actual damages plus Defendants' profits from infringement, to be proven at trial.

108. Plaintiff is entitled to its costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

Fifth Cause of Action: Contributory and Vicarious Trademark Infringement and Unfair Competition (against all Defendants)

109. Plaintiff incorporates by reference the allegations made in the foregoing paragraphs, as if fully copied herein.

110. Plaintiff owns the Epic Tech Registered Trademarks and the Epic Tech Trade Dress.

111. Defendants contributed to or induced others, including sweepstakes locations such as Theo's, to commit trademark infringement, trade dress infringement, and unfair competition and/or knew or had reason to know of the impermissible activity of such persons and directly or indirectly supplied materials, including servers, gaming systems, and/or software, to such persons. As such, Defendants are contributorily liable for trademark infringement, trade dress infringement, and unfair competition.

112. Upon information and belief, Defendants and Theo's have an apparent or actual partnership, authority to bind one another, and/or joint ownership or control over the accused product herein. As such, Defendants are vicariously liable for the infringing activity of Theo's.

113. Defendants' continued aiding of this infringing conduct is knowing, intentional, and willful.

114. As a direct and proximate result of Defendants' aiding of trademark infringement and trade dress infringement, Plaintiff has suffered, and is suffering, actual, immediate, and irreparable harm for which no adequate remedy exists at law. Unless immediately restrained and enjoined, Defendants will continue to engage in the unlawful conduct.

Sixth Cause of Action: Conversion (against all Defendants)

115. Plaintiff incorporates by reference the allegations made in the foregoing paragraphs, as if fully copied herein.

116. Plaintiff has a right to immediate possession of, among other things, Plaintiff's gaming software, associated servers, images, graphics, and screen shots (the "Misappropriated Information").

117. Defendants wrongfully exercised dominion and control over the Misappropriated Information taken by Defendants, and converted same to their own use to the exclusion of Plaintiff, or inconsistent with Plaintiff's rights.

118. Defendants did not acquire possession of the Misappropriated Information by legal means. Without Plaintiff's authorization, Defendants continue to unlawfully retain possession of, exercise dominion and control over, and use the Misappropriated Information inconsistent with Plaintiff's rights.

119. Defendants' wrongful conversion of the Misappropriated Information has proximately caused Plaintiff to suffer damages.

120. Because Plaintiff's injury resulted from Defendants' malice and/or intentional conduct, Plaintiff is entitled to seek, and to recover, exemplary damages from Defendants under Texas Civil Practice & Remedies Code § 41.003(a) in amounts to be determined by the trier of fact.

121. Plaintiff also seeks permanent injunctive relief, including immediate possession of the Misappropriated Information.

Seventh Cause of Action: Infringement of U.S. Patent No. 8,545,315 Against Defendant Texas Wiz, LLC (8fuse)

122. Plaintiff incorporates by reference the allegations made in the foregoing paragraphs, as if fully copied herein.

123. 8fuse has infringed and continues to infringe, directly and indirectly, at least one claim of the '315 patent.

124. The Accused Products meet at least one claim of the '315 patent, as described in more detail in Plaintiff's final infringement contentions served herewith pursuant to P.R. 3-6.

125. 8fuse makes, uses, offers to sell, sells, and/or imports the Accused Products within or into the United States without authority from Plaintiff.

126. 8fuse therefore directly infringes the '315 patent under 35 U.S.C. § 271(a).

127. 8fuse has actual knowledge of the '315 patent.

128. 8fuse indirectly infringes the '315 patent by inducing infringement by others, such as distributors, retail stores, internet cafes, and consumers, by, for example, instructing and encouraging distributors, retail stores, and internet cafes to advertise and sell the Accused Products to consumers within the United States, instructing and encouraging distributors, retail stores, and internet cafes to purchase and use the Accused Products in the United States, and instructing and encouraging consumers to purchase and use the Accused Products in the United States. For example, 8fuse offers instruction via its promotional materials, including websites, online videos, and social media.

129. 8fuse took the above actions intending to cause infringing acts by others.

130. 8fuse was aware of the '315 patent and knew that the others' actions, if taken, would constitute infringement of the '315 patent. Alternatively, 8fuse believed that there was a high probability that others would infringe the '315 patent but remained willfully blind to the infringing nature of others' actions.

131. 8fuse therefore infringes the '315 patent under 35 U.S.C. § 271(b).

132. 8fuse indirectly infringes the '315 patent by contributing to infringement by others, such as distributors, retail stores, internet cafes, and consumers, by offering to sell and/or selling within the United States components that constitute a material part of the inventions claimed in the '315 patent, or components that are used to practice one or more methods covered by the claims of the '315 patent. Such components are, for example, the software that is used in the Accused Products.

133. In the above offering to sell and/or selling, 8fuse knows that these components are especially made or especially adapted for use in an infringement of the '315 patent and that these components are not a staple article or commodity of commerce suitable for substantial non-infringing use, or at least knows there is a high probability of the same and remains willfully blind to it.

134. 8fuse therefore infringes the '315 patent under 35 U.S.C. § 271(c).

135. 8fuse's acts of infringement have caused damage to Plaintiff. Plaintiff is entitled to recover from 8fuse the damages sustained by Plaintiff as a result of 8fuse's wrongful acts in an amount subject to proof at trial.

136. 8fuse has committed and continues to commit acts of infringement under 35 U.S.C. § 271 with the Accused Products. In committing these acts of infringement, 8fuse has acted despite an objectively high likelihood that its actions constituted infringement of a valid patent, and 8fuse

actually knew or should have known that its actions constituted an unjustifiably high risk of infringement of a valid and enforceable patent.

137. Plaintiff is entitled to injunctive relief under 35 U.S.C. § 283.

138. In addition to injunctive relief, under 35 U.S.C. § 284, Plaintiff is entitled to recover damages adequate to compensate Plaintiff for the infringement, including lost profits, but in no event less than a reasonable royalty, together with interest and costs.

139. For 8fuse's willful infringement and exceptional conduct, Plaintiff is entitled to recover treble damages under 35 U.S.C. § 284 and its reasonable attorneys' fees under 35 U.S.C. § 285.

Eighth Cause of Action: Infringement of U.S. Patent No. 9,589,423 Against Defendant Texas Wiz, LLC (8fuse)

140. Plaintiff incorporates by reference the allegations made in the foregoing paragraphs, as if fully copied herein.

141. 8fuse has infringed and continues to infringe, directly and indirectly, at least one claim of the '423 patent.

142. The Accused Products meet at least one claim of the '423 patent, as described in more detail in Plaintiff's final infringement contentions served herewith pursuant to P.R. 3-6.

143. 8fuse makes, uses, offers to sell, sells, and/or imports the Accused Products within or into the United States without authority from Plaintiff.

144. 8fuse therefore directly infringes the '423 patent under 35 U.S.C. § 271(a).

145. 8fuse has actual knowledge of the '423 patent.

146. 8fuse indirectly infringes the '423 patent by inducing infringement by others, such as distributors, retail stores, internet cafes, and consumers, by, for example, instructing and encouraging distributors, retail stores, and internet cafes to advertise and sell the Accused Products

to consumers within the United States, instructing and encouraging distributors, retail stores, and internet cafes to purchase and use the Accused Products in the United States, and instructing and encouraging consumers to purchase and use the Accused Products in the United States. For example, 8fuse offers instruction via its promotional materials, including websites, online videos, and social media.

147. 8fuse took the above actions intending to cause infringing acts by others.

148. 8fuse was aware of the '423 patent and knew that the others' actions, if taken, would constitute infringement of the '423 patent. Alternatively, 8fuse believed that there was a high probability that others would infringe the '423 patent but remained willfully blind to the infringing nature of others' actions.

149. 8fuse therefore infringes the '423 patent under 35 U.S.C. § 271(b).

150. 8fuse indirectly infringes the '423 patent by contributing to infringement by others, such as distributors, retail stores, internet cafes, and consumers, by offering to sell and/or selling within the United States components that constitute a material part of the inventions claimed in the '423 patent, or components that are used to practice one or more methods covered by the claims of the '423 patent. Such components are, for example, the software that is used in the Accused Products.

151. In the above offering to sell and/or selling, 8fuse knows that these components are especially made or especially adapted for use in an infringement of the '423 patent and that these components are not a staple article or commodity of commerce suitable for substantial non-infringing use, or at least knows there is a high probability of the same and remains willfully blind to it.

152. 8fuse therefore infringes the '423 patent under 35 U.S.C. § 271(c).

153. 8fuse's acts of infringement have caused damage to Plaintiff. Plaintiff is entitled to recover from 8fuse the damages sustained by Plaintiff as a result of 8fuse's wrongful acts in an amount subject to proof at trial.

154. 8fuse has committed and continues to commit acts of infringement under 35 U.S.C. § 271 with the Accused Products. In committing these acts of infringement, 8fuse has acted despite an objectively high likelihood that its actions constituted infringement of a valid patent, and 8fuse actually knew or should have known that its actions constituted an unjustifiably high risk of infringement of a valid and enforceable patent.

155. Plaintiff is entitled to injunctive relief under 35 U.S.C. § 283.

156. In addition to injunctive relief, under 35 U.S.C. § 284, Plaintiff is entitled to recover damages adequate to compensate Plaintiff for the infringement, including lost profits, but in no event less than a reasonable royalty, together with interest and costs.

157. For 8fuse's willful infringement and exceptional conduct, Plaintiff is entitled to recover treble damages under 35 U.S.C. § 284 and its reasonable attorneys' fees under 35 U.S.C. § 285.

Ninth Cause of Action: Request for Permanent Injunction (against all Defendants)

158. Plaintiff incorporates by reference the allegations made in the foregoing paragraphs, as if fully copied herein.

159. The relative equities of the parties are best served by permanently enjoining Defendants' actions in using, copying, possessing, or distributing Plaintiff's software.

160. Given Defendants' intentional and widespread infringement, misappropriation, conversion, and theft of Plaintiff's copyrights, trademarks, trade dress, patents, and other Misappropriated Information, it is likely that, unless enjoined, Defendants will retain, use,

distribute, and/or continue distributing Plaintiff's intellectual property. Plaintiff seeks the Court's protection to avoid further infringement of its copyrights, trademarks, trade dress, and patents and further dissemination, disclosure, or use of its other Misappropriated Information.

161. Based on the foregoing, Plaintiff has shown a probable right to recovery. In addition, it has no adequate remedy at law. Unless enjoined, Plaintiff will suffer, and will continue to suffer, clear, immediate, and irreparable injury from Defendants' infringement of its copyrights, trademarks, trade dress, and patents. Plaintiff also will suffer from Defendants' misappropriation and distribution of Plaintiff's Misappropriated Information, Defendants' unfair competition with Plaintiff, and continued exposure to lawsuits such as this one.

162. The harm and loss will continue unless this Court restrains, and ultimately permanently enjoins, this conduct. Plaintiff is therefore entitled to permanent injunctive relief. As requested below, Plaintiff respectfully requests the Court to enjoin Defendants from continuing to misappropriate, use, or distribute Plaintiff's software, or any Misappropriated Information, order Defendants to return all copies of such software wrongfully obtained in any current or former form or medium, and order Defendants to disclose the identity and location of any third parties with whom Defendants have shared the software.

**VI.
DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury of all issues so triable in this action.

**VII.
REQUEST FOR RELIEF**

WHEREFORE, premises considered, Plaintiff requests that judgment be entered against Defendants, and that Plaintiff be granted the following relief:

A. A permanent injunction, as requested herein, enjoining and restraining Defendants, including their employers, agents, servants, employees, independent contractors, attorneys, representatives, and those persons or entities in active concert or participation with them, from using Plaintiff's software, infringing or counterfeiting any of Epic Tech's registered copyrights, registered trademarks, trade dress, patents, or taking any further action to unfairly compete with Epic Tech; ordering Defendants to return all copies of Plaintiff's software wrongfully obtained in any current or former form or medium; and ordering Defendants to disclose the identity and location of any third parties with whom Defendants have shared Plaintiff's software.

B. Judgment against Defendants, jointly and severally, for actual damages, in excess of \$75,000, and exemplary, statutory, compensatory, and special damages.

C. Recovery of pre- and post-judgment interest, attorneys' fees, and costs.

D. All remedies as provided in 17 U.S.C. §§ 504(b), 504(c), and 505.

E. All remedies as provided in 15 U.S.C. §§ 1116, 1117, and 1118.

F. As to Defendant Texas Wiz, LLC, all remedies as provided in 35 U.S.C. §§ 283, 284, and 285.

G. An accounting for damages.

H. An award and/or imposition of constructive trust on all funds unjustly received by Defendants as a result of the acts alleged herein.

I. Such other and further relief requested herein and/or as to which Plaintiff may be entitled.

Dated: September 9, 2020

Respectfully submitted,

/s/ Brant C. Martin

Brant C. Martin

State Bar No. 24002529

brant.martin@wickphillips.com

Amy E. LaValle

State Bar No. 24040529

amy.lavalle@wickphillips.com

Joseph R. Callister

State Bar No. 24059054

joseph.callister@wickphillips.com

Brett M. Pinkus

State Bar No. 24076625

brett.pinkus@wickphillips.com

Ethan A. Minshull

State Bar No. 24081045

ethan.minshull@wickphillips.com

WICK PHILLIPS GOULD & MARTIN, LLP

3131 McKinney Avenue, Suite 100

Dallas, Texas 75204

Telephone: (214) 692-6200

Facsimile: (214) 692-6255

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule 5.1 on September 9, 2020.

/s/ Ethan A. Minshull

Ethan A. Minshull