

Douglas V. Sanchez, Esq. (DS1565)
CRUSER, MITCHELL, NOVITZ, SANCHEZ, GASTON & ZIMET, LLP
50 Tice Boulevard, Suite 250
Woodcliff Lake, New Jersey 07677
(201) 474-7100
Attorneys for Plaintiff AG 18, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

AG 18, LLC, doing business as ARROW
GAMING, a Colorado limited liability
company,

Plaintiff,

v.

DRAFTKINGS INC., a Nevada corporation,
DRAFTKINGS INC., a Delaware
corporation, and CROWN GAMING INC., a
Delaware corporation,

Defendants.

CIVIL ACTION NO.
2:21-CV-15737-KM-JSA

JURY TRIAL DEMANDED

**PLAINTIFF'S
SECOND AMENDED COMPLAINT
FOR PATENT INFRINGEMENT
AND JURY DEMAND**

Pursuant to Local Civil Rule 10.1, the address of Plaintiff AG 18, LLC, doing business under its registered trade name Arrow Gaming (“Plaintiff” or “Arrow Gaming”), is 5082 East Hampden Avenue, Suite 289, Denver, Colorado 80222. The addresses of Defendants DraftKings Inc., a Nevada corporation (“DraftKings NV”), DraftKings Inc., a Delaware corporation (“DraftKings DE”), and Crown Gaming Inc., a Delaware corporation (“Crown Gaming”) in New Jersey include 221 River Street, Hoboken, New Jersey 07030, 111 River Street, Hoboken, New Jersey 07030, and 1133 Boardwalk, Atlantic City, New Jersey 08401. Hereinafter, DraftKings NV, DraftKings DE, and Crown Gaming will be collectively referred to as “Defendants” or “DraftKings.” Arrow Gaming, by and through its undersigned counsel, complains against DraftKings and alleges as follows:

I. PARTIES

1. Plaintiff AG 18, LLC is a Colorado limited liability company registered to do business under its trade name Arrow Gaming. Arrow Gaming is located at 5082 East Hampden Avenue, Suite 289, Denver, Colorado 80222.

2. Arrow Gaming is engaged in the design and development of technologies that enable the next generation of gaming and gambling technologies. Arrow Gaming's innovations have resulted in an extensive portfolio of United States patents, including U.S. Patent Nos. 9,613,498 ("the '498 Patent"), 9,978,205 ("the '205 Patent"), 10,497,220 ("the '220 Patent"), 10,614,657 ("the '657 Patent"), and 11,024,131 ("the '131 Patent") (collectively, the "Asserted Patents"). Arrow Gaming is the owner by assignment of all right, title, and interest to the Asserted Patents.

3. DraftKings is an entertainment and gaming business, collectively operating under the "DraftKings" brand. DraftKings provides users with and sells daily fantasy sports ("Daily Fantasy"), sports betting ("Sportsbook"), and online casino gaming ("Casino"), among other offerings. DraftKings also is involved in the design, development, and licensing of sports betting and casino gaming software for online and retail sportsbook and casino gaming products. DraftKings offers Daily Fantasy, Sportsbook, and Casino online through its website (i.e. DraftKings Daily Fantasy may be accessed at <https://www.draftkings.com/>, DraftKings Sportsbook may be accessed at <https://sportsbook.draftkings.com/>, and DraftKings Casino may be accessed at <https://casino.draftkings.com/>), as well as mobile applications (i.e. DraftKings offers Daily Fantasy, Sportsbook, Casino, and DK Live mobile applications on the Apple App Store for iOS and iPadOS operating systems and the Google Play Store for Android operating systems).

DraftKings has provided and continues to provide websites and related software, products, and services that practice the Asserted Patents without authorization from Arrow Gaming.

4. On information and belief, DraftKings operates through a number of related corporate entities, including DraftKings NV, DraftKings DE, and Crown Gaming, which are also alter egos of one another, such that DraftKings operates as a consolidated and joint enterprise, and the acts of one Defendant are attributable to the others for purposes of the matters alleged herein.

5. On information and belief, Defendant DraftKings NV is a Nevada corporation having executive offices at 222 Berkeley Street, Boston, Massachusetts 02116 and regular and established places of business at 221 River Street, Hoboken, New Jersey 07030, 111 River Street, Hoboken, New Jersey 07030, and 1133 Boardwalk, Atlantic City, New Jersey 08401.

6. DraftKings NV is a publicly traded company. Beginning April 24, 2020, the shares of Class A common stock in the company traded on the NASDAQ stock exchange under the ticker symbol “DKNG” and continue to be traded publicly under this stock symbol. DraftKings NV’s public securities filings, including the 10-K Annual Report for the year ended December 31, 2020, describe the activities and business of DraftKings NV and informed the public that in the DraftKings’ securities filings the terms “DraftKings,” “‘we’, ‘our,’ and ‘us’ and similar terms refer to DraftKings Inc., a Nevada corporation.”

7. Within its 10-K Annual Report for the year ended December 31, 2020, DraftKings NV states “[w]e are a digital sports entertainment and gaming company. We provide users with daily fantasy sports, sports betting (“Sportsbook”) and online casino (“iGaming”) opportunities, and we are also involved in the design, development, and licensing of sports betting and casino gaming software for online and retail sportsbook and casino gaming products.” Furthermore under

a section titled “Our Products,” DraftKings NV identifies Daily Fantasy Sports, Sportsbook, and iGaming (i.e. online casino) as included among the product offerings of DraftKings NV.

8. On information and belief, Defendant DraftKings DE is a Delaware corporation having executive offices at 222 Berkeley Street, Boston, Massachusetts 02116 and regular and established places of business at 221 River Street, Hoboken, New Jersey 07030, 111 River Street, Hoboken, New Jersey 07030, and 1133 Boardwalk, Atlantic City, New Jersey 08401.

9. On information and belief, DraftKings DE is a wholly-owned subsidiary of DraftKings NV and was acquired in accordance with a December 22, 2019 Business Combination Agreement entered into among DraftKings NV, DraftKings DE, and other parties.

10. On information and belief, Defendant Crown Gaming is a Delaware corporation having executive offices at 222 Berkeley Street, Boston, Massachusetts 02116 and regular and established places of business at 221 River Street, Hoboken, New Jersey 07030, 111 River Street, Hoboken, New Jersey 07030, and 1133 Boardwalk, Atlantic City, New Jersey 08401.

11. On information and belief, Defendant Crown Gaming, in coordination with co-Defendants DraftKings NV and DraftKings DE, owns, controls, dominates, and directs the activities of several subsidiaries, including Crown NJ Gaming Inc. (“Crown NJ Gaming”), Crown DFS Inc., Crown PA DFS Inc., Crown MS Gaming Inc., Crown NV Gaming Inc., Crown NY Gaming Inc., Crown PA Gaming Inc., Crown WV Gaming Inc., Crown IA Gaming LLC, Crown MA Gaming LLC, Crown IN Gaming LLC, Crown NH Gaming LLC, Crown CO Gaming LLC, Crown TN Gaming LLC, Crown IL Gaming LLC, Crown MI Gaming LLC, Crown VA Gaming LLC, Crown AZ Gaming LLC, and Crown Gaming RT LLC (collectively “Crown State Specific Entities”). *See Exhibit 1.*

12. On information and belief, DraftKings DE is listed as the registered operator of DraftKings Daily Fantasy in most states where DraftKings Daily Fantasy is offered. For instance, in New Jersey DraftKings DE is approved as a fantasy sports operator pursuant to permit number 130/21 issued by Division of Consumer Affairs of the New Jersey Office of the Attorney General. *See Exhibit 2.*

13. On information and belief, in states where DraftKings offers Sportsbook or Casino products, DraftKings typically holds licensing registrations via a Crown State Specific Entity. On information and belief, DraftKings NV, DraftKings DE, and Crown Gaming control and dominate the Crown State Specific Entities. On information and belief, Crown Gaming and the Crown State Specific Entities share directors, officers, and facilities. On information and belief, the Crown State Specific Entities are a mere alter ego, agent, and/or instrumentality of Crown Gaming, and in turn DraftKings DE and DraftKings NV.

14. For instance, upon information and belief in New Jersey, Crown NJ Gaming is an applicant for casino service industry enterprise licensure pursuant to N.J. Stat. Ann. § 5:12-92a(1) operating under a transactional waiver granted by the New Jersey Division of Gaming Enforcement pursuant to N.J. Admin. Code § 13:69J-1.2B. Crown Gaming is a holding company and entity qualifier of Crown NJ Gaming with the power and right to control Crown NJ Gaming. *See Exhibit 3; see also* N.J. Stat. Ann. §§ 5:12-26, 5:12-92b; N.J. Admin. Code § 13:69J-1.14. Crown Gaming exercises significant control over the activities of Crown State Specific Entities (including Crown NJ Gaming) and enters into business agreements on behalf of Crown State Specific Entities (including Crown NJ Gaming), such as a December 21, 2018 Live Casino Agreement between Crown Gaming and Evolution Malta Limited to offer certain live casino

games on the DraftKings Casino platform. *See Exhibit 3.* Crown NJ Gaming further does business under the “DraftKings” tradename. *Id.*

15. Furthermore, in 2019 Crown Gaming, listing DraftKings as its trade name, submitted a proposal to the New Hampshire Lottery Commission to operate mobile and retail sports betting platforms in the State of New Hampshire. When Crown Gaming was awarded the winning proposal, DraftKings elected to enter into a contract via Crown NH Gaming LLC, a Crown State Specific Entity. *See Exhibit 4.* DraftKings uses DraftKings NV, DraftKings DE, Crown Gaming, and Crown State Specific Entities interchangeably and as alter egos of one another.

16. On information and belief, DraftKings NV, DraftKings DE, Crown Gaming, and the Crown State Specific Entities all operate and do business under the “DraftKings” tradename. DraftKings markets, advertises, sells, and offers to sell the DraftKings Daily Fantasy, DraftKings Sportsbook, and DraftKings Casino products, services and mobile applications through its root website domain draftkings.com, which includes the subdomains www.draftkings.com, sportsbook.draftkings.com, and casino.draftkings.com. The website and mobile applications prominently use the names “DraftKings,” “DraftKings Daily Fantasy Sports,” “DraftKings Sportsbook,” and “DraftKings Casino” throughout. On information and belief, the DraftKings Daily Fantasy, Sportsbook, and Casino websites and mobile applications are effectuated at least in part through, and attributable to, DraftKings NV, DraftKings DE, and Crown Gaming.

17. On information and belief, DraftKings DE owns several trademarks including the “DraftKings” name and logo. *See, e.g.,* DRAFTKINGS, Registration No. 4,308,819; DRAFTKINGS, Registration No. 5,291,136; DRAFTKINGS, Registration No. 5,345,223. The DraftKings trademarks are used prominently throughout the DraftKings website and products.

Furthermore, DraftKings NV makes use of DraftKings' trademarked logo in its 10-K Annual Report for the year ended December 31, 2020 submitted to the Securities and Exchange Commission. Crown Gaming and Crown State Specific Entities use "DraftKings" as a trade name in various states.

18. The DraftKings website includes copyright notices identifying "DraftKings" as the owner and are thus attributed to at least DraftKings NV, DraftKings DE, and Crown Gaming, all of which do business under the name "DraftKings." Similarly, the Terms of Use of the DraftKings website identify "DraftKings" as the owner and operator of the website. *See* <https://myaccount.draftkings.com/documents/us-terms-of-use>. In providing information regarding the website and DraftKings, the website identifies "DraftKings Inc. Boston, MA." On information and belief, the DraftKings website is administered and operated by, DraftKings NV in conjunction with DraftKings DE, a wholly-owned subsidiary of the same name, along with Crown Gaming which also does business as DraftKings.

19. On information and belief, Defendants DraftKings NV, DraftKings DE, and Crown Gaming share corporate offices and operate out of the same facilities, having regular and established places of business at least in New Jersey and Massachusetts at 221 River Street, Hoboken, New Jersey 07030; 111 River Street, Hoboken, New Jersey 07030; 1133 Boardwalk, Atlantic City, New Jersey 08401; and 222 Berkeley Street, Boston, Massachusetts 02116.

20. On information and belief, the same individuals hold positions as officers and directors of DraftKings NV, DraftKings DE, and Crown Gaming. For example:

- a. On information and belief, Mr. Paul Liberman is a co-founder and director of DraftKings and is the President of Global Technology and Product of DraftKings NV and DraftKings DE. On information and belief, Mr. Liberman

is also a director and president of Crown Gaming and a director of Crown NJ Gaming.

- b. On information and belief, Timothy Dent is the Chief Compliance Officer of DraftKings NV and has been the Chief Financial Officer of DraftKings DE. On information and belief, Mr. Dent is also a director of Crown Gaming and has been Treasurer and Chief Financial Officer of Crown Gaming. Mr. Dent is also a director and treasurer of Crown NJ Gaming.
- c. On information and belief, R. Stanton Dodge is the Chief Legal Officer and Secretary for DraftKings NV and DraftKings DE and the Chief Legal Officer of Crown Gaming.
- d. On information and belief, Jason Robins, Matthew Kalish, Marni Walden, Hany Nada, Woodrow Levin, Steven Murray, John Salter, and Ryan Moore each serve as directors for both DraftKings NV and DraftKings DE.

II. JURISDICTION

21. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 284, and 285. This is a patent infringement lawsuit over which this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

22. This United States District Court for the District of New Jersey has personal jurisdiction over DraftKings because DraftKings is present in and transacts and conducts business in and with residents of this District and the State of New Jersey.

23. Arrow Gaming's causes of action arise, at least in part, from DraftKings' contacts with and activities in this District and the State of New Jersey.

24. DraftKings has committed acts of infringing the Asserted Patents within this District and the State of New Jersey by making, using, selling, offering for sale, and/or importing in or into this District and elsewhere in the State of New Jersey such infringing products. DraftKings makes, uses, sells, offers for sale, advertises, promotes, markets, and/or otherwise commercializes such infringing products in this District and the State of New Jersey. DraftKings regularly conducts and solicits business in, engages in other persistent courses of conduct in, and/or derives substantial revenue from goods and services provided to residents of this District and the State of New Jersey.

25. Defendants are properly joined under 35 U.S.C. § 299(a) because, as set forth in greater detail herein, Arrow Gaming's right to relief is asserted herein against Defendants jointly, severally, and in the alternative with respect to or arising out of the same transactions, occurrences, and series of transactions and occurrences relating to the making, using, selling, offering to sell and/or importing into the United States the same accused products and services, and questions of fact common to all defendants will arise in the action. Defendants, through their own acts and/or each through the acts of each other acting as its representative, alter ego, or agent, of each other, commonly and/or jointly make, use, sell, and/or offer for sale the same infringing products and services, including the DraftKings Daily Fantasy and DraftKings Casino offerings through the DraftKings website.

III. VENUE

26. Venue is proper in this District against DraftKings because DraftKings has a physical place located in the District that is a regular and established place of business, and that place belongs to Defendants. *See In re Cray Inc.*, 871 F.3d 1355 (Fed. Cir. 2017).

27. Specifically, DraftKings maintains regular and established places of business within this District including at 221 River Street, Hoboken, New Jersey 07030, 111 River Street, Hoboken, New Jersey 07030, and 1133 Boardwalk, Atlantic City, New Jersey 08401.

IV. THE ASSERTED PATENTS

A. United States Patent Number 9,613,498

28. United States Patent Number 9,613,498 is titled “Systems and methods for peer-to-peer gaming” and was filed on June 19, 2009. The ’498 Patent claims priority to United States Provisional Patent Application Number 61/074,572, which was filed on June 20, 2008. A true and correct copy of the ’498 Patent is attached as Exhibit 5.

29. The ’498 Patent claims patent-eligible subject matter and is valid and enforceable.

30. Claim 1 of the ’498 Patent is an exemplary method claim. It recites:

A computer-server-based method for peer-to-peer gaming, comprising:
creating a list of player gaming options for a player in a current location,
wherein the list of player gaming options is automatically
created at an administration server based on the current
location of the player,
wherein the list of player gaming options is limited to legal
gaming options in the current location of the player; and
wherein the legal gaming options include limits on wagering
amounts or types of games to prevent the player from
unlawful play in the current location of the player:
presenting a player with the list of player gaming options, wherein the list
of player gaming options is presented to the player at a player gaming client;
collecting a selection of player gaming options from the player,
wherein the selection of player gaming options includes a betting
range;
determining a game type that the player selected, wherein the game type is
based on the selection of player gaming options;
matching the player with an at least one competitor,
wherein matching the player with the at least one competitor is based
at least in part on the betting range, and
wherein matching the player with the at least one competitor is
performed by the administration server;
collecting a bet from the player,

wherein the bet is within the betting range identified in the selection of player gaming options;
initiating a game for the player, wherein the game is based on the selection of player gaming options;
collecting results of the game, wherein the results of the game are received at the administration server; and
compensating the player with player winnings, wherein the player winnings are based on the results of the game.

31. The '498 Patent's named inventors are Nicholas Koustas, John Mix, and Alexander Oxman.

32. On July 11, 2008 the named inventors conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying patent applications to Avio Ventures, LLC by written assignments recorded in the United States Patent and Trademark Office.

33. On July 31, 2009 Avio Ventures, LLC conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying patent applications to Arrow Gaming, Inc. by written assignments recorded in the United States Patent and Trademark Office.

34. On April 8, 2013 Arrow Gaming, Inc. conveyed all right, title, and interest in the invention of United States Patent Application Number 12/488,241 and its underlying patent applications to Plaintiff AG 18, LLC by written assignments recorded in the United States Patent and Trademark Office.

35. Arrow Gaming is the exclusive owner by assignment of all right, title, and interest in the '498 Patent, including the right to bring this suit for damages, including the right to sue and recover all past, present and future damages for infringement of the '498 Patent.

36. DraftKings is not licensed under the '498 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the '498 Patent whatsoever.

B. United States Patent Number 9,978,205

37. United States Patent Number 9,978,205 is titled “Location based restrictions on networked gaming” and was filed on February 28, 2017. The ’205 Patent is a continuation of United States Patent Application Number 12/488,241, which claims priority to United States Provisional Patent Application Number 61/074,572, which was filed on June 20, 2008. A true and correct copy of the ’205 Patent is attached as Exhibit 6.

38. The ’205 Patent claims patent-eligible subject matter and is valid and enforceable.

39. Claim 1 of the ’205 Patent is an exemplary method claim. It recites:

A method comprising:

creating a list of player gaming options for a player in a current location,
wherein the list of player gaming options is limited to legal gaming options in the current location of the player; and
wherein the legal gaming options include limits on wagering amounts or types of games to prevent the player from unlawful play in the current location of the player;
presenting a player with the list of player gaming options, wherein the list of player gaming options is presented to the player at a player gaming client;
collecting a selection of player gaming options from the player;
determining a game type that the player selected, wherein the game type is based on the selection of player gaming options;
matching the player with an at least one competitor,
wherein matching the player with the at least one competitor is performed by an administration server;
collecting a bet from the player,
wherein the bet is within a betting range identified in the selection of player gaming options;
initiating a game for the player, wherein the game is based on the selection of player gaming options;
collecting results of the game, wherein the results of the game are received at the administration server; and
compensating the player with player winnings, wherein the player winnings are based on the results of the game.

40. The ’205 Patent’s named inventors are Nicholas Koustas, John Mix, and Alexander Oxman.

41. On July 11, 2008 the named inventors conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying patent applications to Avio Ventures, LLC by written assignments recorded in the United States Patent and Trademark Office.

42. On July 31, 2009 Avio Ventures, LLC conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying patent applications to Arrow Gaming, Inc. by written assignments recorded in the United States Patent and Trademark Office.

43. On April 8, 2013 Arrow Gaming, Inc. conveyed all right, title, and interest in the invention of United States Patent Application Number 12/488,241 and its underlying patent applications to Plaintiff AG 18, LLC by written assignments recorded in the United States Patent and Trademark Office.

44. Arrow Gaming is the exclusive owner by assignment of all right, title, and interest in the '205 Patent, including the right to bring this suit for damages, including the right to sue and recover all past, present and future damages for infringement of the '205 Patent.

45. DraftKings is not licensed under the '205 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the '205 Patent whatsoever.

C. United States Patent Number 10,497,220

46. United States Patent Number 10,497,220 is titled "Location based restrictions on networked gaming" and was filed on May 19, 2017. The '220 Patent is a continuation-in-part of United States Patent Application Number 15/444,409, which is a continuation of United States Patent Application Number 12/488,241, which claims priority to United States Provisional Patent

Application Number 61/074,572, which was filed on June 20, 2008. A true and correct copy of the '220 Patent is attached as Exhibit 7.

47. The '220 Patent claims patent-eligible subject matter and is valid and enforceable.

48. Claim 1 of the '220 Patent is an exemplary method claim. It recites:

A method comprising:

dynamically creating, by an administration server, a customized list of player gaming options for a player based, at least in part, on a current location of the player;

wherein the customized list of player gaming options is limited to legal gaming options in a jurisdiction corresponding to the current location of the player; and

wherein the legal gaming options include at least one of limits on wagering amounts or types of games to prevent the player from unlawful play in the current location of the player;

generating a graphical user interface including the customized list of player gaming options;

providing the graphical user interface for presentation to the player;

receiving a selection from the customized list of player gaming options;

collecting a bet from the player;

verifying that the bet is within a betting range identified in the player gaming options;

initiating a game for the player, wherein the game is based on the selection of player gaming options;

collecting results of the game; and

compensating the player with player winnings based on the results of the game.

49. The '220 Patent's named inventors are Jordan Simons, Nicholas Koustas, John Mix, and Alexander Oxman.

50. On July 11, 2008 the named inventors conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying patent applications to Avio Ventures, LLC by written assignments recorded in the United States Patent and Trademark Office.

51. On July 31, 2009 Avio Ventures, LLC conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying

patent applications to Arrow Gaming, Inc. by written assignments recorded in the United States Patent and Trademark Office.

52. On April 8, 2013 Arrow Gaming, Inc. conveyed all right, title, and interest in the invention of United States Patent Application Number 12/488,241 and its underlying patent applications to Plaintiff AG 18, LLC by written assignments recorded in the United States Patent and Trademark Office.

53. Arrow Gaming is the exclusive owner by assignment of all right, title, and interest in the '220 Patent, including the right to bring this suit for damages, including the right to sue and recover all past, present and future damages for infringement of the '220 Patent.

54. DraftKings is not licensed under the '220 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the '220 Patent whatsoever.

D. United States Patent Number 10,614,657

55. United States Patent Number 10,614,657 is titled "Location based restrictions on networked gaming" and was filed on May 17, 2018. The '657 Patent is a continuation of United States Patent Application Number 15/444,409, which is a continuation of United States Patent Application Number 12/488,241, which claims priority to United States Provisional Patent Application Number 61/074,572, which was filed on June 20, 2008. A true and correct copy of the '657 Patent is attached as Exhibit 8.

56. The '657 Patent claims patent-eligible subject matter and is valid and enforceable.

57. Claim 1 of the '657 Patent is an exemplary method claim. It recites:

A method for operating a gaming client, the method comprising:
receiving, from an administration server, a list of player gaming options for a player in a current location,
wherein the list of player gaming options is limited to gaming options allowed in the current location of the player, and

wherein the gaming options include limits on wagering amounts or types of games to prevent the player from unlawful play in the current location of the player;

displaying, on the gaming client, the list of player gaming options;

monitoring an interface on the gaming client to identify a selection of player gaming options selected by the player in response to the list of player gaming options being displayed on the gaming client;

transmitting, to the administrative server, the selection of gaming player option selected by the player to initiate a matching of the player with an at least one competitor;

collecting, via the gaming client, a bet from the player,

wherein the bet is within a betting range identified in the selection of player gaming options;

initiating, on the gaming client, a game for the player, wherein the game is based on the selection of player gaming options; and

compensating the player with player winnings based on results of the game.

58. The '657 Patent's named inventors are Nicholas Koustas, John Mix, and Alexander Oxman.

59. On July 11, 2008 the named inventors conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying patent applications to Avio Ventures, LLC by written assignments recorded in the United States Patent and Trademark Office.

60. On July 31, 2009 Avio Ventures, LLC conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying patent applications to Arrow Gaming, Inc. by written assignments recorded in the United States Patent and Trademark Office.

61. On April 8, 2013 Arrow Gaming, Inc. conveyed all right, title, and interest in the invention of United States Patent Application Number 12/488,241 and its underlying patent applications to Plaintiff AG 18, LLC by written assignments recorded in the United States Patent and Trademark Office.

62. Arrow Gaming is the exclusive owner by assignment of all right, title, and interest in the '657 Patent, including the right to bring this suit for damages, including the right to sue and recover all past, present and future damages for infringement of the '657 Patent.

63. DraftKings is not licensed under the '657 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the '657 Patent whatsoever.

E. United States Patent Number 11,024,131

64. United States Patent Number 11,024,131 is titled "Location based restrictions on networked gaming" and was filed on December 2, 2019. The '131 Patent is a continuation of United States Patent Application Number 15/600,584, which is a continuation-in-part of United States Patent Application Number 15/444,409, which is a continuation of United States Patent Application Number 12/488,241, which claims priority to United States Provisional Patent Application Number 61/074,572, which was filed on June 20, 2008. A true and correct copy of the '131 Patent is attached as Exhibit 9.

65. The '131 Patent claims patent-eligible subject matter and is valid and enforceable.

66. Claim 1 of the '131 Patent is an exemplary method claim. It recites:

A method comprising:
identifying a location of a player;
dynamically creating a customized list of player gaming options for the player based, at least in part, on the location of the player,
 wherein the customized list of player gaming options includes authorized gaming options in a jurisdiction corresponding to the location of the player;
presenting, via a graphical user interface, the customized list of player gaming options to the player;
receiving, from the player via the graphical user interface, a selection of a game to play from the customized list of player gaming options;
collecting a bet from the player;
initiating the game based on the selection by the player;
collecting results of the game; and
compensating the player with player winnings based on the results of the game.

67. The '131 Patent's named inventors are Jordan Simons, Nicholas Koustas, John Mix, and Alexander Oxman.

68. On July 11, 2008 the named inventors conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying patent applications to Avio Ventures, LLC by written assignments recorded in the United States Patent and Trademark Office.

69. On July 31, 2009 Avio Ventures, LLC conveyed all right, title, and interest in the invention of United States Provisional Patent Application Number 61/074,572 and its underlying patent applications to Arrow Gaming, Inc. by written assignments recorded in the United States Patent and Trademark Office.

70. On April 8, 2013 Arrow Gaming, Inc. conveyed all right, title, and interest in the invention of United States Patent Application Number 12/488,241 and its underlying patent applications to Plaintiff AG 18, LLC by written assignments recorded in the United States Patent and Trademark Office.

71. Arrow Gaming is the exclusive owner by assignment of all right, title, and interest in the '131 Patent, including the right to bring this suit for damages, including the right to sue and recover all past, present and future damages for infringement of the '131 Patent.

72. DraftKings is not licensed under the '131 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the '131 Patent whatsoever.

V. THE ACCUSED INSTRUMENTALITIES

73. DraftKings makes, uses, sells, and/or offers to sell infringing products, including DraftKings Daily Fantasy and DraftKings Casino (collectively, the "Accused Instrumentalities"), which practice claims of the Asserted Patents.

74. DraftKings Daily Fantasy practices the '498 Patent, including but not limited to Claims 1, 2, 3, 6, 8, 10, 11, 12, 13, 15, and 16. An illustrative claim chart showing DraftKings Daily Fantasy's infringement of the '498 Patent is attached as Exhibit 10 and incorporated by reference as if fully stated herein.

75. DraftKings Daily Fantasy practices the '205 Patent, including but not limited to Claims 1, 2, 3, 6, 8, 11, 12, 14, 19, 21, and 22. An illustrative claim chart showing DraftKings Daily Fantasy's infringement of the '205 Patent is attached as Exhibit 11 and incorporated by reference as if fully stated herein.

76. DraftKings Casino practices the '205 Patent, including but not limited to Claims 12, 19, 21, and 22. An illustrative claim chart showing DraftKings Casino's infringement of the '205 Patent is attached as Exhibit 12 and incorporated by reference as if fully stated herein.

77. DraftKings Daily Fantasy practices the '220 Patent, including but not limited to Claims 1, 2, 7, 27, 28, and 30. An illustrative claim chart showing DraftKings Daily Fantasy's infringement of the '220 Patent is attached as Exhibit 13 and incorporated by reference as if fully stated herein.

78. DraftKings Casino practices the '220 Patent, including but not limited to Claims 1, 7, 28, and 30. An illustrative claim chart showing DraftKings Casino's infringement of the '220 Patent is attached as Exhibit 14 and incorporated by reference as if fully stated herein.

79. DraftKings Daily Fantasy practices the '657 Patent, including but not limited to Claims 1, 6, 8, 9, 12, 13, 14, 16, 21, 23, 24, and 26. An illustrative claim chart showing DraftKings Daily Fantasy's infringement of the '657 Patent is attached as Exhibit 15 and incorporated by reference as if fully stated herein.

80. DraftKings Casino practices the '657 Patent, including but not limited to Claims 9, 12, and 13. An illustrative claim chart showing DraftKings Casino's infringement of the '657 Patent is attached as Exhibit 16 and incorporated by reference as if fully stated herein.

81. DraftKings Daily Fantasy practices the '131 Patent, including but not limited to Claims 1, 2, 7, 8, 10, 13, 14, 15, and 29. An illustrative claim chart showing DraftKings Daily Fantasy's infringement of the '131 Patent is attached as Exhibit 17 and incorporated by reference as if fully stated herein.

82. DraftKings Casino practices the '131 Patent, including but not limited to Claims 1, 2, 7, 8, 13, 14, 15, and 29. An illustrative claim chart showing DraftKings Casino's infringement of the '131 Patent is attached as Exhibit 18 and incorporated by reference as if fully stated herein.

VI. PRE-SUIT NOTICE

83. Jordan Simons is the Managing Director of Arrow Gaming. In or around October 2017, Mr. Simons was introduced to Matt Clemenson. On information and belief, at that time, Mr. Clemenson was an officer and co-founder of Lottery.com and currently serves as the Chief Commercial Officer of Lottery.com.

84. Following their introduction, Mr. Simons and Mr. Clemenson initiated a business relationship and worked together on business ventures unrelated to Arrow Gaming. In addition, Mr. Simons informed Mr. Clemenson about Arrow Gaming's patent portfolio (including the Asserted Patents) and Mr. Simons's desire to license the patented technology to the commercial marketplace, including companies such as DraftKings.

85. On information and belief, Jason Robins is an advisor and investor in Lottery.com, and a friend of Mr. Clemenson. Upon information and belief, Mr. Robins also serves as the Chief Executive Officer, Chairman, and Co-Founder of DraftKings.

86. On information and belief, in or around late 2018 or early 2019, Mr. Clemenson was invited to attend a New England Patriots football game at the DraftKings luxury suite at Gillette Stadium. On information and belief, while in attendance Mr. Clemenson spoke with Mr. Robins and informed him: (i) about Arrow Gaming's patent portfolio (including the Asserted Patents), (ii) that DraftKings may be practicing or interested in practicing some of the technology claimed by the patents included in Arrow Gaming's patent portfolio (including the Asserted Patents), and (iii) DraftKings should connect with Arrow Gaming to explore possible licensing of Arrow Gaming's patent portfolio (including the Asserted Patents).

87. On information and belief, Mr. Robins informed DraftKings' legal department about Arrow Gaming's patent portfolio (including the Asserted Patents) and instructed them to investigate the patents and follow up with Mr. Clemenson.

88. On May 15, 2019, Mr. Clemenson texted Mr. Simons, "I have a call with DK lawyer tomorrow[.]" See Exhibit 19. On information and belief, on or about May 16, 2019, Mr. Clemenson met with a director of DraftKings' legal department where Mr. Clemenson informed DraftKings: (i) about Arrow Gaming's patent portfolio (including the Asserted Patents), (ii) that DraftKings may be practicing or interested in practicing some of the technology claimed by the patents included in Arrow Gaming's patent portfolio (including the Asserted Patents), and (iii) DraftKings should connect with Arrow Gaming to explore possible licensing of Arrow Gaming's patent portfolio (including the Asserted Patents).

89. On May 16, 2019, Mr. Simons texted Mr. Clemenson: "Did you talk to the draft kings guys." Mr. Clemenson responded: "Yes, but it wasn't productive.. It was just meeting their director of legal and he wanted the story and he hasn't been thru the patent yet just giving me a respect call from the intro from Jason basically[.]" See Exhibit 19.

90. On August 2, 2019, Mr. Simons texted Mr. Clemenson a link about newly issued patents added to Arrow Gaming's patent portfolio and requested that Mr. Clemenson forward this information to his connections at DraftKings. *See Exhibit 19.* On or about August 4, 2019, Mr. Simons had a telephone conversation with Mr. Clemenson during which Mr. Clemenson informed Mr. Simons that "[t]hey [DraftKings] don't want to talk to you." Thereafter, DraftKings elected to continue its infringement of the Asserted Patents without permission from Arrow Gaming.

VII. COUNT 1: DIRECT INFRINGEMENT

91. All previous paragraphs are incorporated herein as if fully set forth.

92. DraftKings has directly infringed and continues to directly infringe the Asserted Patents under 35 U.S.C. § 271(a) by making, using, selling, offering to sell, and/or importing in or into the United States the Accused Instrumentalities that practice the Asserted Patents.

93. The Accused Instrumentalities directly infringe the '498 Patent, including but not limited to Claims 1, 2, 3, 6, 8, 10, 11, 12, 13, 15, and 16; (2) the '205 Patent, including but not limited to Claims 1, 2, 3, 6, 8, 11, 12, 14, 19, 21, and 22; (3) the '220 Patent, including but not limited to Claims 1, 2, 7, 27, 28, and 30; (4) the '657 Patent, including but not limited to Claims 1, 6, 8, 9, 12, 13, 14, 16, 21, 23, 24, and 26; and (5) the '131 Patent, including but not limited to Claims 1, 2, 7, 8, 10, 13, 14, 15, and 29.

94. As a result of DraftKings' infringement of the Asserted Patents, Arrow Gaming has been damaged. Arrow Gaming is entitled to recover from DraftKings damages sustained as a result of DraftKings' wrongful acts sufficient to compensate Arrow Gaming for the infringement in an amount subject to proof at trial, and in no event less than a reasonable royalty.

VIII. COUNT 2: INDUCED INFRINGEMENT

95. All previous paragraphs are incorporated herein as if fully set forth.

96. DraftKings has indirectly infringed and continue to indirectly infringe the Asserted Patents under 35 U.S.C. § 271(b) by taking active steps to induce, encourage, facilitate, aid, or otherwise cause direct infringement by others, including but not limited to users of DraftKings Daily Fantasy and DraftKings Casino. The patented features of the Accused Instrumentalities are necessary and required for users to use DraftKings Daily Fantasy and DraftKings Casino. DraftKings provides detailed instructions for use and support guides, including in the DraftKings Help Center, for the Accused Instrumentalities, thereby instructing customers and end users to use the patented invention of the Asserted Patents. *See, e.g.*, <https://www.draftkings.com/how-to-play>; <https://help.draftkings.com/hc/en-us>; <https://help.draftkings.com/hc/en-us/articles/4403920029843-Why-can-t-DraftKings-detect-my-location-while-using-a-web-browser->; <https://help.draftkings.com/hc/en-us/articles/4411209619603-How-do-I-fix-a-mobile-web-geolocation-issue-for-DraftKings-Marketplace->; <https://help.draftkings.com/hc/en-us/articles/4405236821267-Why-can-t-DraftKings-detect-my-location-while-using-my-iOS-Mobile-Device->; <https://help.draftkings.com/hc/en-us/articles/4403920074387-Why-can-t-DraftKings-detect-my-location-while-using-my-Android-Mobile-Device->; <https://help.draftkings.com/hc/en-us/articles/4405232241043-Location-checking-I-am-being-incorrectly-located-outside-of-my-state-PC-Mac->; <https://help.draftkings.com/hc/en-us/articles/360056878254-How-do-I-turn-on-location-services->; <https://help.draftkings.com/hc/en-us/articles/4405232242323-Why-do-I-need-to-download-install-the-GeoComply-Player-Location-Check-plugin->; <https://help.draftkings.com/hc/en-us/articles/4405236822931>; <https://help.draftkings.com/hc/en-us/sections/4404927472019-Geolocation-Troubleshooting>; <https://help.draftkings.com/hc/en-us/articles/4405236822931-GeoComply-location-services-installing-enabling-and-troubleshooting>;

<https://help.draftkings.com/hc/en-us/articles/4405232238867-Why-am-I-seeing-an-Ineligible-Location-message->. DraftKings also induces acts of infringement through its advertising and promotion of the infringing functionality.

97. On information and belief, DraftKings had notice and knowledge of the Asserted Patents and their infringement thereof by May 16, 2019. At the very latest, DraftKings NV has had notice and knowledge of the Asserted Patents and their infringement thereof since at least August 23, 2021 when DraftKings was served with the Original Complaint in this action. At the very latest, DraftKings DE and Crown Gaming have had notice and knowledge of the Asserted Patents and their infringement thereof since at least November 5, 2021, when DraftKings made public SEC filings describing this litigation and the patents asserted.

98. DraftKings undertook and continues to undertake the above-identified active steps after receiving notice of the Asserted Patents.

99. As a result of DraftKings' induced infringement of the Asserted Patents, Arrow Gaming has been damaged. Arrow Gaming is entitled to recover from DraftKings damages sustained as a result of DraftKings' wrongful acts sufficient to compensate Arrow Gaming for the infringement in an amount subject to proof at trial, and in no event less than a reasonable royalty.

IX. COUNT 3: WILLFUL INFRINGEMENT

100. All previous paragraphs are incorporated herein as if fully set forth.

101. On information and belief, in light of DraftKings' knowledge of Arrow Gaming and the Asserted Patents, DraftKings has deliberately infringed and continues to deliberately and willfully infringe in a wanton, malicious, and egregious manner, with reckless disregard for Arrow Gaming's patent rights. DraftKings' infringing actions have been and continue to be consciously wrongful.

102. On information and belief, Arrow Gaming, on this basis alleges, that the Court should award increased damages under 35 U.S.C. § 284 for willful and deliberate infringement, and find this to be an exceptional case which warrants an award of attorneys' fees to Arrow Gaming pursuant to 35 U.S.C. § 285.

X. JURY DEMAND

103. Plaintiff hereby demands a trial by jury for all causes of action.

XI. PRAYER FOR RELIEF

104. Plaintiff requests the following relief:

A. A judgment that Defendants have directly infringed either literally and/or under the doctrine of equivalents and continue to directly infringe each of the Asserted Patents;

B. A judgment that Defendants have induced infringement of each of the Asserted Patents;

C. A judgment that Defendants have willfully infringed each of the Asserted Patents;

D. A judgment and order requiring Defendants, jointly and severally, to pay Plaintiff damages under 35 U.S.C. § 284, and supplemental damages for any continuing post-verdict infringement through entry of the final judgment with an accounting as needed;

E. A judgment and order enhancing the damages Defendants are required to pay up to three times pursuant to 35 U.S.C. § 284;

F. A judgment that this is an exceptional case within the meaning of 35 U.S.C. § 285 and Plaintiff is therefore entitled to reasonable attorneys' fees;

G. A judgment and order requiring Defendants, jointly and severally, to pay Plaintiff pre-judgment and post-judgment interest on the damages awarded;

H. A judgment and order awarding a compulsory ongoing royalty, jointly and severally against Defendants;

I. A judgment and order awarding Plaintiff costs associated with bringing this action; and

J. Such other and further relief as the Court deems just and equitable.

Dated: December 20, 2021

Respectfully submitted,

By: /s/ Douglas V. Sanchez

Douglas V. Sanchez (DS1565)
dsanchez@cmlawfirm.com
CRUSER, MITCHELL, NOVITZ, SANCHEZ,
GASTON & ZIMET, LLP
50 Tice Boulevard, Suite 250
Woodcliff Lake, New Jersey 07677
(201) 474-7100

Michael W. Shore (Texas 18294915)
mshore@shorechan.com
Alfonso G. Chan (Texas 24012408)
achan@shorechan.com
Corey M. Lipschutz (Texas 24099303)
clipschutz@shorechan.com
SHORE CHAN LLP
901 Main Street, Suite 3300
Dallas, Texas 75202
Tel: (214) 593-9110
Fax: (214) 593-9111

COUNSEL FOR PLAINTIFF AG 18, LLC

CERTIFICATE OF SERVICE

I certify that all counsel of record were served on December 20, 2021 by electronic service through the Court's CM/ECF system.

/s/ Douglas V. Sanchez
Douglas V. Sanchez