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11 Attorneys for Plaintiff Gamevice, Inc.
12

13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
15

17 GAMEVICE, INC., a Delaware corporation,
18 Plaintiff,

19 v.
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21 NINTENDO CO., LTD., a Japanese
corporation, and NINTENDO OF
22 AMERICA, INC., a Washington corporation

23 Defendants.
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CASE NO. 3:18-cv-1942

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

1 **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Gamevice, Inc. ("Gamevice") hereby asserts the following claims for patent
3 infringement against Defendants Nintendo Co., Ltd. and Nintendo of America, Inc. (collectively,
4 "Nintendo" or "Defendants"), and alleges as follows:

5 **NATURE OF THE ACTION**

6 1. This is a civil action for patent infringement under the patent laws of the United
7 States, 35 U.S.C. § 1 *et seq.*

8 2. Defendants have infringed and continue to infringe, have contributed to and continue
9 to contribute to the infringement of, and have induced and continue to induce infringement of, one or
10 more claims of Gamevice's U.S. Patent Nos. 9,855,498 ("the '498 patent"), 9,808,713 ("the '713
11 patent"), 10,391,393 ("the '393 patent") (collectively, "Asserted Patents") at least by importing,
12 selling and offering to sell the Nintendo Switch portable gaming console system, and components
13 thereof.

14 3. Gamevice is the legal owner by assignment of the '498, '713, and '393 patents, which
15 were duly and legally issued by the United States Patent and Trademark Office ("USPTO").
16 Gamevice seeks injunctive relief and monetary damages.

17 **THE PARTIES**

18 4. Gamevice, Inc. is a corporation organized and existing under the laws of the State of
19 Delaware with its principal place of business at 1107 Fair Oaks Avenue, #862, South Pasadena, CA
20 91030-3311.

21 5. Upon information and belief, defendant Nintendo Co., Ltd. ("Nintendo Japan") is a
22 corporation organized and existing under the laws of Japan with its principal place of business at 11-
23 1 Hokotate-cho, Kamitoba, Minami-ku, Kyoto, Japan 601-8501. On information and belief,
24 Nintendo Japan designs, develops, tests, manufactures (or has manufactured on its behalf), sells,
25 and/or offers to sell in the United States, including this District, video game consoles, handheld
26 videogame systems, video games, accessories, and components of the foregoing products, including
27 the infringing Nintendo Switch portable gaming console system with attachable handheld
28 controllers, and components thereof.

1 registered business entity in California with the California Secretary of State, and has an agent for
2 service of process, CT Corporation System, located in California at 818 W. Seventh St. Suite 930,
3 Los Angeles, CA 90017. Furthermore, NOA regularly does business or solicits business, engages in
4 other persistent courses of conduct, and/or derives substantial revenue from products and/or services
5 provided to individuals in this District and in this State. Additionally, NOA has committed acts of
6 patent infringement in this District. Accordingly, NOA has purposefully availed itself of the
7 privilege of conducting business within this District; has established sufficient minimum contacts
8 with this District such that it should reasonably and fairly anticipate being haled into court in this
9 District; has purposefully directed activities at residents of this State and District; and has committed
10 acts of patent infringement in this State and District.

11 13. On information and belief, Nintendo Japan regularly conducts business in the
12 Northern District of California itself and through its authorized agent and subsidiary NOA at NOA's
13 facility at 2000 Bridge Pkwy #200, Redwood City, CA 94065. On information and belief, NOA
14 provides comprehensive North American business operations for Nintendo Japan, at least with
15 respect to its Nintendo Switch business. As explained above, NOA regularly does business or solicits
16 business, engages in other persistent courses of conduct, and/or derives substantial revenue from
17 products and/or services provided to individuals in this District and in this State, and has committed
18 acts of patent infringement in this District. Because, on informational and belief, NOA is an
19 authorized agent of Nintendo Japan, all of NOA's conduct is also imputed to Nintendo Japan as the
20 principal. Accordingly, through its own actions and the actions of its authorized agent, Nintendo
21 Japan has purposefully availed itself of the privilege of conducting business within this District; has
22 established sufficient minimum contacts with this District such that it should reasonably and fairly
23 anticipate being haled into court in this District; has purposefully directed activities at residents of
24 this State and District; and has committed acts of patent infringement in this State and District.

25 14. NOA has also availed itself to the jurisdiction of this Court by filing complaints and
26 counterclaims in this District (*e.g.*, *Nintendo of America v. Serrano*, Case No. 10-cv-01563- PSG).
27 Moreover, NOA has successfully moved to transfer actions into this district on the grounds that this
28 district is "convenient" for NOA, including because NOA's "largest marketing and sales office is in

1 Redwood City, California," and "more than 70 employees work in this office." *See, e.g., PlayVision*
2 *Labs, Inc. v. Nintendo of America, Inc.*, Case. No. 14-05365. NOA also filed patent infringement
3 counterclaims against Gamevice in this district in response to the original Complaint filed in this
4 action.

5 15. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b) at
6 least because Nintendo Japan and NOA conduct business in the State of California, including this
7 District, have committed acts of infringement in this State and in this District, have a regular and
8 established place of business in this District, and are subject to personal jurisdiction in this District.
9 Further, NOA admitted that venue as to NOA was proper with respect to the original Complaint filed
10 in this action.

11 **GAMEVICE'S HISTORY AND PATENTED TECHNOLOGY**

12 16. Gamevice is a leading designer, developer and manufacturer of attachable handheld
13 controllers for use with mobile devices such as mobile phones and tablets, including various
14 generations of the Apple iPhone and Apple iPad. Gamevice has made substantial investment in
15 research and development of its attachable handheld controller products for portable gaming
16 systems.

17 17. Gamevice was originally founded in 2008 (under the name Wikipad, Inc.) to develop
18 and create innovative solutions for those who play video games. Its first product, the Wikipad, was a
19 full function, Android-based, touch screen tablet computer that included attachable game controllers.
20 Recognizing the growing migration of popular console-based video games to handheld mobile
21 devices, as well as the overall explosive growth in mobile device ownership, Gamevice continued to
22 innovate in the area of mobile controller technology. In 2015, Gamevice launched its namesake
23 device, the "Gamevice," an attachable game controller that provides true gaming controls for use
24 with a smartphone or tablet. The Gamevice controller transforms a smartphone or tablet into a full-
25 fledged portable gaming platform, with console quality controls. In addition to being able to play
26 over 1,000 mobile games, the Gamevice controller can also be used as an improved controller, as
27 compared to prior art controllers, in other, non-gaming mobile applications; for example, to allow a
28 smartphone to be used to navigate remote controlled drones and robots.

1 18. Shown below is the Gamevice attachable handheld controller for the iPhone (iPhone
2 X, iPhone 8 / 8 Plus, iPhone 7 / 7 Plus, iPhone 6s / 6s Plus, iPhone 6 / 6 Plus):



8 19. Gamevice also makes a Gamevice attachable handheld controller for certain iPad
9 models (iPad mini 4, iPad mini 3, iPad mini 2, iPad mini; iPad, 9.7-inch iPad Pro, iPad Air 2, iPad
10 Air; 10.5 inch iPad Pro; and 12.9-inch iPad Pro). These are shown below:



14 Gamevice for
15 iPad mini 4, iPad mini 3, iPad mini 2, iPad mini



16 Gamevice for
17 iPad, 9.7-inch iPad Pro, iPad Air 2, iPad Air



20 Gamevice for 10.5-inch iPad Pro



21 Gamevice for 12.9-inch iPad Pro

22 20. Gamevice has filed for patent protection on its innovations, and currently holds over
23 38 patents in 16 countries related to a range of gaming devices, controls and accessories.

24 21. The '498 patent, granted by the United States Patent and Trademark Office on
25 January 2, 2018, is entitled "Game Controller with Structural Bridge." Gamevice is the current
26 owner of the '498 patent. A true and correct copy of the '498 patent is attached hereto as Exhibit A.

27 22. The '713 patent, granted by the United States Patent and Trademark Office on July
28 28, 2017, is entitled "Game Controller with Structural Bridge." Gamevice is the current owner of the
'713 patent. A true and correct copy of the '713 patent is attached hereto as Exhibit B.

1 23. The '393 patent, granted by the United States Patent and Trademark Office on August
 2 27, 2019, is entitled "Game Controller with Structural Bridge." Gamevice is the current owner of the
 3 '393 patent. A true and correct copy of the '393 patent is attached hereto as Exhibit C.

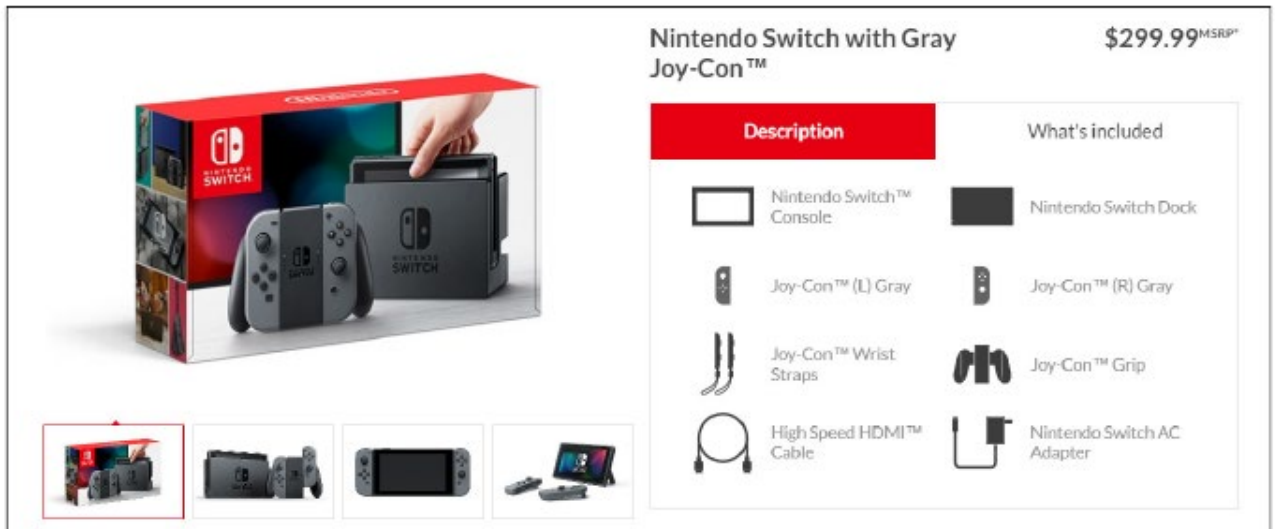
4 24. Gamevice is the owner of all right, title, and interest in and to each of the Asserted
 5 Patents with full and exclusive right to bring suit to enforce the Asserted Patents, including the right
 6 to recover for past damages and/or royalties.

7 25. The Asserted Patents are valid and enforceable.

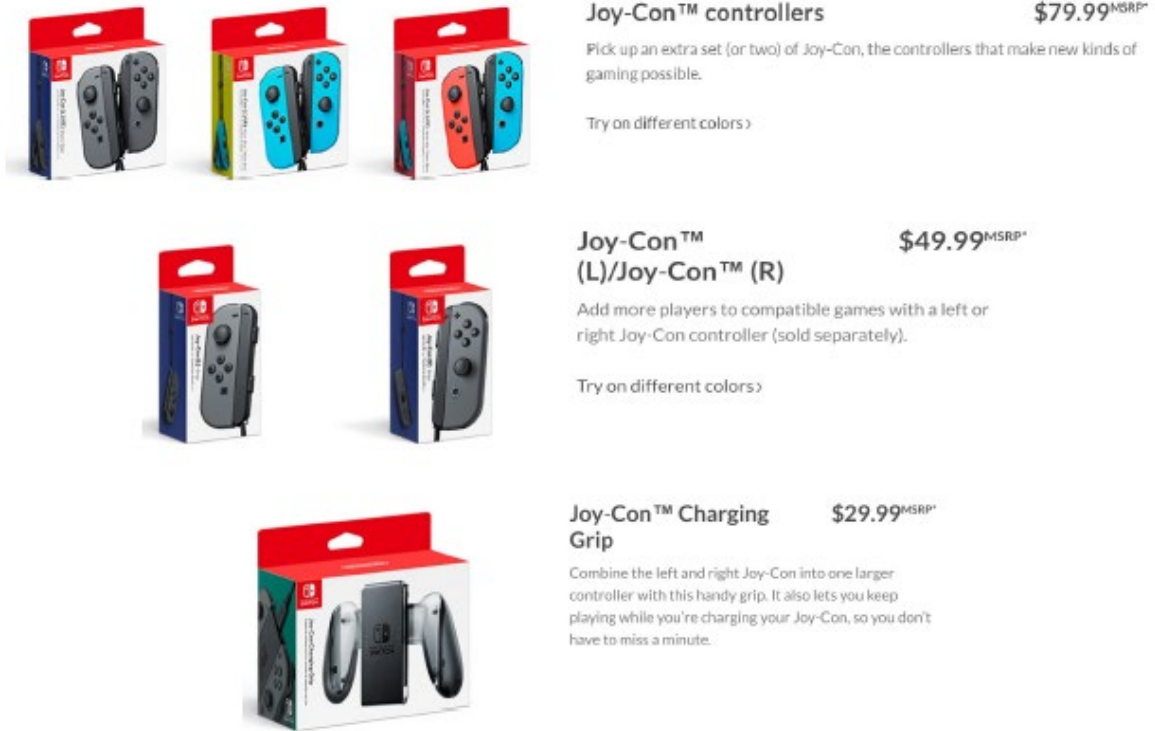
8 **ACTS GIVING RISE TO THIS ACTION**

9 26. On October 20, 2016, Nintendo unveiled a new home gaming console, the Nintendo
 10 Switch portable gaming console system.

11 27. The Nintendo Switch is a portable gaming console system with attachable handheld
 12 controllers that Nintendo markets as a "home console that you can take anywhere." The Nintendo
 13 Switch is imported and sold in the United States by Defendants in a box that contains the bundled
 14 Switch console, the Switch Dock, a left and right attachable handheld Joy-Con Controller, a Joy-Con
 15 Grip, a pair of Joy-Con Wrist Straps (that can be used with the Joy-Con Controllers when the Joy-
 16 Con Controllers are used detached from the Switch console or the Joy-Con Grip), an HDMI cable to
 17 connect the Dock to a television, and an AC power adapter. The following image from Nintendo's
 18 website at www.nintendo.com/switch/buy-now/ displays the contents of the Nintendo Switch box.



1 28. Separately from its sale and importation of the Nintendo Switch, Nintendo also sells
 2 and imports in the United States infringing components of the Switch portable gaming console
 3 system, for example the Joy-Con Controllers and Joy-Con Charging Grips, as shown below (from
 4 www.nintendo.com/switch/buy-now/website).



5 **Joy-Con™ controllers** **\$79.99^{MSRP*}**
 Pick up an extra set (or two) of Joy-Con, the controllers that make new kinds of
 gaming possible.
 Try on different colors >

6 **Joy-Con™ (L)/Joy-Con™ (R)** **\$49.99^{MSRP*}**
 Add more players to compatible games with a left or
 right Joy-Con controller (sold separately).
 Try on different colors >

7 **Joy-Con™ Charging Grip** **\$29.99^{MSRP*}**
 Combine the left and right Joy-Con into one larger
 controller with this handy grip. It also lets you keep
 playing while you're charging your Joy-Con, so you don't
 have to miss a minute.

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 17 29. The Switch can be "switched" for use between three different modes: handheld mode,
 18 TV mode, and tabletop mode.

19 30. In handheld mode, users attach the two Joy-Con Controllers to attachment rails
 20 located adjacent to each side of the Switch console, creating a portable, handheld gaming device.
 21 The following images show the Switch in handheld mode with the left and right Joy-Con
 22 Controllers¹ attached to the attachment rails located adjacent to the sides of the Switch console.
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28 ¹ Nintendo sells the attachable Joy-Con Controllers in different colors, including at least gray, neon red, neon blue, and yellow.

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31. In "TV mode," the Switch is placed in the Nintendo Switch Dock, connected to a television, and games are played using the left and right Joy-Con Controllers—either by attaching the Joy-Con Controllers to the Joy-Con Grip included with the bundled Switch, or holding them in

1 the left and right hands.² The following images illustrate the act of switching from handheld mode to
 2 TV mode, including (1) removing the Joy-Con Controllers from the attachment rails of the Switch
 3 console, (2) attaching the Joy-Con Controllers to the Joy-Con Grip, and (3) placing the Switch
 4 console in the Dock.



10 32. Finally, the Switch can be switched to "tabletop mode" by extending a stand from
 11 behind the console, thereby allowing users to play games while the Switch is placed upright on a
 12 table. Just as in TV mode, in tabletop mode users either attach the Joy-Con Controllers to the Joy-
 13 Con Grip or hold them in the left and right hand.

14 33. Each attachable Joy-Con Controller contains a rechargeable battery with limited
 15 battery life (approximately 20 hours).³ Thus, continued use of the Nintendo Switch requires that the
 16 Joy-Con Controllers be recharged periodically, either by electrically connecting the Joy-Con
 17 Controllers to the Switch console or to the separately sold Joy-Con Charging Grip. Nintendo
 18 explains how to recharge the Joy-Con Controllers on its support website (excerpted below). *See*
 19 [http://en-america-support.nintendo.com/app/answers/detail/a_id/22361/~how-to-charge-the-](http://en-america-support.nintendo.com/app/answers/detail/a_id/22361/~how-to-charge-the-joycon-controllers)
 20 [joycon- controllers.](http://en-america-support.nintendo.com/app/answers/detail/a_id/22361/~how-to-charge-the-joycon-controllers)

26 ² According to Nintendo, attaching the Joy-Con Controllers to the included Joy-Con Grip
 27 creates "one larger controller," similar to traditional video game controllers. (*See, e.g.,*
 28 <https://www.nintendo.com/switch/buy-now/>.)

³ *See* <https://www.nintendo.com/switch/features/tech-specs/> ("Battery life" is "Approximately 20 hours").

How to Charge the Joy-Con Controllers

Applies to: **Nintendo Switch**

Instructions for charging the Joy-Con controllers.

Additional Information:

- It takes approximately 3 ½ hours to fully charge the Joy-Con controllers.
- The Joy-Con Charging Grip (model No. HAC-012) is not included in the Nintendo Switch bundle. This product is sold separately.

Complete These Steps:

The Joy-Con can be charged in the following ways:

While attached to the Nintendo Switch console.

1. **Attach the Joy-Con** to the Nintendo Switch console and power it on.
 - In order for the Joy-Con to charge while attached to the Nintendo Switch console, the console must be connected to the AC adapter and powered on or in Sleep Mode.

2. **Charge** the console.



While attached to the Joy-Con Charging Grip.

1. **Attach the Joy-Con** to the Joy-Con Charging Grip.
2. Connect the Joy-Con Charging Grip to the Nintendo Switch dock using the USB cable that was included with the Charging Grip, or connect it directly to the Nintendo Switch AC adapter (HAC-002).



34. One or more of the valid and enforceable claims of the of the Asserted Patents covers the Nintendo Switch portable gaming console system, including when the Joy-Con Controllers are assembled together with the Switch console, Joy-Con Grip, or Joy-Con Charging Grip.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 9,855,498

35. Gamevice incorporates by reference and re-alleges all the foregoing paragraphs of this Complaint as if fully set forth herein.

1 36. Defendants have directly infringed and are currently directly infringing claims of the
2 '498 patent literally and/or under the doctrine of equivalents by making, using, selling, offering for
3 sale, and/or importing into the United States, without authority, products and equipment that embody
4 one or more claims of the '498 patent, including but not limited to the Nintendo Switch. For
5 example, on information and belief, Defendants operate brick-and-mortar stores in the United
6 States—for example, "Nintendo NY," a store open to the public and located at 10 Rockefeller Plaza,
7 New York, NY 10020, and an employees-only store located at 4600 150th Ave NE, Redmond, WA
8 98052—that carry the Nintendo Switch portable gaming console systems for sale and where
9 Defendants at least test, demonstrate, repair, support, use and/or otherwise operate the Nintendo
10 Switch portable gaming console system in a manner that infringes the '498 patent. At least because
11 of the foregoing acts, Defendants directly infringe claims of the '498 patent.

12 37. As just one non-limiting example, set forth below (with claim language in italics) is a
13 description of infringement of exemplary claim 1 of the '498 patent in connection with the Nintendo
14 Switch. This description is based on publicly available information. Gamevice reserves the right to
15 modify this description, including, for example, on the basis of information about the Nintendo
16 Switch that it obtains during discovery.

17 1(a) *A combination comprising:* The Nintendo Switch portable gaming console system is a
18 combination of the claimed elements, as described below.

19 1(b) *a computing device, comprising an electronic display screen;* The Nintendo Switch
20 portable gaming console system includes the Nintendo Switch console. The Switch console includes
21 a computing device having an electronic display screen.

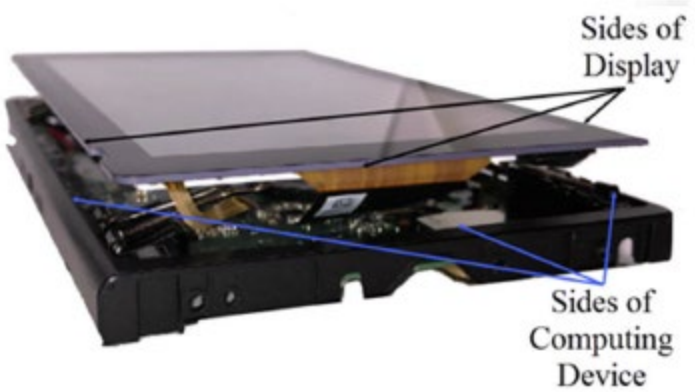
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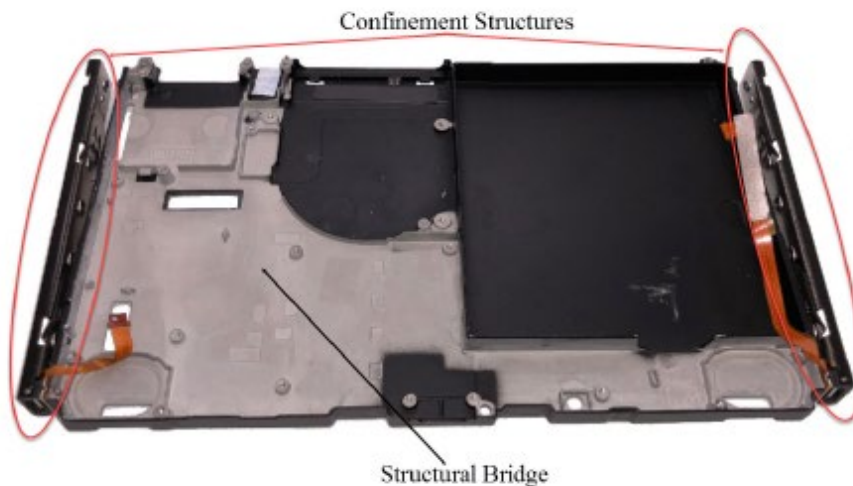
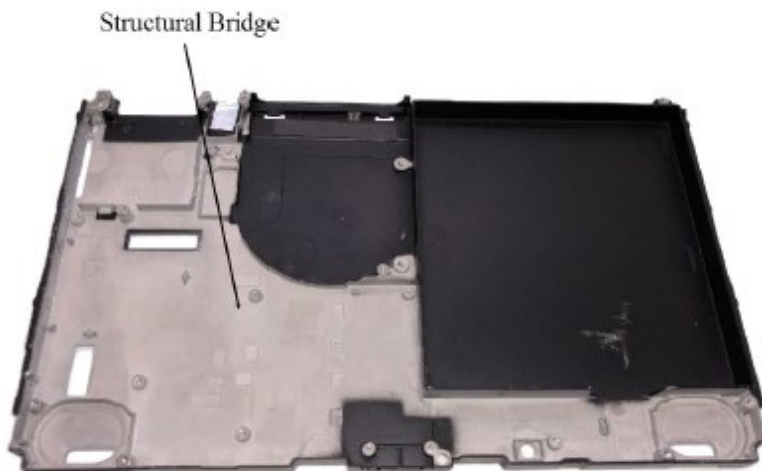


1(c) *a pair of confinement structures, the pair of confinement structures interacting with the computing device and adjacent at least two opposing sides of the computing device, but not more than three sides of the sides of the computing device, the at least two opposing sides of the computing device support the electronic display screen, each of the pair of confinement structures comprising a communication link, each of the communication links configured for electronic communication with the computing device;* The Nintendo Switch console includes a pair of confinement structures (also referred to as rails) that interact with the computing device on two opposite sides of the computing device, which sides support the display. Each of the confinement structures of the Nintendo Switch provides a communication link configured for electronic communication with the computing device.

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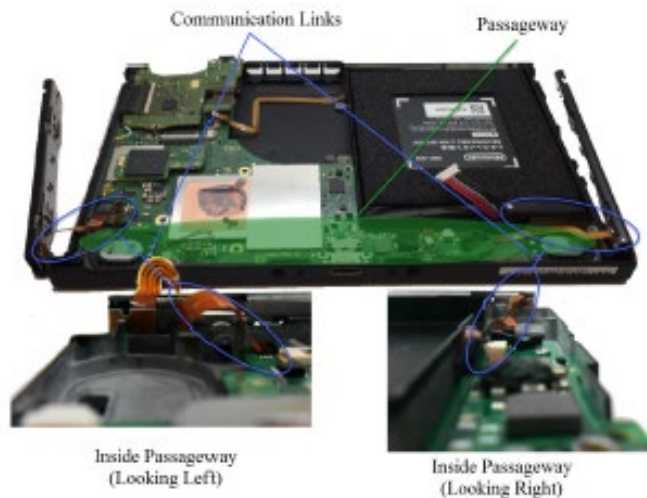
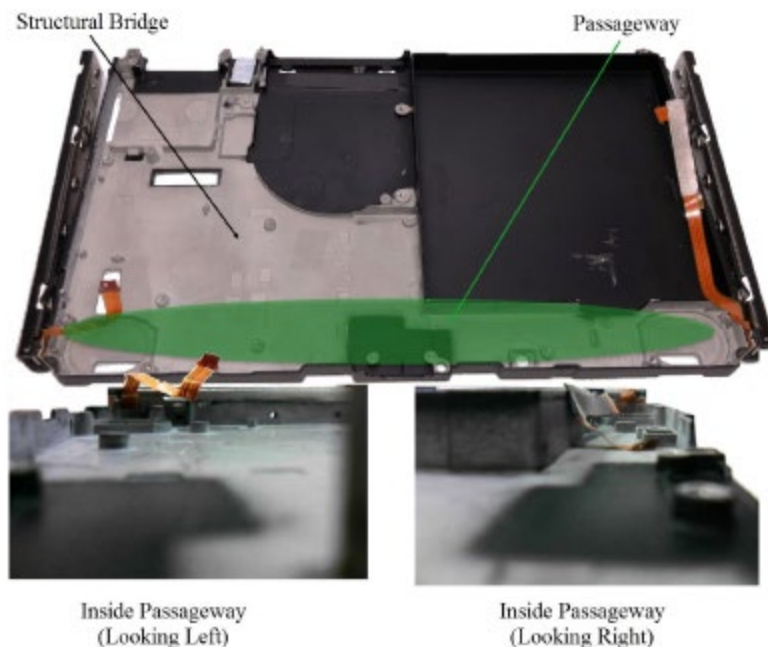


1 1(d)(i) a rigid structural bridge disposed between the pair of confinement structures, The
2 Nintendo Switch Console includes a structural bridge between the two confinement structures, as
3 depicted below.



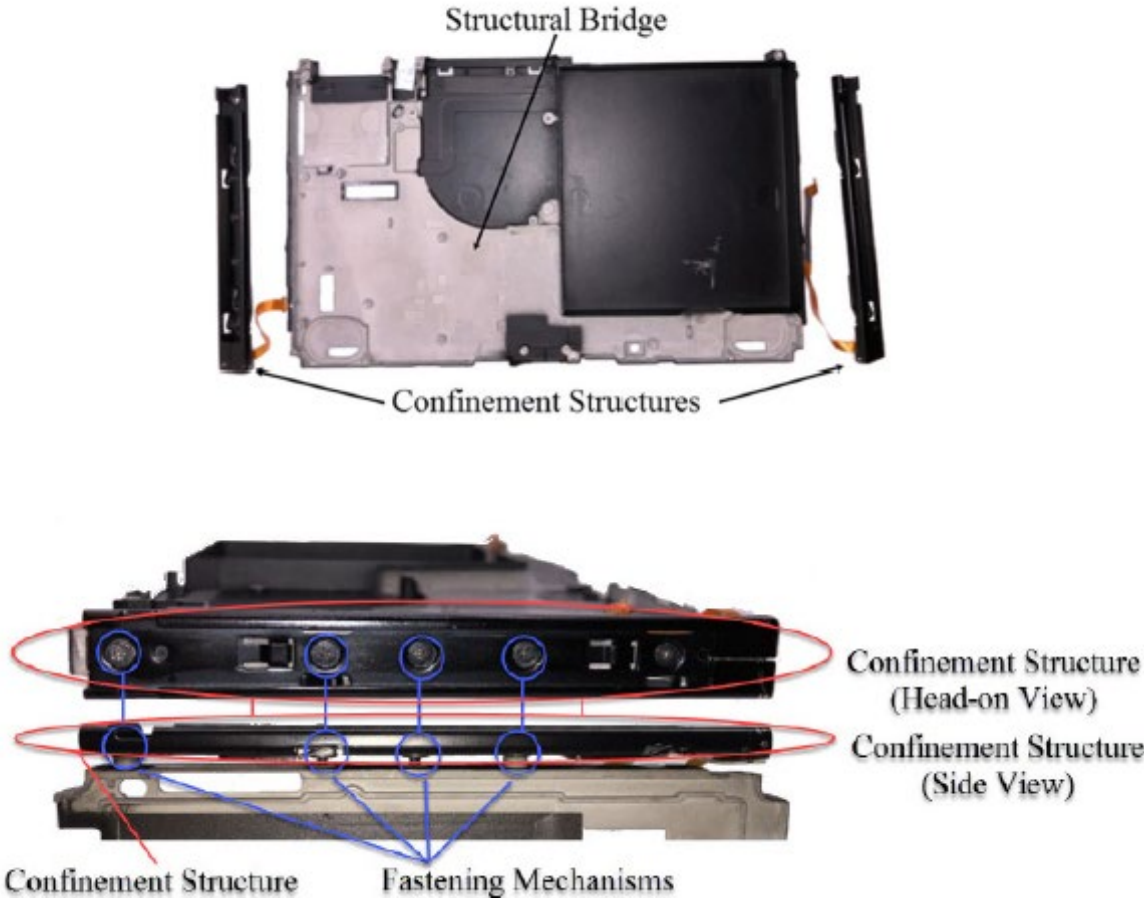
23 1(d)(ii) the rigid structural bridge comprising a passageway between the pair of confinement
24 structures, the passageway promotes electrical communication between the communication link of a
25 first confinement structure of the pair of confinement structures and the computing device, the
26 passageway further promotes electrical communication between the communication link of a second
27 confinement structure of the pair of confinement structures and the computing device; The structural
28 bridge includes a passageway within which the communication link from each confinement structure

1 connects to the computing device, thereby promoting communication between each of the
2 communication links and the computing device.



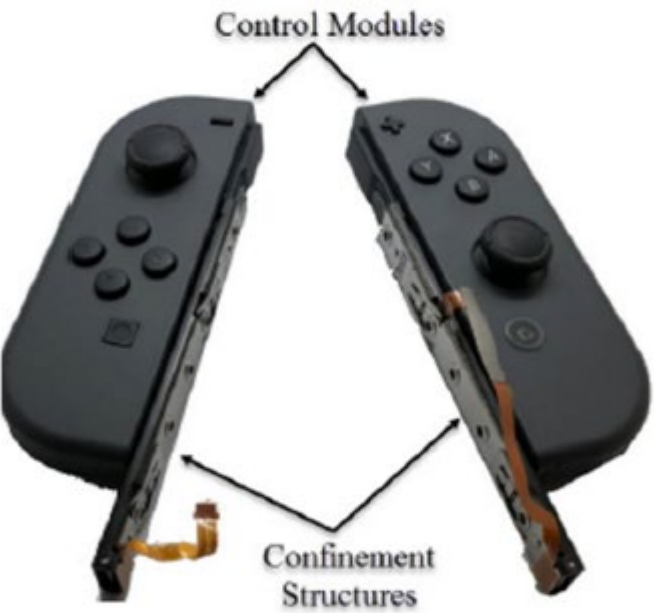
24 1(e) fastening mechanisms, the fastening mechanisms secures the first confinement structure
25 to the rigid structural bridge, the fastening mechanisms further secure the second confinement
26 structure to the rigid structural bridge; and The two opposing sides of the structural bridge of the
27 Nintendo Switch include multiple threaded holes (fastening mechanisms), which, together with
28 threaded screws, secure the confinement structures to the two opposing sides of the structural bridge.

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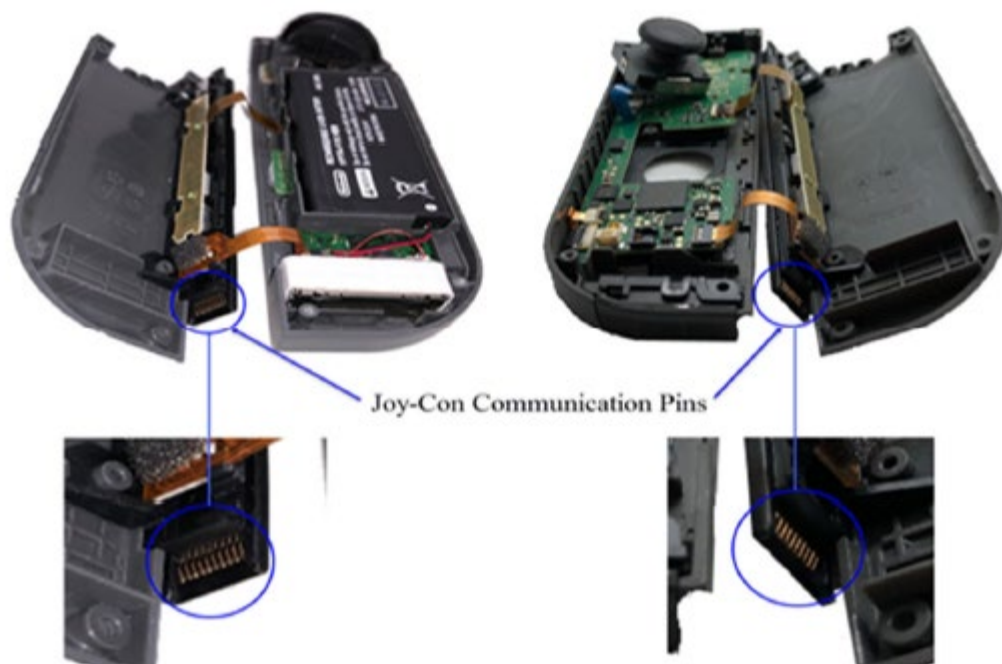
1(f)(i) a pair of control modules, each control module of the pair of control modules interacting with a corresponding confinement structure of the pair of confinement structures, The Nintendo Switch portable gaming console system includes two Switch Joy-Con Controllers that are each a control module, and together comprise a pair of control modules. Each Joy-Con Controller is specifically designed to interact with a confinement structure of the pair of confinement structures in order to secure the Joy-Con Controller to the side of the structural bridge. In this manner, the Nintendo Switch may be used in what Nintendo refers to as the "handheld mode."

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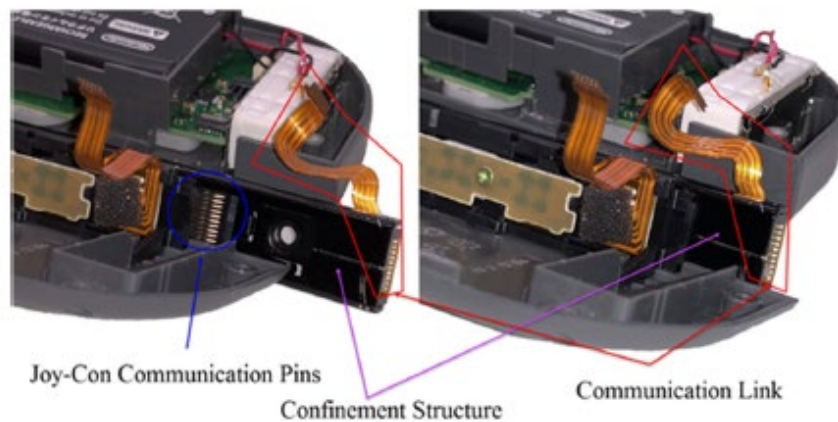


1(f)(ii) each control module in electronic communication with the communication link of its corresponding confinement structure, Each Joy-Con Controller includes communication pins,

1 located at the end of the Joy-Con Controllers' own rail structure (for mating with the confinement
2 structure).



14 When attached to its corresponding confinement structure, each Joy-Con Controller is in electronic
15 communication with the communication link of that confinement structure.



24 *1(g)(i) each of the pair of control modules providing input module apertures, each input*
25 *module aperture secures an instructional input device, Each Joy-Con Controller (control module)*
26 *includes multiple apertures in which are secured multiple instructional input devices, including*
27 *joysticks and buttons.*

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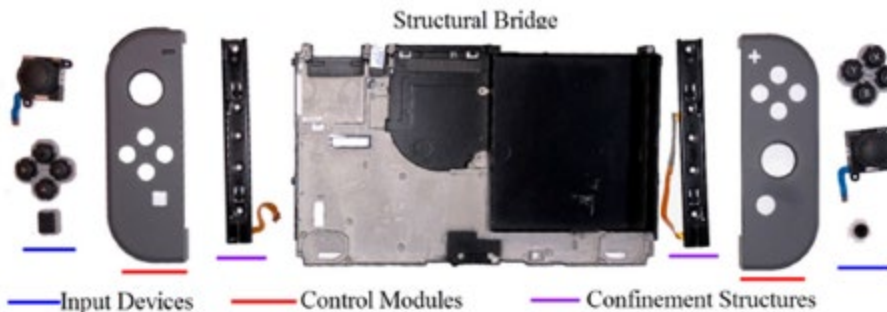
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1(g)(ii) wherein said input module apertures are adjacent each of the at least two opposing sides of the computing device, and When the Joy-Con Controllers are attached to the sides of the Switch console (so that a customer may play in handheld mode), the input module apertures are adjacent to each of the opposing sides of the computing device.



1(h) wherein the input device is a separate and distinct structure from the pair of confinement structures, forming no structural portion of the pair of confinement structures, and in which each of the pair of confinement structures are separate and distinct structures from the structural bridge, forming no structural portion of the structural bridge. The buttons and joysticks on the Joy-Con Controllers (input device) are separate and distinct structures from either of the pair of confinement structures, and the confinement structures are separate and distinct structures from the structural bridge, forming no structural portion of the structural bridge.



7 38. At least as early as the filing and service of the original Complaint filed in this action,
8 Defendants Nintendo Japan and NOA are also indirectly infringing claims of the '498 patent.

9 39. Defendants have actual knowledge of Gamevice's rights in the '498 patent and details
10 of their infringement of the '498 patent based on at least the filing and service of the original
11 Complaint filed in this action.

12 40. On information and belief, Defendants also had knowledge of the '498 patent before
13 the filing and service date of the original Complaint filed in this action, including, without limitation,
14 through their knowledge of Gamevice, and Gamevice's marking its patents on its covered products.
15 Upon issuance of the '498 patent, Gamevice began marking its covered products, either directly with
16 the patent numbers, or virtually under 35 U.S.C. § 287(a) by citation on its products to a website
17 (<https://gamevice.com/pages/patents>) that lists the patents that cover its products, including the '498
18 patent. On information and belief, discovery will show that Defendants had knowledge of the '498
19 patent before the filing and service date of the original Complaint filed in this action for the
20 additional reason that Defendants cited in their own patent applications that they filed in the United
21 States Patent and Trademark Office, including for the Nintendo Switch, certain United States and
22 foreign counterparts to the patent applications that matured into the '498 patent. For example, on
23 information and belief, Defendants became aware of U.S. Patent No. 8,944,912 (“the '912 patent”),
24 which the '498 patent claims priority to, on or around December 16, 2015, when it was cited during
25 prosecution of Defendants' U.S. Application Serial No. 14/058,882. As another example, Defendants
26 were aware of U.S. Patent Nos. 8,529,357 (“the '357 patent”) and 9,005,025 (“the '025 patent)
27 because they were cited during prosecution of Defendants' design patent D808,967. The '357 and
28 '025 patents are both in the same family as the '498 patent. As yet another example, Defendants

1 cited U.S. Publication No. 2013/0154542, which is in the same family as the '498 patent, and a
2 European Search Report that cited European Patent No. 2,772,825, a foreign counterpart to the '498
3 patent, in multiple of Defendants' United States patent applications directed to the accused Nintendo
4 Switch. Further, on information and belief, discovery will show Defendants are aware of the '498
5 patent because Gamevice filed a complaint against Defendants in the United States District Court for
6 the Central District of California on August 9, 2017 asserting Gamevice's U.S. Patent No. 9,126,119,
7 ("the '119 patent"), which is in the same family as the '498 patent, and as a result of which,
8 discovery will show that Defendants became aware of the '498 patent.

9 41. In addition to directly infringing claims of the '498 patent, Defendants manufacture,
10 use, import, offer for sale, and/or sell the Nintendo Switch with knowledge of or willful blindness to
11 the fact that their actions will induce their retail partners and end-users to infringe the '498 patent in
12 violation of 35 U.S.C. § 271. For example, Defendants actively and knowingly induce end-users to
13 infringe the '498 patent by teaching, directing, encouraging, and/or requiring end-users to use the
14 Nintendo Switch in an infringing manner, with the specific intent to cause direct infringement by
15 end-users.

16 42. For example, Defendants require end-users to assemble the attachable handheld Joy-
17 Con Controllers together with the Switch console and/or the Joy-Con Grip or Joy-Con Charging
18 Grip (an arrangement covered by claims of the '498 patent) in order to play games or recharge the
19 Joy-Con Controllers, as explained above. Moreover, Defendants provide directions, instruction
20 manuals, guides and other materials that encourage direct, require, and facilitate infringing use by
21 end-users. On the box in which the Switch is sold, on Defendants' website, in advertising and
22 marketing videos, in "how-to" videos, in user manuals, and elsewhere, Defendants prominently
23 display the Joy-Con Controllers assembled together with the Switch console, a Joy-Con Grip and/or
24 a Joy-Con Charging Grip. For instance, Defendants' website shows and instructs end-users how to
25 assemble the attachable handheld Joy-Con Controllers together with the Switch console, as shown
26 below (from <https://www.nintendo.com/switch/features/>).

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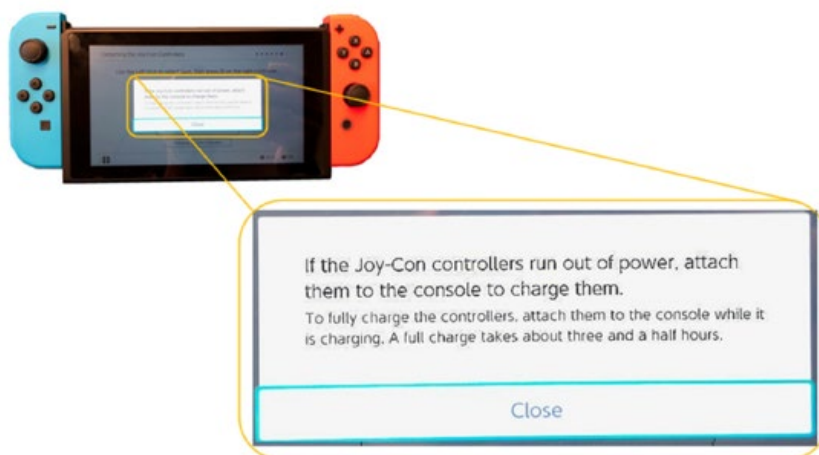


43. The box in which the bundled Nintendo Switch portable gaming console system with attachable handheld controllers is sold includes instructions and images that teach customers how to set up the Switch by attaching the Joy-Con Controllers to the attachment rails to play games on the Switch portable gaming console in handheld mode, and to charge the Joy-Con Controllers. The following instructions and images appear on the Switch's box:

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44. Indeed, during the process of setting up the Switch, after a customer powers it on for the first time, an instruction displayed on the Switch screen states: "If the Joy-Con Controllers run out of power, attach them to the console to charge them. To fully charge the controllers, attach them to the console while it is charging. A full charge takes about three and a half hours."



1 45. Furthermore, Defendants' website instructs users that the Joy-Con Controllers should
2 be electronically connected to the Switch console in the infringing manner at the time of first set-up,
3 shown below (from [https://en-america-
4 support.nintendo.com/app/answers/detail/a_id/22501/~nintendo-switch-first-time-setup-and-
5 connection#DT:t1-q1a1EP:t1-q1a1-c](https://en-america-support.nintendo.com/app/answers/detail/a_id/22501/~nintendo-switch-first-time-setup-and-connection#DT:t1-q1a1EP:t1-q1a1-c)).

6 Nintendo Switch First-Time Setup and Connection

7 Applies to: Nintendo Switch

8 Instructions on how to set up your Nintendo Switch system for the first time.

9 Complete These Steps:

- 10 1. Connect the AC adapter to the system.



- 17
- Connect the USB plug from the Nintendo Switch AC adapter into the USB connector on the bottom of the console, then connect the AC adapter into the wall outlet.
 - The system will power on after you connect the AC adapter provided.

- 18 2. Attach the Joy-Con controllers to the Nintendo Switch console.



- 27 3. Follow the on-screen prompts to complete the first-time setup.

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1 46. Defendants also operate brick-and-mortar stores in the United States—including the
2 Nintendo NY store and the employees-only store in Redmond, Washington discussed above—that
3 carry the Nintendo Switch and the components thereof and where Defendants at least invite, direct,
4 instruct, and show end-users how to use the products in the infringing manner. On information and
5 belief, Defendants also facilitate and encourage end-users to operate the products in an infringing
6 manner by providing repair and testing services for the Nintendo Switch, including through their
7 agents and subcontractors. Further, on information and belief, Defendants employ "Retail
8 Representatives" in the United States who provide product demonstrations, education, services, and
9 product maintenance to retail store employees and to end-users.

10 47. Defendants are on notice of Gamevice's rights in the '498 patent and their
11 infringement thereof, and induce infringement of claims of the '498 patent by providing the
12 Nintendo Switch portable gaming console system with attachable handheld controllers, as well as
13 separately sold components such as the Joy-Con Controllers and Joy-Con Charging Grip to end users
14 along with instructions to use the products in an infringing manner.

15 48. Defendants also contribute to the infringement of the '498 patent in violation of 35
16 U.S.C. § 271. Defendants know that infringing components of the Nintendo Switch (including the
17 Nintendo Switch portable gaming console system and separately sold components such as the Joy-
18 Con Controllers and Joy-Con Charging Grip) are especially made or especially adapted for use in the
19 infringement of the '498 patent. The infringing components of these products are not staple articles
20 or commodities of commerce suitable for substantial non-infringing use, and the infringing
21 components of these products are a material part of the invention of the '498 patent. Defendants
22 clearly intend to have at least end-users use these components to create the infringing products, for
23 example by assembling the Joy-Con Controllers together with the Switch console, Joy-Con Grip, or
24 Joy-Con Charging Grip (in arrangements covered by the claims of the '498 patent). As set forth
25 above, Defendants direct and instruct customers to assemble and use the components in an infringing
26 manner. The components are especially made to be combined with the other components of the
27 Switch system for use in an infringement of claims of the '498 patent. For example, the bundled
28 Nintendo Switch portable gaming console system is sold and imported with the Switch console, Joy-

1 Con Controllers, and Joy-Con Charging Grip in one box. As explained above, to recharge the Joy-
2 Con Controllers purchasers of the bundled Switch system must assemble together the Joy-Con
3 Controllers and the Switch console, and such use of the bundled Nintendo Switch infringes claims of
4 the '498 patent. Defendants are aware that, absent infringement, the bundled Switch system will not
5 have a substantial use because the Joy-Con Controllers need to be assembled in the infringing
6 manner to recharge. Similarly, Defendants are aware that separately sold components such as the
7 Joy-Con Controllers and Joy-Con Charging Grip are specifically designed for assembly into an
8 infringing arrangement. In any use of the Joy-Con Controllers, each Controller ultimately must be
9 electronically connected to the Switch console or Joy-Con Charging Grip (in an arrangement
10 covered by claims of the '498 patent) for charging and continued use. Consequently, there is no
11 substantial non-infringing use to the Nintendo Switch portable gaming console system, or separately
12 sold components such as the Joy-Con Controllers and Joy-Con Charging Grip.

13 49. Defendants' infringement has caused, and is continuing to cause, damage to
14 Gamevice.

15 50. Gamevice is entitled to damages in accordance with 35 U.S.C. §§ 271, 281, and 284.

16 **COUNT II: INFRINGEMENT OF U.S. PATENT NO. 9,808,713**

17 51. Gamevice incorporates by reference and re-alleges all the foregoing paragraphs of
18 this Complaint as if fully set forth herein.

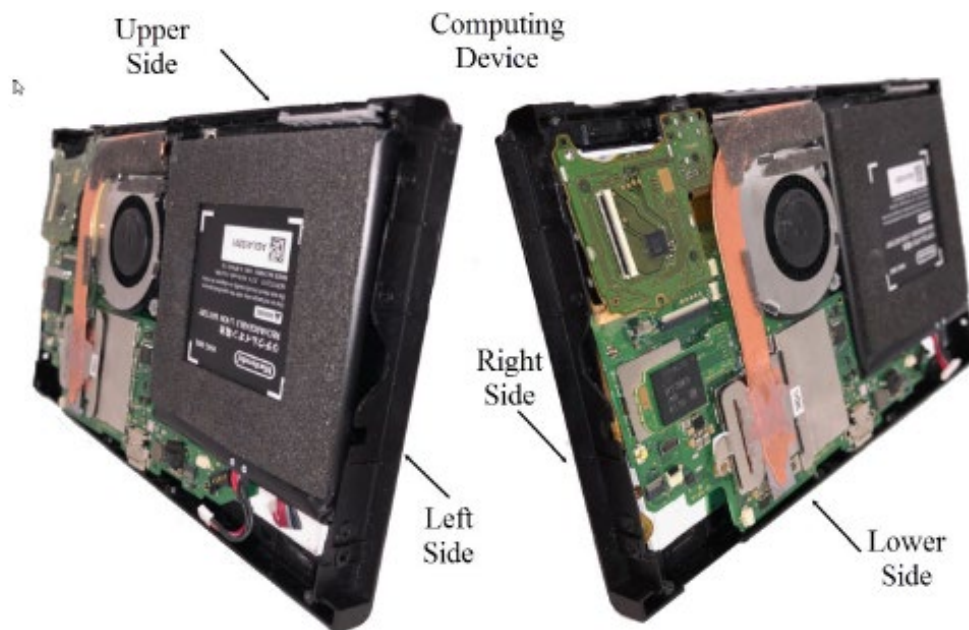
19 52. Defendants have directly infringed and are currently directly infringing claims of the
20 '713 patent literally and/or under the doctrine of equivalents by making, using, selling, offering for
21 sale, and/or importing into the United States, without authority, products and equipment that embody
22 one or more claims of the '713 patent, including but not limited to the Nintendo Switch. For
23 example, on information and belief, Defendants operate brick-and-mortar stores in the United
24 States—for example, "Nintendo NY," a store open to the public and located at 10 Rockefeller Plaza,
25 New York, NY 10020, and an employees-only store located at 4600 150th Ave NE, Redmond,
26 Washington 98052—that carry the Nintendo Switch portable gaming console systems for sale and
27 where Defendants at least test, demonstrate, repair, support, use and/or otherwise operate the
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1 Nintendo Switch portable gaming console system in a manner that infringes the '713 patent. At least
2 because of the foregoing acts, Defendants directly infringe claims of the '713 patent.

3 53. As just one non-limiting example, set forth below (with claim language in italics) is a
4 description of infringement of exemplary claim 1 of the '713 patent in connection with the Nintendo
5 Switch. This description is based on publicly available information. Gamevice reserves the right to
6 modify this description, including, for example, on the basis of information about the Nintendo
7 Switch that it obtains during discovery.

8 1(a) *A combination comprising:* The Nintendo Switch portable gaming console system is a
9 combination of the claimed elements, as described below.

10 1(b) *a computing device, the computing device providing an upper, lower, left and right side,*
11 *collectively the sides of the computing device, and an electronic display screen, the electronic*
12 *display screen having a corresponding side adjacent each of the sides of the computing device;* The
13 Nintendo Switch portable gaming system includes the Nintendo Switch console. The Switch console
14 includes a computing device with an upper, lower, left and right side.

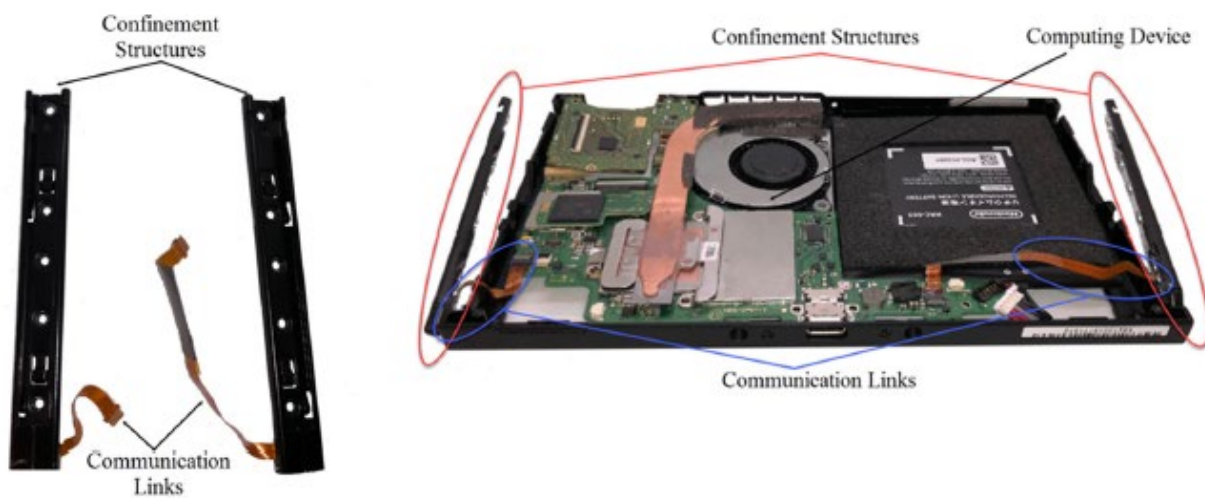


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26 The Switch console also includes an electronic display screen that also provides an upper,
27 lower, left and right side. Each of these sides of the electronic display screen are adjacent to each
28 corresponding side of the computing device.

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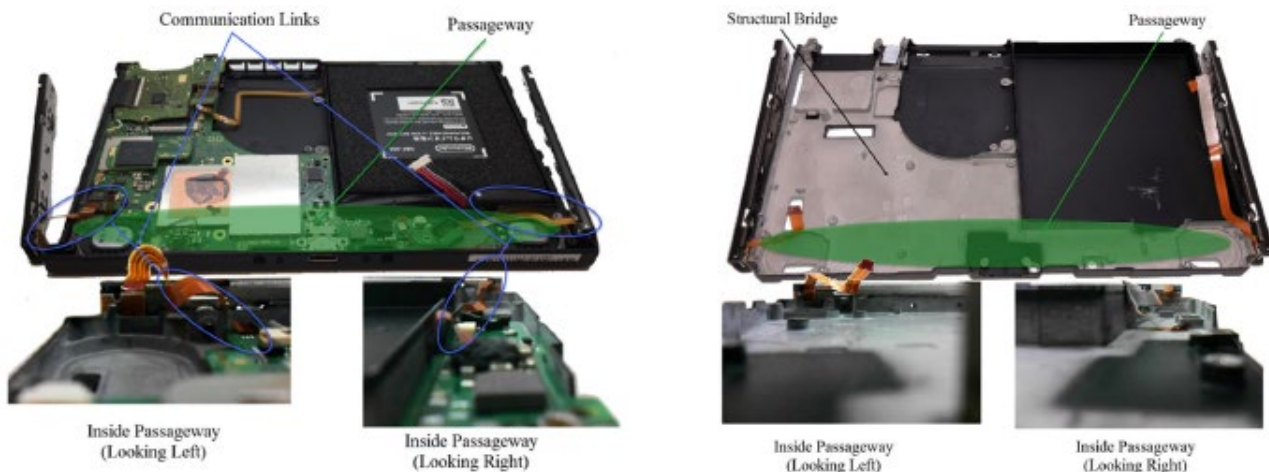
1(c) a pair of confinement structures, the pair of confinement structures adjacent to and confining the computing device on at least two opposing sides, but not more than three sides of the sides of the computing device, and in which a first confinement structure of the pair of confinement structures provides a first communication link, while a second confinement structure of the pair of confinement structures provides a second communication link; The Nintendo Switch console includes a pair of confinement structures (also referred to as rails) adjacent to and confining the computing device on two sides, as depicted below. Each of the confinement structures of the Nintendo Switch provides a communication link.



1 1(d)(i) a structural bridge disposed between the pair of confinement structures, the structural
 2 bridge comprising, The Nintendo Switch console includes a structural bridge between the two
 3 confinement structures, as depicted below.

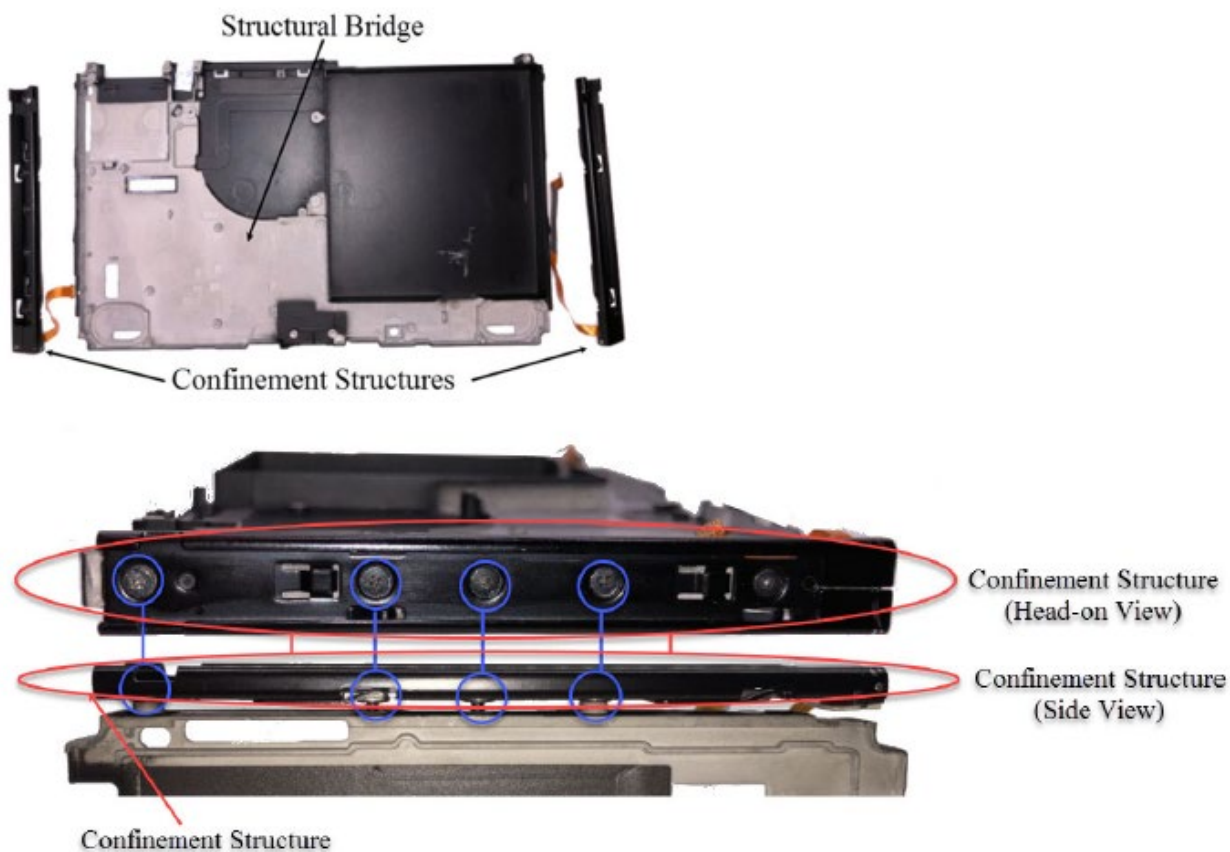


10 1(d)(ii) a passageway between the pair of confinement structures, the passageway promotes
 11 communication between the first communication link and the computing device, the passageway
 12 further promotes communication between the second communication link and the computing device;
 13 The structural bridge includes a passageway within which the communication link from each
 14 confinement structure connects to the computing device, thereby promoting communication between
 15 each of the communication links and the computing device.



24 1(e) fastening mechanisms, the fastening mechanisms secure the first confinement structure
 25 to a first side of the structural bridge, and further in which the fastening mechanisms secure the
 26 second confinement structure to a second side of the structural bridge; and The two opposing sides
 27 of the structural bridge of the Nintendo Switch include multiple threaded holes (fastening
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1 mechanisms), which, together with threaded screws, secure the confinement structures to the two
 2 opposing sides of the structural bridge.

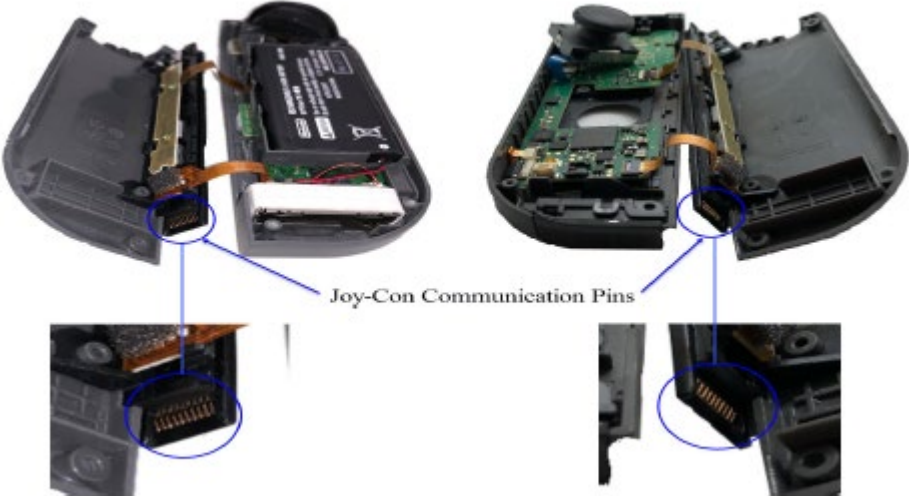


17 *1(f)(i) an input device, the input device comprising a pair of control modules, each control*
 18 *module of the pair of control modules secured to a corresponding confinement structure of the pair*
 19 *of confinement structures, The Nintendo Switch portable gaming console system includes an input*
 20 *device comprised of the two Switch Joy-Con Controllers that are each a control module, and*
 21 *together comprise a pair of control modules. Each Joy-Con Controller is specifically designed to be*
 22 *secured to a confinement structure of the pair of confinement structures secured to the side of the*
 23 *structural bridge. In this manner, the Nintendo Switch may be used in what Nintendo refers to as the*
 24 *"handheld mode."*

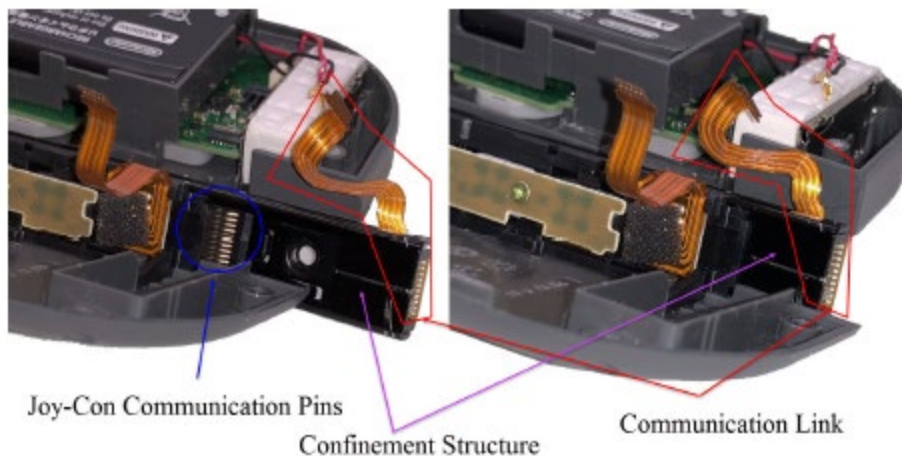
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1(f)(ii) *an input device, the input device comprising a pair of control modules, each control module of the pair of control modules secured to a corresponding confinement structure of the pair of confinement structures, Each Joy-Con Controller includes communication pins, located at the end of the Joy-Con Controller's own rail structure (for mating with the confinement structure).*



1 1(f)(iii) each control module in electronic communication with the communication link of its
 2 corresponding confinement structure, When attached to its corresponding confinement structure,
 3 each Joy-Con Controller is in electronic communication with the communication link of that
 4 confinement structure.



13 1(g)(i) each of the pair of control modules providing input module apertures, each input
 14 module aperture secures an instructional input device, Each Joy-Con Controller (control module)
 15 includes multiple apertures, which are secured multiple instructional input devices, including
 16 joysticks and buttons.

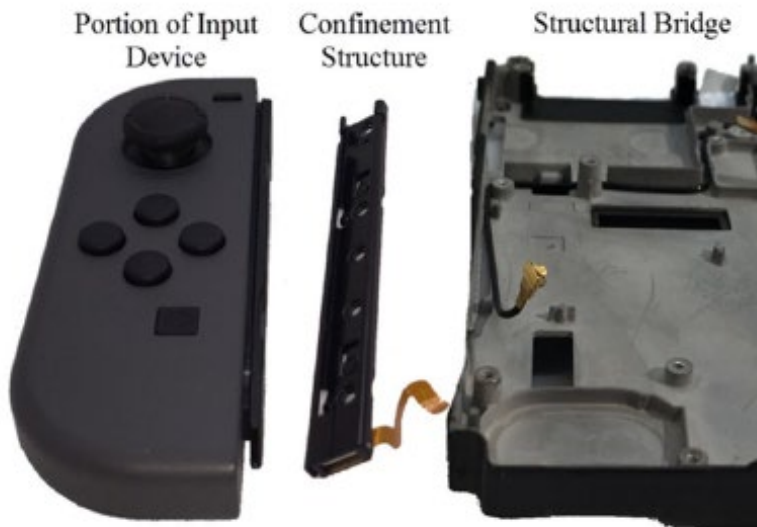


26 1(g)(ii) wherein said input module apertures are adjacent each of the at least two opposing
 27 sides of the sides of the computing device, When the Joy-Con Controllers are attached to the sides of
 28

1 the Switch console (so that a customer may play in handheld mode), the input module apertures are
2 adjacent to each of the opposing sides of the computing device.



9 *1(h) and wherein the input device is a separate and distinct structure from either of the pair*
10 *of confinement structures, forming no structural portion of either of the pair of confinement*
11 *structures, and in which the confinement structures are separate and distinct structures from the*
12 *structural bridge, forming no structural portion of the structural bridge.* The pair of Joy-Con
13 Controllers (input device) is a separate and distinct structure from either of the pair of confinement
14 structures, and the confinement structures are separate and distinct structures from the structural
15 bridge, forming no structural portion of the structural bridge.



25 54. At least as early as the filing and service of the original Complaint filed in this action,
26 Defendants Nintendo Japan and NOA are also indirectly infringing claims of the '713 patent.

1 55. Defendants have actual knowledge of Gamevice's rights in the '713 patent and details
2 of their infringement of the '713 patent based on at least the filing and service of the original
3 Complaint filed in this action.

4 56. On information and belief, Defendants also had knowledge of the '713 patent before
5 the filing and service date of the original Complaint filed in this action, including, without limitation,
6 through their knowledge of Gamevice, and Gamevice's marking its patents on its covered products.
7 Upon issuance of the '713 patent, Gamevice began marking its covered products, either directly with
8 the patent numbers, or virtually under 35 U.S.C. § 287(a) by citation on its products to a website
9 (<https://gamevice.com/pages/patents>) that lists the patents that cover its products, including the '713
10 patent. On information and belief, discovery will show that Defendants had knowledge of the '713
11 patent before the filing and service date of this Complaint for the additional reason that Defendants
12 cited in their own patent applications that they filed in the United States Patent and Trademark
13 Office, including for the Nintendo Switch, certain United States and foreign counterparts to the
14 patent applications that matured into the '713 patent. For example, on information and belief,
15 Defendants became aware of the '912 patent, which the '713 patent claims priority to, on or around
16 December 16, 2015, when it was cited during prosecution of Defendants' U.S. Application Serial No.
17 14/058,882. As another example, Defendants were aware of the '357 patent and '025 patent because
18 they were cited during prosecution of Defendants' design patent D808,967. The '357 and '025
19 patents are both in the same family as the '713 patent. As yet another example, Defendants cited
20 U.S. Publication No. 2013/0154542, which is in the same family as the '713 patent, and a European
21 Search Report that cited European Patent No. 2,772,825, a foreign counterpart to the '713 patent, in
22 multiple of Defendants' United States patent applications directed to the accused Nintendo Switch.
23 Further, on information and belief, discovery will show Defendants are aware of the '713 patent
24 because Gamevice filed a complaint against Defendants in the United States District Court for the
25 Central District of California on August 9, 2017 asserting Gamevice's '119 patent, which is in the
26 same family as the '713 patent, and as a result of which, discovery will show that Defendants
27 became aware of the '713 patent.

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1 57. In addition to directly infringing claims of the '713 patent, Defendants manufacture,
2 use, import, offer for sale, and/or sell the Nintendo Switch with knowledge of or willful blindness to
3 the fact that their actions will induce their retail partners and end-users to infringe the '713 patent in
4 violation of 35 U.S.C. § 271. For example, Defendants actively and knowingly induce end-users to
5 infringe the '713 patent by teaching, directing, encouraging, and/or requiring end-users to use the
6 Nintendo Switch in an infringing manner, with the specific intent to cause direct infringement by
7 end-users.

8 58. For example, Defendants require end-users to assemble the attachable handheld Joy-
9 Con Controllers together with the Switch console (an arrangement covered by claims of the '713
10 patent) in order to play games or recharge the Joy-Con Controllers, as explained above. Moreover,
11 Defendants provide directions, instruction manuals, guides and other materials that encourage direct,
12 require, and facilitate infringing use by end-users. On the box in which the Switch is sold, on
13 Defendants' website, in advertising and marketing videos, in "how-to" videos, in user manuals, and
14 elsewhere, Defendants prominently display the Joy-Con Controllers assembled together with the
15 Switch console. For instance, Defendants' website shows and instructs end-users how to assemble
16 the attachable handheld Joy-Con Controllers together with the Switch console, as shown below
17 (from <https://www.nintendo.com/switch/features/>).

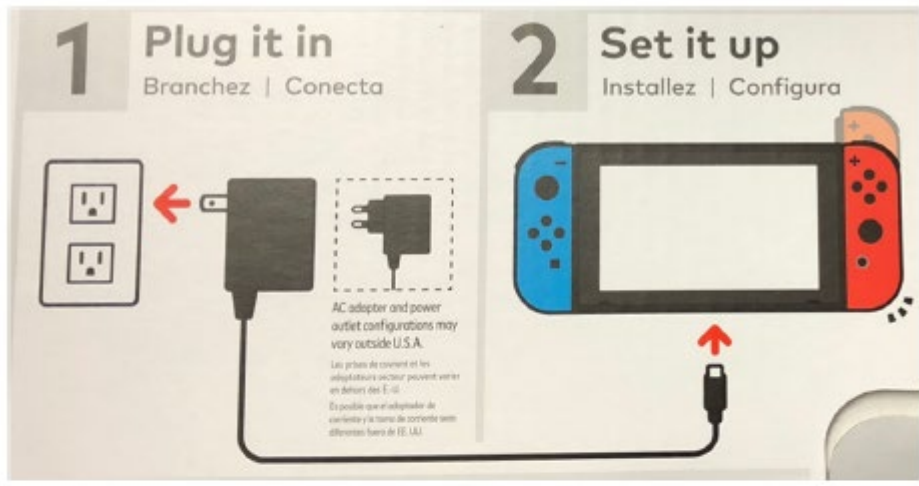
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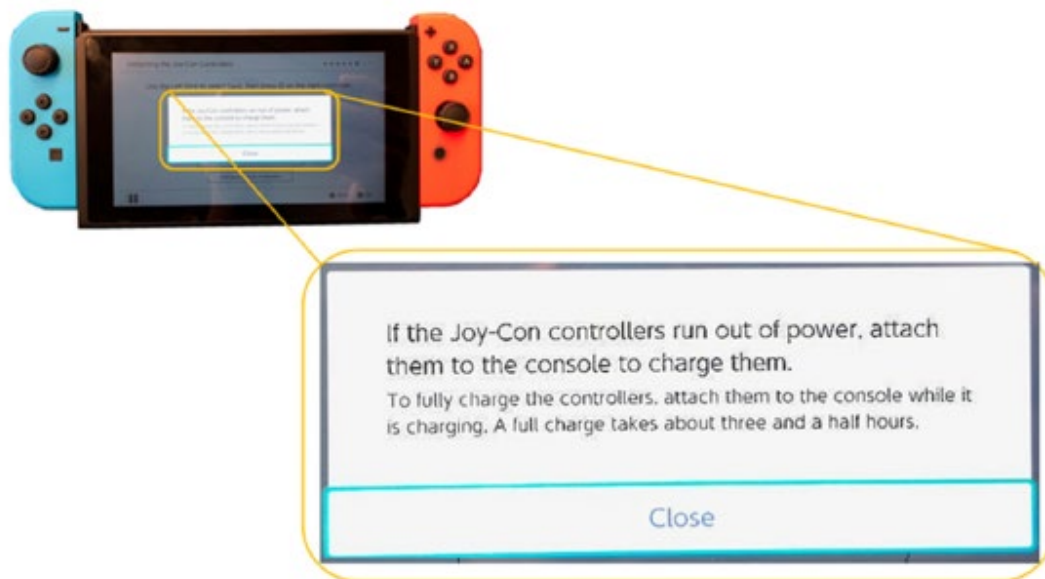
59. The box in which the bundled Nintendo Switch portable gaming console system with attachable handheld controllers is sold includes instructions and images that teach customers how to set up the Switch by attaching the Joy-Con Controllers to the attachment rails to play games on the Switch portable gaming console in handheld mode, and to charge the Joy-Con Controllers. The following instructions and images appear on the Switch's box:

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60. Indeed, during the process of setting up the Switch, after a customer powers it on for the first time, an instruction displayed on the Switch screen states: "If the Joy-Con Controllers run out of power, attach them to the console to charge them. To fully charge the controllers, attach them to the console while it is charging. A full charge takes about three and a half hours."

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61. Furthermore, Defendants' website instructs users that the Joy-Con Controllers should be electronically connected to the Switch console in the infringing manner at the time of first set-up, shown below (from https://en-america-support.nintendo.com/app/answers/detail/a_id/22501/~nintendo-switch-first-time-setup-and-connection#DT:t1-qlalEP:t1-qlal-c).

Nintendo Switch First-Time Setup and Connection

Applies to: Nintendo Switch

Instructions on how to set up your Nintendo Switch system for the first time.

Complete These Steps:

1. Connect the AC adapter to the system.



- Connect the USB plug from the Nintendo Switch AC adapter into the USB connector on the bottom of the console, then connect the AC adapter into the wall outlet.
- The system will power on after you connect the AC adapter provided.

2. Attach the Joy-Con controllers to the Nintendo Switch console.



3. Follow the on-screen prompts to complete the first-time setup.

62. Defendants also operate brick-and-mortar stores in the United States—including the Nintendo NY store and the employees-only store in Redmond, Washington discussed above—that carry the Nintendo Switch and the components thereof and where Defendants at least invite, direct, instruct, and show end-users how to use the products in the infringing manner. On information and belief, Defendants also facilitate and encourage end-users to operate the products in an infringing manner by providing repair and testing services for the Nintendo Switch, including through their agents and subcontractors. Further, on information and belief, Defendants employ "Retail Representatives" in the United States who provide product demonstrations, education, services, and product maintenance to retail store employees and to end-users.

63. Defendants are on notice of Gamevice's rights in the '713 patent and their infringement thereof based on at least the filing and service of the original Complaint filed in this action, and induce infringement of claims of the '713 patent by providing the Nintendo Switch

1 portable gaming console system with attachable handheld controllers, as well as separately sold
2 components such as the Joy-Con Controllers, to end-users along with instructions to use the products
3 in an infringing manner.

4 64. Defendants also contribute to the infringement of claims of the '713 patent in
5 violation of 35 U.S.C. § 271. Defendants know that infringing components of the Nintendo Switch
6 (including the Nintendo Switch portable gaming console system with attachable handheld controllers
7 and separately sold components such as the Joy-Con Controllers) are especially made or especially
8 adapted for use in the infringement of claims of the '713 patent. The infringing components of these
9 products are not staple articles or commodities of commerce suitable for substantial non-infringing
10 use, and the infringing components of these products are a material part of the invention of the '713
11 patent. Defendants clearly intend to have their customers use these components to create the
12 infringing product. As set forth above, Defendants direct and instruct customers to assemble and use
13 the components in an infringing manner. The components are especially made to be combined with
14 the other components of the Switch system for use in an infringement of claims of the '713 patent.
15 For example, the bundled Nintendo Switch portable gaming console system is sold and imported
16 with the Switch console and Joy-Con Controllers in one box. As explained above, to recharge the
17 Joy-Con Controllers purchasers of the bundled Switch system must assemble together the Joy-Con
18 Controllers and the Switch console (in an arrangement covered by the claims of the '713 patent).
19 Defendants are aware that, absent infringement, the bundled Switch system will not have a
20 substantial use because the Joy-Con Controllers need to be assembled in the infringing manner to
21 recharge. Similarly, Defendants are aware that separately sold components—such as the Joy-Con
22 Controllers—are specifically designed for assembly into an infringing arrangement. In any use of the
23 attachable handheld Joy-Con Controllers, each Controller ultimately must be electronically
24 connected to the Switch console (in an arrangement covered by claims of the '713 patent) for
25 charging and continued use. Consequently, there is no substantial non-infringing use to the Nintendo
26 Switch portable gaming console system, or separately sold components such as the Joy-Con
27 Controllers.

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1 65. Defendants' infringement has caused, and is continuing to cause, damage to
2 Gamevice.

3 66. Gamevice is entitled to damages in accordance with 35 U.S.C. §§ 271, 281, and 284.

4 **COUNT III: INFRINGEMENT OF U.S. PATENT NO. 10,391,393**

5 67. Gamevice incorporates by reference and re-alleges all the foregoing paragraphs of
6 this Complaint as if fully set forth herein.

7 68. Defendants have directly infringed and are currently directly infringing claims of the
8 '393 patent literally and/or under the doctrine of equivalents by making, using, selling, offering for
9 sale, and/or importing into the United States, without authority, products and equipment that embody
10 one or more claims of the '393 patent, including but not limited to the Nintendo Switch. For
11 example, on information and belief, Defendants operate brick-and-mortar stores in the United
12 States—for example, "Nintendo NY," a store open to the public and located at 10 Rockefeller Plaza,
13 New York, NY 10020, and an employees-only store located at 4600 150th Ave NE, Redmond,
14 Washington 98052—that carry the Nintendo Switch portable gaming console systems for sale and
15 where Defendants at least test, demonstrate, repair, support, use and/or otherwise operate the
16 Nintendo Switch portable gaming console system in a manner that infringes the '393 patent. At least
17 because of the foregoing acts, Defendants directly infringe claims of the '393 patent.

18 69. As just one non-limiting example, set forth below (with claim language in italics) is a
19 description of infringement of exemplary claim 1 of the '393 patent in connection with the Nintendo
20 Switch. This description is based on publicly available information. Gamevice reserves the right to
21 modify this description, including, for example, on the basis of information about the Nintendo
22 Switch that it obtains during discovery.

23 1(a) *A combination comprising:* The Nintendo Switch is a combination of the claimed
24 elements, as described below.

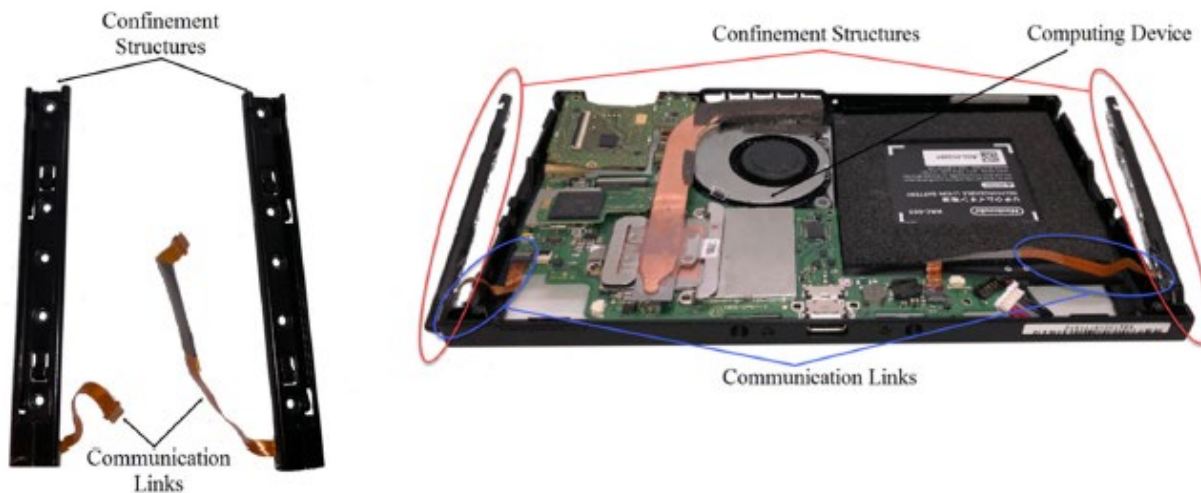
25 1(b) *a computing device;* The Nintendo Switch includes a computing device, as shown
26 below.

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Computing Device



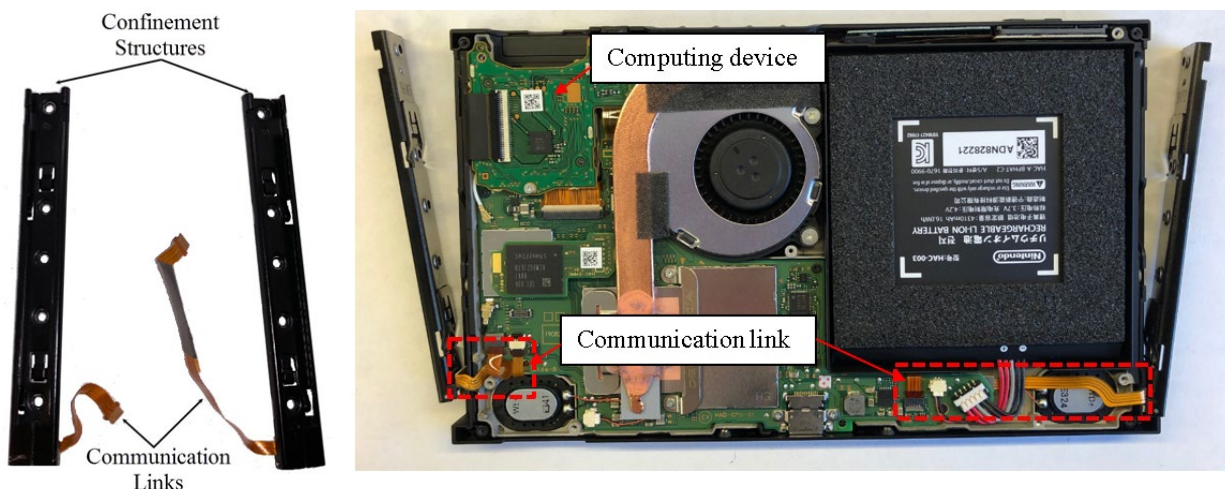
1(c) a pair of confinement structures, The Nintendo Switch Console include a pair of confinement structures (also referred to as rails), as shown below:



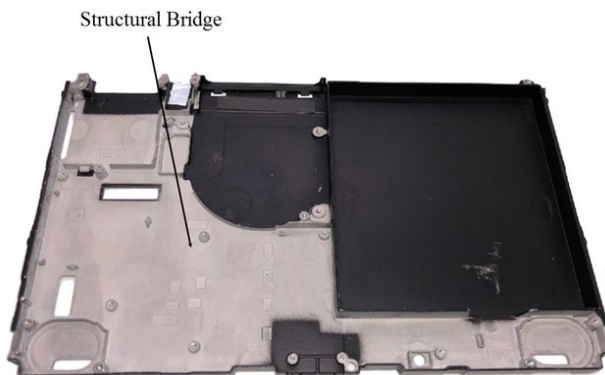
1(d) the pair of confinement structures interacting with the computing device and adjacent at least two opposing sides of the computing device, but not more than three sides of the sides of the computing device, As shown in the image above for 1(c), the pair of confinement structures in the Nintendo Switch interact with the computing device and are adjacent at least two opposing sides of the computing device, but not more than three sides of the computing device.

1(e) each of the pair of confinement structures comprising a communication link, each of the communication links configured for electronic communication with the computing device; Each of the pair of confinement structures in the Nintendo Switch comprises a communication link, and each

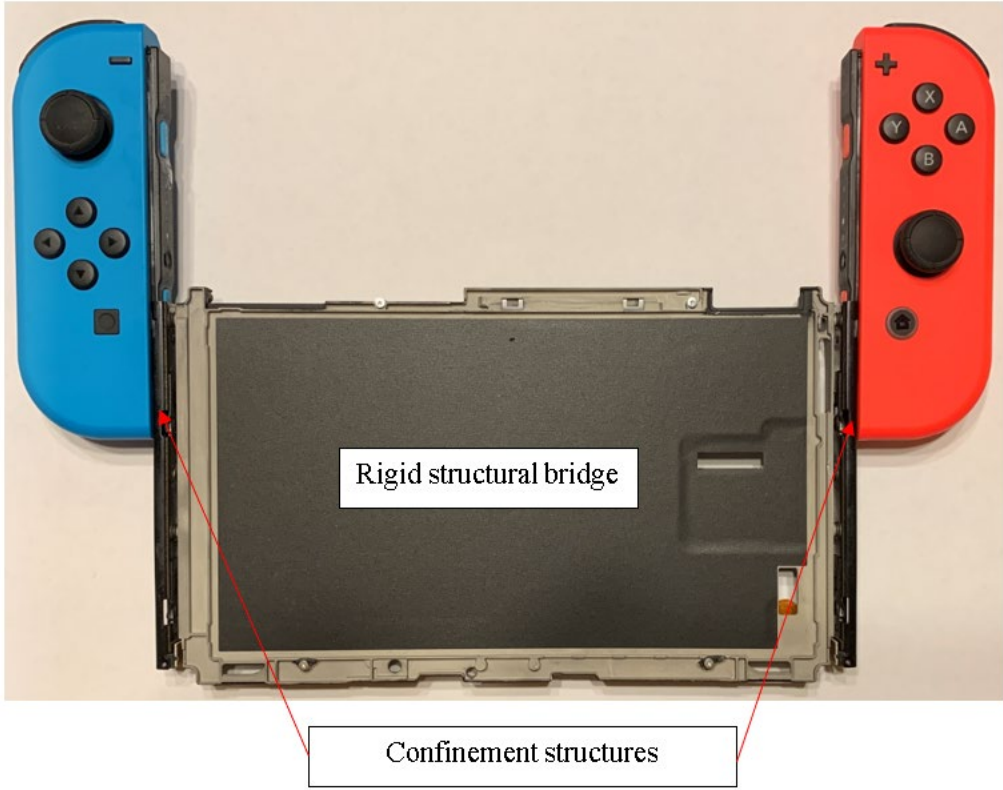
1 of the communication links is configured for electronic communication with the computing device,
2 as shown below. The communication links are connected to the printed circuit boards, which are part
3 of the computing device. Therefore, the communication links are in electronic communication with
4 the computing device.



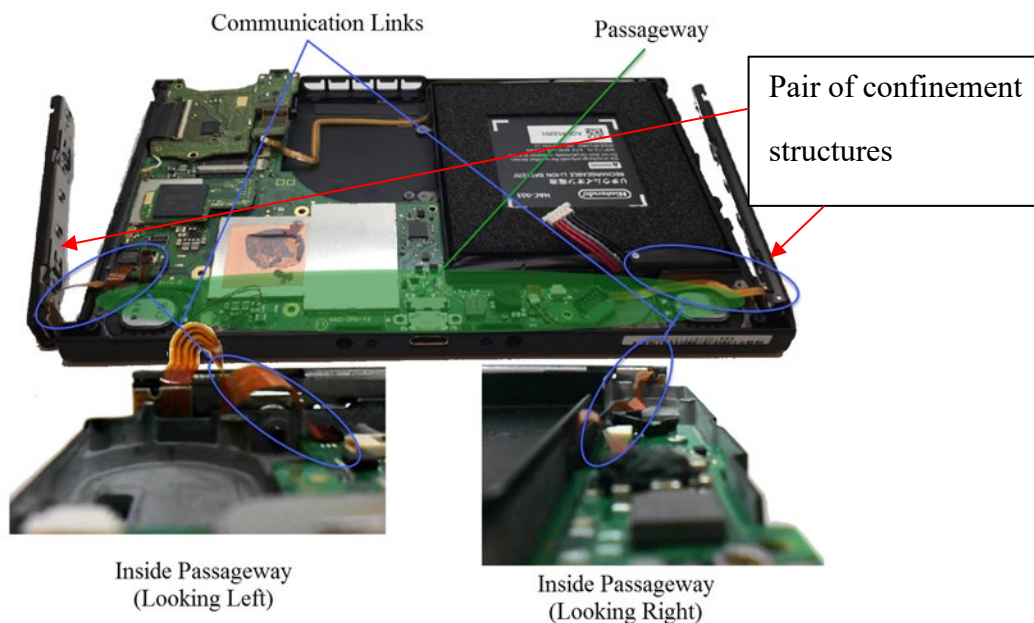
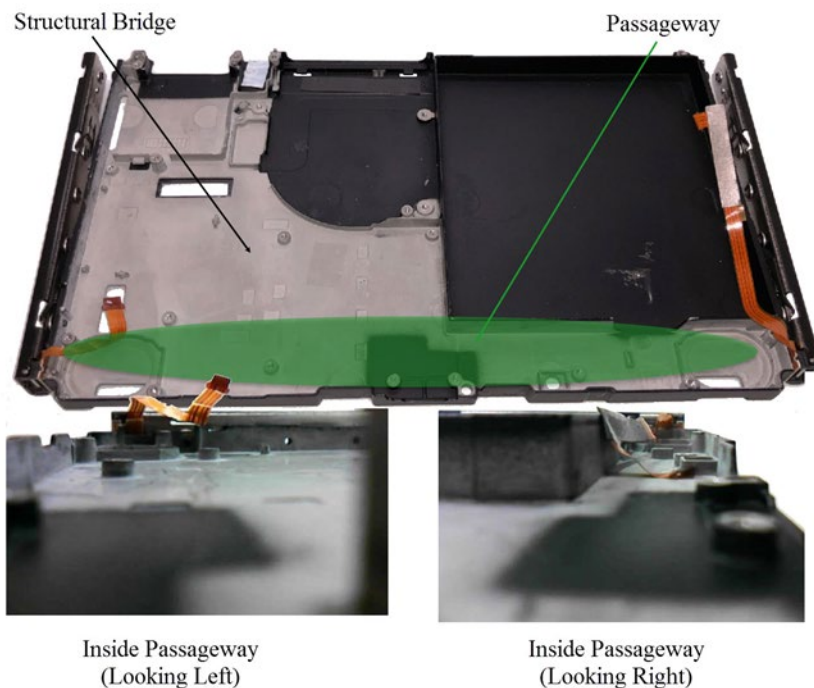
14 1(f) a rigid structural bridge disposed between and secured to the pair of confinement
15 structures, The Nintendo Switch includes a rigid structural bridge, which is disposed between and
16 secured to the pair of confinement structures, as shown in the images below.



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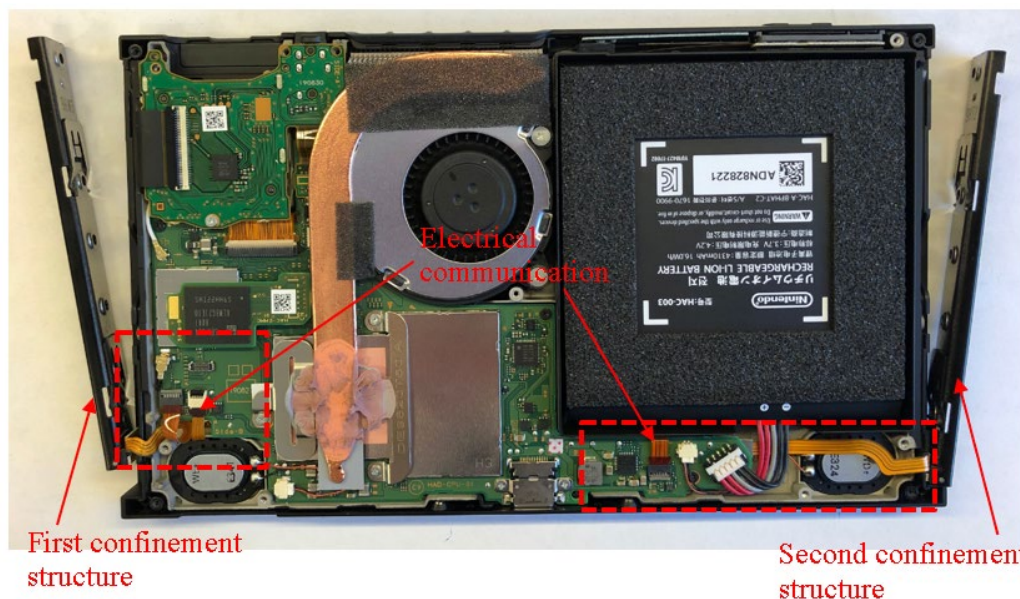


1 1(g) *the rigid structural bridge comprising a passageway between the pair of confinement*
2 *structures*, The rigid structural bridge in the Nintendo Switch comprises a passageway between the
3 pair of confinement structures.



27 1(h) *the passageway promotes electrical communication between the communication link of*
28 *a first confinement structure of the pair of confinement structures and the computing device, the*

1 *passageway further promotes electrical communication between the communication link of a second*
2 *confinement structure of the pair of confinement structures and the computing device;* The rigid
3 structural bridge includes a passageway within which the communication link from each
4 confinement structure connects to the computing device, thereby promoting communication between
5 each of the communication links and the computing device.

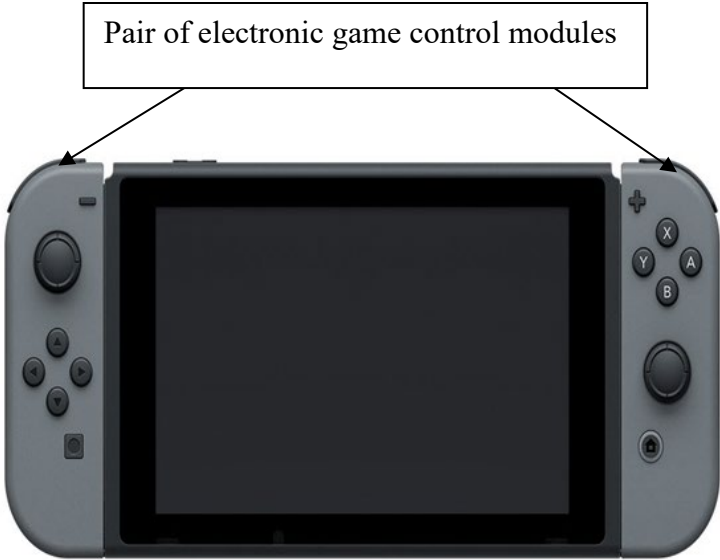


16 1(i) *a pair of electronic game control modules,* The Nintendo Switch includes a pair of
17 electronic game control modules, as shown below.

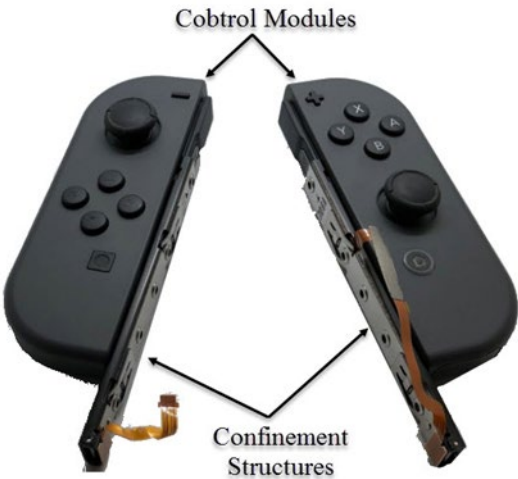


27 Pair of electronic game control modules
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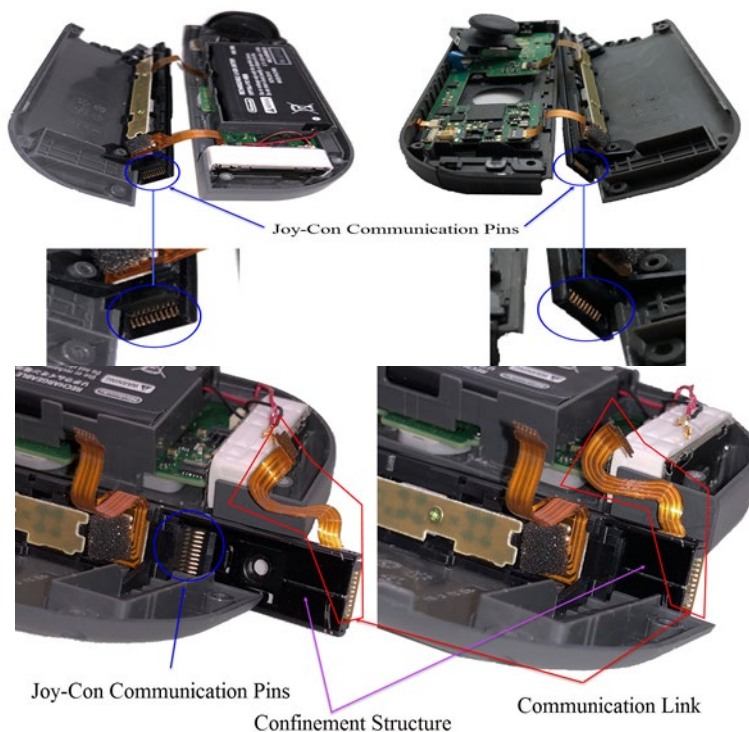
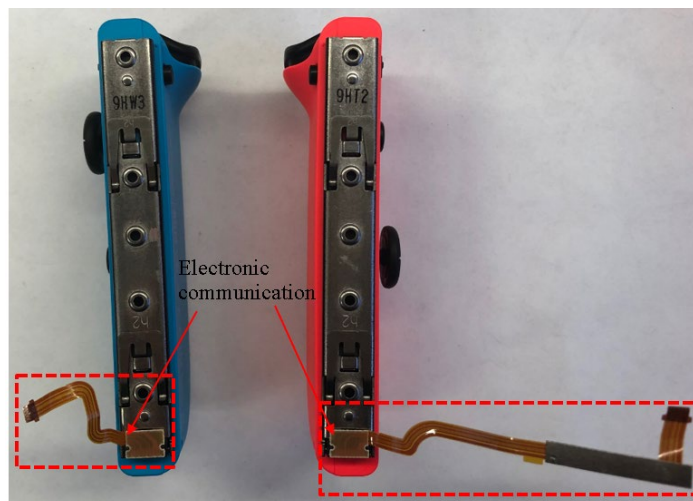


1(j) *each electronic game control module of the pair of electronic game control modules is secured to and interacts with a corresponding confinement structure of the pair of confinement structures, Each electronic game control module of the pair of electronic game control modules in the Nintendo Switch is secured to and interacts with a corresponding confinement structure of the pair of confinement structures, as shown below.*



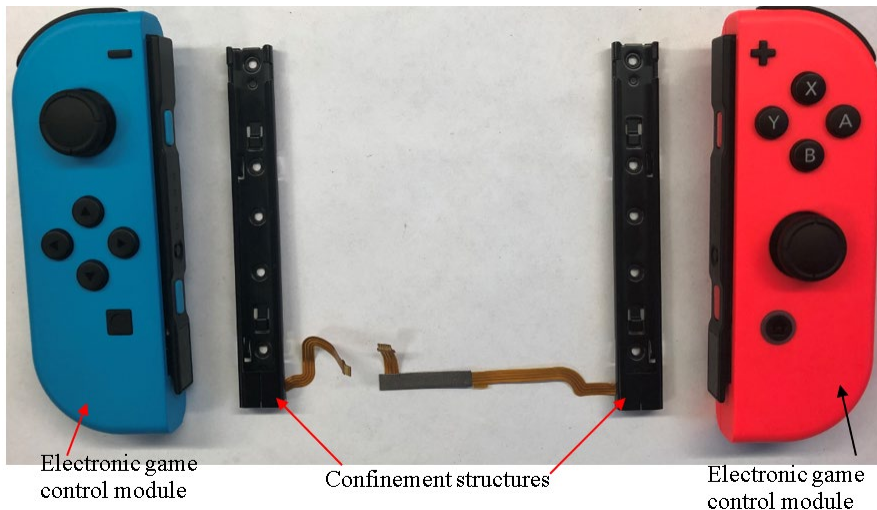
1(k) *each electronic game control module in electronic communication with the communication link of its corresponding confinement structure, When attached to its corresponding confinement structure, each Joy-Con Controller is in electronic communication with the communication link of that confinement structure. Each Joy-Con Controller includes communication*

1 pins, located at the end of the Joy-Con Controller's own rail structure (for mating with the
2 confinement structure).

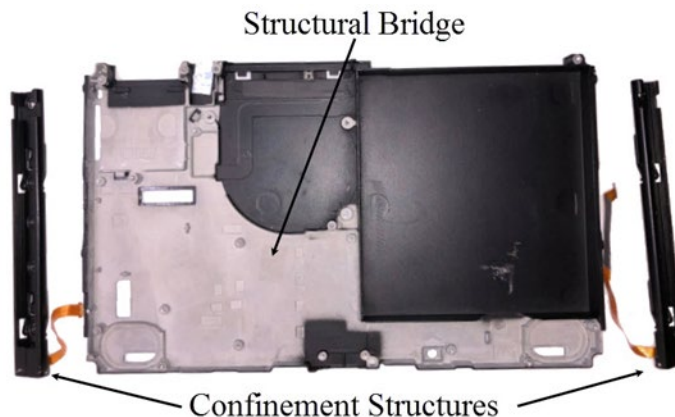


24 1(l) wherein each electronic game control module is a separate and distinct structure from
25 each of their corresponding confinement structures, forming no structural portion of their
26 corresponding confinement structures,: As shown below, each electronic game control module in the
27 Nintendo Switch is a separate and distinct structure from each of their corresponding confinement
28 structures, forming no structural portion of their corresponding structures.

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1(m) and in which each of the pair of confinement structures are separate and distinct structures from the structural bridge, forming no structural portion of the structural bridge. In the Nintendo Switch, each of the pair of confinement structures are separate and distinct structures from the structural bridge, forming no structural portion of the structural bridge.



70. At least as early as the filing and service of this Amended Complaint, Defendants Nintendo Japan and NOA are also indirectly infringing claims of the '393 patent.

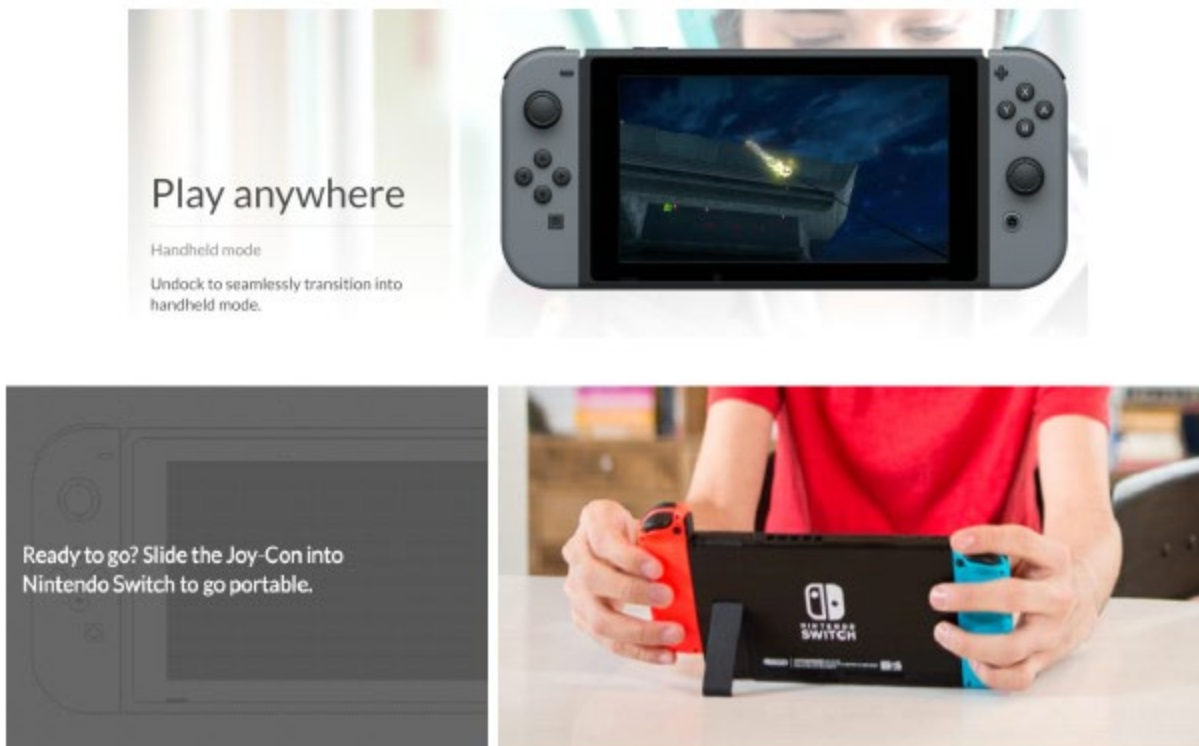
71. Defendants have had actual knowledge of Gamevice's rights in the '393 patent and details of their infringement of the '393 patent because Gamevice brought a patent infringement action against Defendants in the U.S. International Trade Commission, based on a complaint filed on March 27, 2020, alleging infringement of the '393 patent (*Certain Portable Gaming Console Systems with Attachable Handheld Controllers and Components Thereof II*, Inv. No. 337-TA-1197).

1 72. On information and belief, Defendants also had knowledge of the '393 patent before
2 the filing and service date of this Amended Complaint, and specifically no later than November 5,
3 2019. That knowledge may have been derived from various sources, including without limitation,
4 their knowledge of Gamevice, and Gamevice's marking its patents on its covered products. Upon
5 issuance of the '393 patent, Gamevice began marking its covered products, either directly with the
6 patent numbers, or virtually under 35 U.S.C. § 287(a) by citation on its products to a website
7 (<https://gamevice.com/pages/patents>) that lists the patents that cover its products, including the '393
8 patent. On information and belief, discovery will show that Defendants had knowledge of the '393
9 patent before the filing and service date of this Complaint for the additional reason that Defendants
10 cited in their own patent applications that they filed in the United States Patent and Trademark
11 Office, including for the Nintendo Switch, certain United States and foreign counterparts to the
12 patent applications that matured into the '393 patent. For example, on information and belief,
13 Defendants became aware of the '912 patent, which the '393 patent claims priority to, on or around
14 December 16, 2015, when it was cited during prosecution of Defendants' U.S. Application Serial No.
15 14/058,882. As another example, Defendants were aware of the '357 patent and '025 patent because
16 they were cited during prosecution of Defendants' design patent (D808,967). The '357 and '025
17 patents are both in the same family as the '393 patent. As yet another example, Defendants cited
18 U.S. Publication No. 2013/0154542, which is in the same family as the '393 patent, and a European
19 Search Report that cited European Patent No. 2,772,825, a foreign counterpart to the '393 patent, in
20 multiple of Defendants' United States patent applications directed to the accused Nintendo Switch.
21 Further, on information and belief, discovery will show that Defendants are aware of the '393 patent
22 because Gamevice filed a complaint against Defendants in the United States District Court for the
23 Central District of California on August 9, 2017 asserting Gamevice's '119 patent, which is in the
24 same family as the '393 patent, and as a result of which, discovery will show that Defendants
25 became aware of the '393 patent.

26 73. In addition to directly infringing claims of the '393 patent, Defendants manufacture,
27 use, import, offer for sale, and/or sell the Nintendo Switch with knowledge of or willful blindness to
28 the fact that their actions will induce their retail partners and end-users to infringe the '393 patent in

1 violation of 35 U.S.C. § 271. For example, Defendants actively and knowingly induce end-users to
 2 infringe the '393 patent by teaching, directing, encouraging, and/or requiring end-users to use the
 3 Nintendo Switch in an infringing manner, with the specific intent to cause direct infringement by
 4 end-users.

5 74. For example, Defendants require end-users to assemble the attachable handheld Joy-
 6 Con Controllers together with the Switch console (an arrangement covered by claims of the '393
 7 patent) in order to play games or recharge the Joy-Con Controllers, as explained above. Moreover,
 8 Defendants provide directions, instruction manuals, guides and other materials that encourage direct,
 9 require, and facilitate infringing use by end-users. On the box in which the Switch is sold, on
 10 Defendants' website, in advertising and marketing videos, in "how-to" videos, in user manuals, and
 11 elsewhere, Defendants prominently display the Joy-Con Controllers assembled together with the
 12 Switch console. For instance, Defendants' website shows and instructs end-users how to assemble
 13 the attachable handheld Joy-Con Controllers together with the Switch console, as shown below
 14 (from <https://www.nintendo.com/switch/features/>).



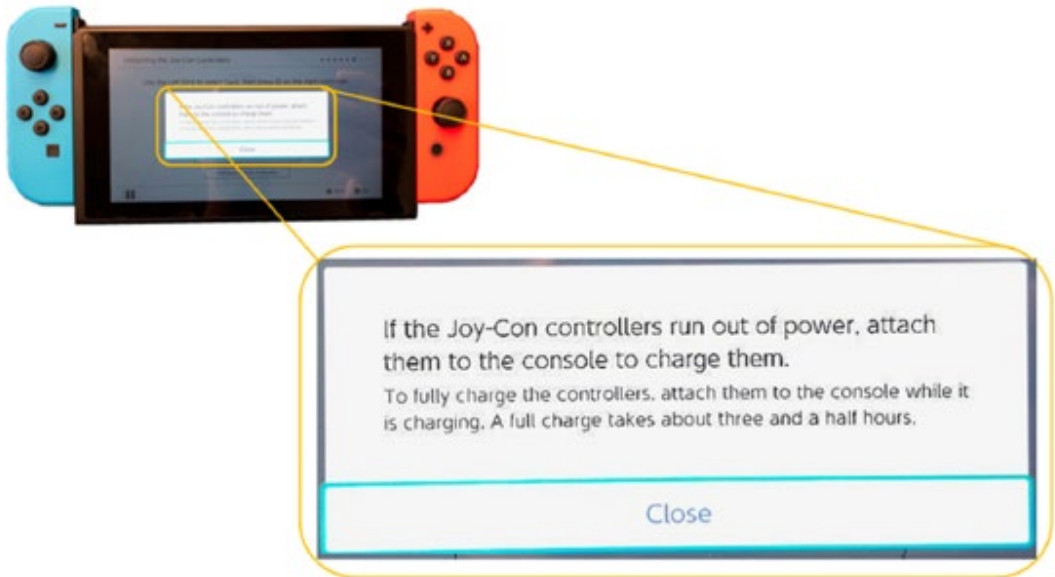
25 75. The box in which the bundled Nintendo Switch portable gaming console system with
 26 attachable handheld controllers is sold includes instructions and images that teach customers how to
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1 set up the Switch by attaching the Joy-Con Controllers to the attachment rails to play games on the
 2 Switch portable gaming console in handheld mode, and to charge the Joy-Con Controllers. The
 3 following instructions and images appear on the Switch's box:



76. Indeed, during the process of setting up the Switch, after a customer powers it on for the first time, an instruction displayed on the Switch screen states: "If the Joy-Con Controllers run out of power, attach them to the console to charge them. To fully charge the controllers, attach them to the console while it is charging. A full charge takes about three and a half hours."

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77. Furthermore, Defendants' website instructs users that the Joy-Con Controllers should be electronically connected to the Switch console in the infringing manner at the time of first set-up, shown below (from https://en-america-support.nintendo.com/app/answers/detail/a_id/22501/~/~nintendo-switch-first-time-setup-and-connection#DT:t1-q1a1EP:t1-q1a1-c).

Nintendo Switch First-Time Setup and Connection

Applies to: Nintendo Switch

Instructions on how to set up your Nintendo Switch system for the first time.

Complete These Steps:

1. Connect the AC adapter to the system.



- Connect the USB plug from the Nintendo Switch AC adapter into the USB connector on the bottom of the console, then connect the AC adapter into the wall outlet.
- The system will power on after you connect the AC adapter provided.

2. Attach the Joy-Con controllers to the Nintendo Switch console.



3. Follow the on-screen prompts to complete the first-time setup.

78. Defendants also operate brick-and-mortar stores in the United States—including the Nintendo NY store and the employees-only store in Redmond, Washington discussed above—that carry the Nintendo Switch and the components thereof and where Defendants at least invite, direct, instruct, and show end-users how to use the products in the infringing manner. On information and belief, Defendants also facilitate and encourage end-users to operate the products in an infringing manner by providing repair and testing services for the Nintendo Switch, including through their agents and subcontractors. Further, on information and belief, Defendants employ "Retail Representatives" in the United States who provide product demonstrations, education, services, and product maintenance to retail store employees and to end-users.

79. Defendants are on notice of Gamevice's rights in the '393 patent and their infringement thereof based on at least the filing and service of this Amended Complaint or its previous knowledge, and induce infringement of claims of the '393 patent by providing the Nintendo

1 Switch portable gaming console system with attachable handheld controllers, as well as separately
2 sold components such as the Joy-Con Controllers, to end-users along with instructions to use the
3 products in an infringing manner.

4 80. Defendants also contribute to the infringement of claims of the '393 patent in
5 violation of 35 U.S.C. § 271. Defendants know that infringing components of the Nintendo Switch
6 (including the Nintendo Switch portable gaming console system with attachable handheld controllers
7 and separately sold components such as the Joy-Con Controllers) are especially made or especially
8 adapted for use in the infringement of claims of the '393 patent. The infringing components of these
9 products are not staple articles or commodities of commerce suitable for substantial non-infringing
10 use, and the infringing components of these products are a material part of the invention of the '393
11 patent. Defendants clearly intend to have their customers use these components to create the
12 infringing product. As set forth above, Defendants direct and instruct customers to assemble and use
13 the components in an infringing manner. The components are especially made to be combined with
14 the other components of the Switch system for use in an infringement of claims of the '393 patent.
15 For example, the bundled Nintendo Switch portable gaming console system is sold and imported
16 with the Switch console and Joy-Con Controllers in one box. As explained above, to recharge the
17 Joy-Con Controllers purchasers of the bundled Switch system must assemble together the Joy-Con
18 Controllers and the Switch console (in an arrangement covered by the claims of the '393 patent).
19 Defendants are aware that, absent infringement, the bundled Switch system will not have a
20 substantial use because the Joy-Con Controllers need to be assembled in the infringing manner to
21 recharge. Similarly, Defendants are aware that separately sold components—such as the Joy-Con
22 Controllers—are specifically designed for assembly into an infringing arrangement. In any use of the
23 attachable handheld Joy-Con Controllers, each Controller ultimately must be electronically
24 connected to the Switch console (in an arrangement covered by claims of the '393 patent) for
25 charging and continued use. Consequently, there is no substantial non-infringing use to the Nintendo
26 Switch portable gaming console system, or separately sold components such as the Joy-Con
27 Controllers.

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1 81. Defendants' infringement has caused, and is continuing to cause, damage to
2 Gamevice.

3 82. Gamevice is entitled to damages in accordance with 35 U.S.C. §§ 271, 281, and 284.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Gamevice respectfully requests:

6 A. That Judgment be entered that Nintendo Japan and NOA have infringed the '498,
7 '713, and '393 patents, directly and indirectly, literally or under the doctrine of equivalents;

8 B. An award of damages sufficient to compensate Gamevice for Defendants'
9 infringement under 35 U.S.C. § 284;

10 C. Costs and expenses in this action;

11 D. An award of prejudgment and post-judgment interest; and

12 E. Such other and further relief as the Court may deem just and proper.
13

14 Dated: March 7, 2022

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Gamevice respectfully demands a trial by jury on all issues triable by jury.

Dated: March 7, 2022

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