# Case4:11-cv-00329-SBA Document86 Filed06/15/11 Page1 of 6

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8	UNITED STATES DISTRICT COURT		
9	FOR THE NORTHERN DISTRICT OF CALIFORNIA		
10	OAKLAND DIVISION		
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12	OLYMPIC DEVELOPMENTS AG, LLC,	Case No. 11-cv-00329-SBA	
13	Plaintiff,	FIRST AMENDED COMPLAINT FOR	
14	v.	PATENT INFRINGEMENT	
15	NINTENDO OF AMERICA, INC.,	Jury Trial Demanded	
16	Defendant.	July Illai Demanded	
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	FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT Case No. 11-cv-00329-SBA		

### PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff Olympic Developments AG, LLC ("Plaintiff"), by and through its undersigned counsel, files this First Amended Complaint against Nintendo of America, Inc. ("Defendant") as

follows:

### NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant's infringement of Plaintiff's United States Patent No. 5,475,585 entitled "Transactional Processing System" (the "'585 patent"; a copy of which is attached hereto as Exhibit A) and United States Patent No. 6,246,400 entitled "Device for Controlling Remote Interactive Receiver" (the "'400 patent"; a copy of which is attached hereto as Exhibit B) (collectively, "the patents-in-suit"). Plaintiff is the exclusive licensee of the '585 patent and '400 patent with respect to the Defendant. Plaintiff seeks injunctive relief and monetary damages.

#### **PARTIES**

- 2. Plaintiff is a limited liability company organized and existing under the laws of the State of Delaware. Plaintiff maintains its principal place of business at 1000 North West Street, Suite 1200, Wilmington, DE 19801. Plaintiff is the exclusive licensee of the '585 and '400 patents with respect to the Defendant, and possesses the right to sue for infringement and recover past damages.

3. Upon information and belief, Nintendo of America, Inc. ("Nintendo") is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 4600 150<sup>th</sup> Avenue NE, Redmond, Washington 98052.

## JURISDICTION AND VENUE

4. 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, 283, 284, and 285. This Court has subject matter

jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

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within or has minimum contacts with the State of California and the Northern District of California; Defendant has purposefully availed itself of the privileges of conducting business in the State of California and in the Northern District of California; Defendant has sought protection and benefit from the laws of the State of California; Defendant regularly conducts business within the State of California and within the Northern District of California; and Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of California and in the Northern District of California.

The Court has personal jurisdiction over Defendant because: Defendant is present

- 6. More specifically, Defendant, directly and/or through authorized intermediaries, ships, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its products and services in the United States, the State of California, and the Northern District of California. Upon information and belief, Defendant has committed patent infringement in the State of California and in the Northern District of California. Defendant solicits customers in the State of California and in the Northern District of California. Defendant has many paying customers who are residents of the State of California and the Northern District of California and who each use each of the respective Defendant's products and services in the State of California and in the Northern District of California.
- 7. Venue is proper in the Northern District of California pursuant to 28 U.S.C. §§ 1391 and 1400(b).

#### **COUNT I – PATENT INFRINGEMENT**

- 8. The '585 patent was duly and legally issued by the United States Patent and Trademark Office on December 12, 1995, after full and fair examination for systems and methods for purchasing products over a network. Plaintiff is the exclusive licensee of the '585 patent with respect to the Defendant, and possesses all rights of recovery under the '585 patent with respect to the Defendant, including the right to sue for infringement and recover past damages.
- 9. The '400 patent was duly and legally issued by the United States Patent and Trademark Office on June 12, 2001, after full and fair examination for systems for transactional

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system terminals. Plaintiff is the exclusive licensee of the '400 patent with respect to the Defendant, and possesses all rights of recovery under the '400 patent with respect to the Defendant, including the right to sue for infringement and recover past damages.

- 10. Plaintiff is informed and believes that Nintendo owns, operates, advertises, controls, sells, and otherwise provides hardware, software and websites for "online game and video services" including via the Nintendo Wii ("the Nintendo device") and Nintendo Wii Shop ("the Nintendo service"), both available through www.Nintendo.com. Upon information and belief, Nintendo has infringed and continues to infringe one or more claims of the '585 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, systems and methods for purchasing products and services and processing corresponding financial transactions, including via the Nintendo service and Nintendo device. Upon information and belief, Nintendo has infringed and continues to infringe one or more claims of the '400 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, systems and methods for remotely selecting and receiving desired programming selections, including via the Nintendo service and Nintendo device. More particularly, Plaintiff is informed and believes that Nintendo has and/or requires and/or directs users to access and/or view and/or purchase products from a remote programming system at the Nintendo Wii Shop Channel via a Wii remote receiver device in a manner claimed in the patents-in-suit.
- 11. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.
- 12. Plaintiff is entitled to recover from the Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

1	13. Defendant's infringement of Plaintiff's exclusive rights under the '585 patent and		
2	the '400 patent will continue to damage Plaintiff, causing irreparable harm for which there is no		
3	adequate remedy at law, unless enjoined by this Court.		
4	JURY DEMAND		
5	14. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of		
6	Civil Procedure.		
7	PRAYER FOR RELIEF		
8	Plaintiff respectfully requests that the Court find in its favor and against Defendant, and		
9	that the Court grant Plaintiff the following relief:		
10	A. An adjudication that one or more claims of the '585 patent have been infringed,		
11	either literally and/or under the doctrine of equivalents, by Defendant;		
12	B. An adjudication that one or more claims of the '400 patent have been infringed,		
13	either literally and/or under the doctrine of equivalents, by Defendant;		
14	C. An award to Plaintiff of damages adequate to compensate Plaintiff for the		
15	Defendant's acts of infringement together with pre-judgment and post-judgment		
16	interest;		
17	D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the		
18	Defendant from further acts of infringement with respect to the claims of the '585		
19	patent and the '400 patent;		
20	E. That this Court declare this to be an exceptional case and award Plaintiff its		
21	reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and		
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# Case4:11-cv-00329-SBA Document86 Filed06/15/11 Page6 of 6

1	F. Any further relief that this Court deems just and proper.		
2	Respectivity submitte	ed,	
3	WHITE FIELD, INC	C.	
4	4 Dated: June 15, 2011 /s/ Steven W.	Ditahasan	
5	5 Steven W. Ritcheson,		
6	Attorney for Plaintiff Olympic Developmer	nts AG, LLC	
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