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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

8 GREGORY F. MULLALLY

9 Plaintiff,

Case No. CV-S-05-0154-BES-GWF

10 vs.

11 DANIEL A. JONES; DON W. JONES; and  
12 GAMES MARKETING LIMITED, an Irish  
corporation; GAMETEK, LLC, an Isle of Man  
13 limited liability company; MIKOHN GAMING  
CORPORATION, a Nevada corporation;  
14 PROGRESSIVE GAMES, INC., a Delaware  
corporation; WAGERWORKS, INC., a Delaware  
15 corporation; PROGRESSIVE GAMES  
PARTNERS, LLC, an Isle of Man limited liability  
16 company; TABLEMAX HOLDINGS, LLC, a  
California limited liability company;  
17 TABLEMAX INTERNATIONAL, LLC, a  
California limited liability company;  
18 TABLEMAX MANUFACTURING, LLC, a  
California limited liability company;  
19 TABLEMAX NORTH AMERICA, LLC, a  
California limited liability company;  
20 TABLEMAX PARTNERS, LLC, a California  
limited liability company; and TABLEMAX CA,  
21 LLC, a California limited liability company,

22 Defendants.

23 **SECOND AMENDED COMPLAINT**

24 For his Second Amended Complaint against Defendants, the Plaintiff hereby states as  
25 follows:

26 **PARTIES, JURISDICTION, AND VENUE**

- 27 1. Plaintiff Gregory F. Mullally is an individual residing in the State of Arizona.  
28 2. Upon information and belief, Defendant Daniel A. Jones is an individual residing  
in the State of Kentucky.

 **McDONALD-CARANO-WILSON<sup>LLP</sup>**  
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1           3.       Upon information and belief, Defendant Don W. Jones is an individual residing in  
2 the State of Kentucky.

3           4.       Upon information and belief, Defendant Games Marketing Limited is a  
4 corporation organized under the laws of Ireland and maintaining its principal place of business in  
5 the United Kingdom.

6           5.       Upon information and belief, Defendant Gametek, LLC is a limited liability  
7 company organized under the laws of the Isle of Man and maintaining its principal place of  
8 business in the United Kingdom.

9           6.       Defendant Mikohn Gaming Corporation is a corporation organized under the laws  
10 of Nevada and maintaining its principal place of business in Nevada.

11          7.       Defendant Progressive Games, Inc. is a corporation organized under the laws of  
12 Delaware and maintaining its principal place of business in Nevada.

13          8.       Upon information and belief, Defendant Wagerworks, Inc. is a corporation  
14 organized under the laws of Delaware and maintaining its principal place of business in  
15 California.

16          9.       Upon information and belief, Defendant Progressive Games Partners, LLC, is a  
17 limited liability company organized under laws of the Isle of Man.

18          10.       Upon information and belief, Defendants Tablemax Holdings, LLC; Tablemax  
19 International, LLC; Tablemax Manufacturing, LLC; Tablemax North America, LLC; Tablemax  
20 Partners, LLC; and Tablemax CA, LLC are limited liability companies organized under the laws  
21 of California and having their principal places of business in California.

22          11.       The United States District Court has jurisdiction over the subject matter of this  
23 Complaint pursuant to 28 U.S.C. §§ 1331, 1332, and 1367.

24          12.       Venue for this action lies in the United States District Court for the District of  
25 Nevada pursuant to 28 U.S.C. §1391(b).

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**ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

1  
2 13. In or around early 1998, Defendant Daniel Jones represented to Plaintiff that  
3 Daniel Jones owned the Internet rights to the casino games commonly known as “Caribbean Stud  
4 Poker” and “21 Superbucks.”

5 14. In or around early 1998, Defendant Daniel Jones offered to sell the Internet rights  
6 to the casino games commonly known as “Caribbean Stud Poker” and “21 Superbucks” to  
7 Plaintiff.

8 15. On June 8, 1998, Defendant Daniel Jones and Plaintiff Gregory Mullally entered  
9 into a contract entitled “Agreement For Purchase And Sale Of Assets” (the “Agreement”).

10 16. Under the Agreement, Daniel Jones transferred to Mullally certain assets in  
11 exchange for \$100,000 in payments to be paid in a manner dictated by Jones. These assets  
12 included, among other things, the Internet rights to the casino games commonly known as  
13 “Caribbean Stud Poker” and “21 Superbucks,” including the exclusive right to disseminate the  
14 games worldwide (except for Aruba) (hereinafter, the “Intellectual Property”).

15 17. In addition to the \$100,000 in payments from Mullally to Daniel Jones, the  
16 Agreement further called for Mr. Mullally to pay Mr. Jones 2/3 of the net revenues to be derived  
17 by Mullally from his use and exercise of his rights to the Intellectual Property.

18 18. Following the parties’ execution of the Agreement, Mr. Mullally arranged for a  
19 software provider to develop an internet version of the “Caribbean Stud” game and, for a period  
20 of time, collected some royalties generated by licensing of the game to internet casino operations.  
21 In accord with the Agreement, Mr. Mullally forwarded 2/3 of all revenue he received on account  
22 of the “Caribbean Stud” game to Daniel Jones.

23 19. Apparently dissatisfied with a mere 2/3 of the revenue being generated by the  
24 Intellectual Property, Daniel Jones, in active concert with his son, Defendant Don Jones, began  
25 selling licenses to use the “Caribbean Stud” game on the Internet. The Jones’ have sold and  
26 continue to sell such licenses through Defendant Games Marketing Limited, a company  
27 controlled by Daniel Jones and/or Don Jones.  
28

  
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1           20.     The Jones' were assisted in this wrongful activity through the active involvement  
2 and collusion of Defendants Mikohn Gaming Corp. ("Mikohn") and Progressive Games, Inc.  
3 ("PGI"). On or about June 29, 2000, Mikohn and PGI prepared to enter into a group of contracts  
4 with Don Jones for the purchase of various pieces of intellectual property, including a contract  
5 for the purported exclusive license of the Intellectual Property at issue herein for a price of  
6 \$3.275 million, despite the fact that Mikohn, PGI, and the Jones' were aware that the Intellectual  
7 Property had previously been exclusively licensed to Mr. Mullally by Daniel Jones.

8           21.     Fearing that Nevada's gaming regulatory officials would disapprove of Mikohn's  
9 direct business involvement with Mr. Jones, Mikohn, PGI, and the Jones' arranged for the  
10 Intellectual Property and other items of value to be formally licensed to a straw purchaser known  
11 as Albert J. Courtney. The final draft of the document under which Mikohn and PGI purported  
12 to grant an exclusive license to the Intellectual Property was executed by Mr. Courtney as the  
13 "licensee" on or about June 30, 2000. The following day, Mr. Courtney assigned his rights under  
14 the purported license to Defendant Don Jones. Defendants Mikohn and PGI, as well as the  
15 Jones', took such actions with knowledge of the Plaintiff's prior exclusive rights in the  
16 Intellectual Property and with the intent to profit by depriving the Plaintiff of his ownership and  
17 enjoyment of such property.

18           22.     Shortly after purporting to acquire the Intellectual Property through the Albert  
19 Courtney straw transaction with Mikohn and PGI, the Jones' purported to assign their rights to  
20 such property to two corporations owned and/or controlled by them, Defendants Gametek, LLC  
21 ("Gametek") and Games Marketing Limited ("GML"). In series of transactions occurring on or  
22 about September 15, 2000, the Jones' assigned their purported exclusive rights in the Intellectual  
23 Property to Gametek. On the same day, Gametek purported to assign all of its rights to GML  
24 under an agreement requiring GML to pass back to Gametek the majority of any revenues  
25 generated by the Intellectual Property. The Jones', Gametek, and GML, took such actions with  
26 knowledge of the Plaintiff's prior exclusive rights in the Intellectual Property and with the intent  
27 to profit by depriving the Plaintiff of his ownership and enjoyment of such property.  
28

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1 23. Following the series of purported assignment transactions occurring in the  
2 Summer of 2000, the Jones' and their controlled corporations Gametek and GML began to  
3 exploit the Intellectual Property by selling several non-exclusive licenses to use the "Carribbean  
4 Stud" game on the Internet. In direct violation of the Agreement, the Jones, Gametek, and GML  
5 have entered into such transactions without Mr. Mullally's consent and have wrongfully retained  
6 the revenue generated by such non-exclusive licenses for themselves. Those purchasing such  
7 non-exclusive licenses from the Jones, Gametek, and/or GML include, but are not necessarily  
8 limited to, Wagerworks, Inc., Cryptologic, Inc., Wagerlogic Limited, Wagerlogic (UK) Limited,  
9 Boss Media AB, Realtime Gaming Holding Company, LLC, and KDMS International, LLC.

10 24. Subsequent to granting non-exclusive licenses to the Intellectual Property to the  
11 above-named entities, the Jones,' Gametek, and GML entered into an agreement to assign their  
12 purported exclusive rights to the Intellectual Property to defendant Progressive Games Partners,  
13 LLC ("PGP"). PGP, the Jones', Gametek, and GML entered into such transaction with  
14 knowledge of the Plaintiff's prior exclusive rights in the Intellectual Property and with the intent  
15 to profit by depriving the Plaintiff of his ownership and enjoyment of such property.

16 25. Following the sham transaction described in paragraph 22, above, PGP has  
17 proceeded to commercially exploit the Intellectual Property by, among other things, using it in  
18 conjunction with the "Tablemax" casino game operated and sold by its affiliated companies,  
19 including Defendants Tablemax Holdings, LLC, Tablemax International, LLC, Tablemax  
20 Manufacturing, LLC, Tablemax North America, LLC, Tablemax Partners, LLC, and Tablemax  
21 CA, LLC (hereinafter, collectively, the "Tablemax Entities.") PGP and the Tablemax Entities  
22 have engaged in such activity with knowledge of the Plaintiff's prior exclusive rights in the  
23 Intellectual Property and with the intent to profit by depriving the Plaintiff of his ownership and  
24 enjoyment of such property.

25  
26 **FIRST CAUSE OF ACTION**  
**(Breach of Contract – Daniel Jones)**

27 26. Plaintiff by this reference incorporates each of the preceding paragraphs as if set  
28 forth in full.

1 27. Defendant Daniel Jones has breached the Agreement by, among other things,  
2 acting on concert with Defendants Don Jones, Mikohn, PGI, Gametek, GML, PGP and the  
3 Tablemax Entities by selling several non-exclusive and exclusive licenses to use the “Caribbean  
4 Stud” game on the Internet and in retaining the revenue generated by such licenses and  
5 transactions for himself and/or the other Defendants.

6 28. As a proximate result of Daniel Jones’ breaches of the Agreement, Plaintiff has  
7 suffered damages in excess of \$3,000,000, the exact amount to be proven at trial.

8  
9 **SECOND CAUSE OF ACTION**  
**(Unjust Enrichment – Daniel Jones, Don Jones, Gametek, GML, PGP and the Tablemax Entities)**

10 29. Plaintiff by this reference incorporates each of preceding paragraphs as if set forth  
11 in full.

12 30. The Defendants’ participation in purported assignments of exclusive and non-  
13 exclusive rights to the Intellectual Property, as described above, and their receipt and retention of  
14 the revenues from such transactions has unjustly enriched each of them at the expense of  
15 Plaintiff.

16 31. Defendants have been unjustly enriched at the expense of Plaintiff in an amount in  
17 excess of \$3,000,000, the exact amount to be proven at trial.

18  
19 **THIRD CAUSE OF ACTION**  
**(Conversion – Daniel Jones, Don Jones, Mikohn, PGI, Gametek, GML, PGP and the Tablemax Entities)**

20 32. Plaintiff by this reference incorporates each of preceding paragraphs as if set forth  
21 in full.

22 33. Under the terms of the Agreement, Plaintiff is the exclusive owner of the right to  
23 use and disseminate the casino games commonly known as “Caribbean Stud Poker” and “21  
24 Superbucks” on the Internet.

25 34. The Defendants have intentionally exercised personal dominion and control over  
26 the Internet-use rights to the “Caribbean Stud” game, in derogation, exclusion, and defiance of  
27 Plaintiff’s rights to such property.  
28

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1 35. As a proximate result of the Defendants' conversion of Plaintiff's property, as  
2 described above, Plaintiff has been damaged in an amount in excess of \$3,000,000, the exact  
3 amount to be proven at trial.

4 36. Defendants have converted Plaintiff's property willfully, maliciously, and with  
5 intent to injure Plaintiff.

6 37. As a direct and proximate result of Defendants' conversion of Plaintiff's  
7 property, Plaintiff is entitled to punitive damages in an amount deemed appropriate to deter such  
8 conduct by Defendants in the future.

9 **FOURTH CAUSE OF ACTION**  
10 **(Civil Conspiracy – Daniel Jones, Don Jones, Mikohn, PGI, Gametek, GML, PGP and the  
Tablemax Entities))**

11 38. Plaintiff by this reference incorporates each of preceding paragraphs as if set forth  
12 in full.

13 39. Defendants, and each of them, agreed and acted in concert to unlawfully  
14 participate in the purported assignments of exclusive and non-exclusive rights to the Intellectual  
15 Property, as described above, and to unlawfully retain the revenue generated by such transactions  
16 for themselves, all with the purpose of harming Plaintiff.

17 40. As a proximate result of Defendants' unlawful conspiracy against him, as  
18 described above, Plaintiff has been damaged in an amount in excess of \$3,000,000, the exact  
19 amount to be proven at trial.

20 41. Defendants' engaged in an unlawful conspiracy against Plaintiff, as described  
21 above, willfully, maliciously, and with intent to injure the Plaintiff.

22 42. As a direct and proximate result of Defendants' unlawful conspiracy against  
23 Plaintiff, Plaintiff is entitled to punitive damages in an amount deemed appropriate to deter such  
24 conduct by Defendants in the future.

25 **FIFTH CAUSE OF ACTION**  
26 **(Patent Infringement, 35 U.S.C. §§271, 281, 283, 284 – All Defendants)**

27 43. Plaintiff by this reference incorporates each of preceding paragraphs as if set forth  
28 in full.

  
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1 44. The Intellectual Property, as described above, includes the exclusive right to  
2 Internet use of inventions covered under several United States Letters Patents. Such Letters  
3 Patents (“the Patents”) include, but are not necessarily limited to, the following patents duly and  
4 legally issued by the United States:

5 Patent No. 4,836,553; Patent No. 4,948,134; Patent No. 5,022,653; Patent No.  
6 5,288,077; Patent No. 5,544,893; Patent No. 5,725,216; Patent No. 6,045,130; Patent  
7 No. 6,206,374; Patent No. 6,312,330; Patent No. 6,336,859; Patent No. 6,485,368.

8 45. Pursuant to the Agreement, the exclusive rights to the Patents as they pertain to  
9 the “Caribbean Stud” and “21 Superbucks” games on the Internet were assigned to Plaintiff.

10 46. Defendants have infringed on Plaintiff’s rights by selling, offering for sale, and  
11 causing others to sell “Caribbean Stud” games on the Internet which embody one or more claims  
12 of one or more of the Patents. Defendants Daniel Jones, Don Jones, Mikohn, PGI, Gametek,  
13 GML, PGP and the Tablemax Entities have engaged in such activity with full knowledge of such  
14 assignment of the Patent rights to Plaintiff. Upon information and belief, the Licensee  
15 Defendants have engaged in such activity without actual knowledge of Plaintiff’s rights to the  
16 Intellectual Property.

17 47. As a proximate result of Defendants’ infringement on Plaintiff’s exclusive Patent  
18 rights, Plaintiff has been damaged in an amount in excess of \$3,000,000, the exact amount to be  
19 proven at trial.

20 48. The Defendants will continue their acts of infringement on Plaintiff’s exclusive  
21 rights under the Patents, as described above, if not enjoined.

22 49. In equity, Plaintiff is entitled to an injunction from the Court barring further  
23 infringement by Defendants on Plaintiff’s exclusive rights under the Patents.

24 **SIXTH CAUSE OF ACTION**  
25 **(Declaratory Relief, 28 U.S.C. §§ 2201, 2202 – Daniel Jones, Don Jones, Mikohn, PGI,  
Gametek, GML, PGP and the Tablemax Entities)**

26 50. Plaintiff by this reference incorporates each of preceding paragraphs as if set forth  
27 in full.

28

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1 52. With regard to the Intellectual Property, there is an actual controversy between  
2 Plaintiff on the one hand and Defendants on the other hand which is within the jurisdiction of the  
3 United States District Court and the Court may declare the rights and other legal relations of the  
4 parties to this action and enter further necessary or proper relief based on its declaratory  
5 judgment.

6 53. Plaintiff is entitled to a declaration by the Court that he is rightful, sole, and  
7 exclusive owner of the Intellectual Property and that Defendants have no right, title, or interest in  
8 such property.

9 **SEVENTH CAUSE OF ACTION**  
10 **(Constructive Trust – Daniel Jones, Don Jones, Mikohn, PGI, Gametek, GML, PGP and  
the Tablemax Entities)**

11 54. Plaintiff by this reference incorporates each of preceding paragraphs as if set forth  
12 in full.

13 55. For the reasons set forth above, the Intellectual Property and licensing revenues  
14 and other proceeds of such property belong, in good conscience, to the Plaintiff.

15 56. Defendants have wrongfully exercised ownership and dominion over the  
16 Intellectual Property and have retained control of the Intellectual Property and its revenues and  
17 other proceeds for themselves.

18 57. In equity, Plaintiff is entitled to the imposition of a constructive trust over all of  
19 the Intellectual Property and over all of the revenues and other proceeds generated by such  
20 property which are in the possession or control of Defendants or in the possession or control of  
21 other entities or instrumentalities which are owned or controlled, directly or indirectly, by  
22 Defendants.

23 **EIGHTH CAUSE OF ACTION**  
24 **(Declaratory Relief, 28 U.S.C. §§ 2201, 2202 – Wagerworks Inc.)**

25 58. Plaintiff by this reference incorporates each of preceding paragraphs as if set forth  
26 in full.

27 59. With regard to the Intellectual Property, there is an actual controversy between  
28 Plaintiff on the one hand and Defendants on the other hand which is within the jurisdiction of the

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1 United States District Court and the Court may declare the rights and other legal relations of the  
2 parties to this action and enter further necessary or proper relief based on its declaratory  
3 judgment.

4 60. Plaintiff is entitled to a declaration by the Court that he is rightful, sole, and  
5 exclusive owner of the Intellectual Property and that all payments required from Wagerworks  
6 Inc. under their current licenses for use of the Intellectual Property shall hereafter be directed to  
7 Plaintiff and not to any other person or entity.

8 **NINTH CAUSE OF ACTION**  
9 **(Intentional Misrepresentation - Daniel Jones)**

10 61. Plaintiff by this reference incorporates each of the preceding paragraphs as if set  
11 forth in full.

12 62. In or about early 1998, Daniel Jones falsely represented to Plaintiff that Jones  
13 owned the Internet rights to Caribbean Stud Poker and 21 Superbucks.

14 63. At the time Daniel Jones represented to Plaintiff that Jones owned the Internet  
15 rights to Caribbean Stud Poker and 21 Superbucks, Jones knew that his representation was false.

16 64. At the time of Daniel Jones' false representation, Jones intended to induce  
17 Plaintiff to pay Jones for the internet rights to Caribbean Stud Poker and 21 Superbucks.

18 65. Plaintiff reasonably relied, to his detriment, on Daniel Jones' false representation.

19 66. In accordance with Plaintiff's reasonable reliance on Daniel Jones' false  
20 representation, Plaintiff did, in fact, pay Daniel Jones for the Internet rights to Caribbean Stud  
21 Poker and 21 Superbucks.

22 67. As a proximate result of Plaintiff's reasonable reliance on Jones' false  
23 representation, Plaintiff suffered damages in excess of \$100,000.00, the exact amount to be  
24 proven at trial.

25 **TENTH CAUSE OF ACTION**  
26 **(Negligent Misrepresentation -Daniel Jones)**

27 68. Plaintiff by this reference incorporates each of the preceding paragraphs as if set  
28 forth in full.

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1 69. Daniel Jones falsely represented to Plaintiff that Jones owned the internet rights to  
2 Caribbean Stud Poker and 21 Superbucks.

3 70. Daniel Jones made the false representations in the course of his business.  
4 Alternatively, Jones made the false representations in an action in which he had a pecuniary  
5 interest; namely, the transfer of Internet rights to Caribbean Stud Poker and 21 Superbucks from  
6 Jones to Plaintiff.

7 71. Daniel Jones made false representations concerning his ownership rights to  
8 Caribbean Stud Poker and 21 Superbucks on the Internet to guide Plaintiff in Plaintiff's business  
9 transactions; specifically, to guide Plaintiff in his decision to purchase the Internet rights to  
10 Caribbean Stud Poker from Jones.

11 72. Daniel Jones failed to exercise reasonable care or competence in communicating  
12 to Plaintiff the actual ownership status of the Internet rights to Caribbean Stud Poker and 21  
13 Superbucks.

14 73. Plaintiff justifiably relied on Daniel Jones' false representations.

15 74. In accordance with Plaintiff's justifiable reliance on Daniel Jones' false  
16 representation, Plaintiff did, in fact, pay Daniel Jones for the Internet rights to Caribbean Stud  
17 Poker and 21 Superbucks.

18 75. As a result of Plaintiff's justifiable reliance on Daniel Jones' false representations  
19 concerning Jones' ownership of the Internet licensing rights to Caribbean Stud Poker and 21  
20 Superbucks, Plaintiff suffered pecuniary loss in excess of \$100,000.00, the exact amount to be  
21 proven at trial.

22 **ELEVENTH CAUSE OF ACTION**  
23 **(Promissory Fraud - Daniel Jones)**

24 76. Plaintiff by this reference incorporates each of the preceding paragraphs as if set  
25 forth in full.

26 77. At the time Daniel Jones purported to sell Plaintiff the Internet rights to Caribbean  
27 Stud Poker and 21 Superbucks, Jones intended to induce Plaintiff to purchase those rights.

28 78. Daniel Jones induced Plaintiff to purchase the Internet rights to Caribbean Stud  
Poker and 21 Superbucks.

1 79. At the time Daniel Jones induced Plaintiff to purchase the Internet rights to  
2 Caribbean Stud Poker and 21 Superbucks, Daniel Jones knew he did not own the Internet rights  
3 to Caribbean Stud Poker and 21 Superbucks.

4 80. At the time Daniel Jones induced Plaintiff to purchase the Internet rights to  
5 Caribbean Stud Poker and 21 Superbucks, Daniel Jones had no present intention of performing  
6 his obligation to provide Plaintiff with said rights.

7 81. Daniel Jones thus knew he could not perform his obligations pursuant to the  
8 Purchase and Sale Agreement he entered into with Plaintiff.

9 82. As a result of Daniel Jones' fraudulent promise, Plaintiff suffered damages in  
10 excess of \$100,000.00, the exact amount to be determined at trial.

11 WHEREFORE, Plaintiff prays for entry of a judgment and other relief in his favor as  
12 follows:

13 1. An award of compensatory damages against Daniel Jones, Don Jones, Mikohn,  
14 PGI, Gametek, GML, PGP and the Tablemax Entities, the exact amount to be proven at trial; and

15 2. An award of attorney's fees and costs as provided by the Agreement, by statute  
16 and/or by other applicable law as against Daniel Jones, Don Jones, Mikohn, PGI, Gametek,  
17 GML, PGP and the Tablemax Entities; and

18 3. An award of punitive damages against Daniel Jones, Don Jones, Mikohn, PGI,  
19 Gametek, GML, PGP and the Tablemax Entities in such amount as may be deemed appropriate  
20 by the Court; and

21 4. An injunction from the Court barring further infringement by all Defendants on  
22 Plaintiff's exclusive rights under the Patents; and

23 5. A declaration by the Court that Plaintiff is rightful, sole, and exclusive owner of  
24 the Intellectual Property and that Daniel Jones, Don Jones, Mikohn, PGI, Gametek, GML, PGP  
25 and the Tablemax Entities have no right, title, or interest in such property; and

26 6. Imposition of a constructive trust over all of the Intellectual Property and over all  
27 of the revenues and other proceeds generated by such property which are in the possession or  
28 control of Daniel Jones, Don Jones, Mikohn, PGI, Gametek, GML, PGP and the Tablemax

  
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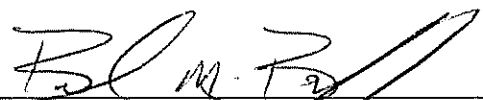
1 Entities or in the possession or control of other entities or instrumentalities which are owned or  
2 controlled, directly or indirectly, by such Defendants; and

3 7. A declaration by the Court that Plaintiff is rightful, sole, and exclusive owner of  
4 the Intellectual Property and that all payments required from Wagerworks Inc. under its current  
5 licenses for use of the Intellectual Property shall hereafter be directed to Plaintiff and not to any  
6 other person or entity; and

7 8. For such other and further relief as the Court deems necessary and proper.

8 DATED this 29<sup>th</sup> day of March, 2007.

9 McDONALD CARANO WILSON LLP

10 By:   
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29 day of March, 2007, I mailed a copy of the foregoing SECOND AMENDED COMPLAINT to the following:

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