

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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	:	
WALKER DIGITAL, LLC,	:	
	:	
Plaintiff,	:	Civil Action No. _____
	:	
v.	:	
	:	JURY TRIAL DEMANDED
2K GAMES, INC.,	:	
2K SPORTS, INC.,	:	
ROCKSTAR GAMES, INC., and	:	
TAKE-TWO INTERACTIVE SOFTWARE, INC.	:	
	:	
Defendants.	:	
	:	
	X	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Walker Digital, LLC (“Walker Digital”) by way of this Complaint against 2K Games, Inc. (“2K Games”), 2K Sports, Inc. (“2K Sports”), Rockstar Games, Inc. (“Rockstar”), and Take-Two Interactive Software, Inc. (“Take-Two”) (collectively, “Defendants”) hereby alleges with knowledge with respect to its own acts and upon information and belief with respect to all others:

JURISDICTION AND VENUE

1. This is a civil action for patent infringement arising under 35 U.S.C. §§ 100, *et seq.*, and in particular § 271.
2. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C. § 1338(a).

3. This Court has personal jurisdiction over Defendants because they regularly conduct and solicit business in Delaware and derive substantial revenue from goods used or services rendered in Delaware and within this judicial district.

4. Venue is proper under 28 U.S.C. §§ 1391(b) and 1400(b) because Defendants reside in this judicial district pursuant to 28 U.S.C. § 1391(c) and because Defendants have committed acts of infringement in this judicial district.

PARTIES

5. Walker Digital is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 2 High Ridge Park, Stamford, Connecticut 06905.

6. 2K Games is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 10 Hamilton Landing, Novato, California 94949. 2K Games can be served via its registered agent, The Corporation Services Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19806.

7. 2K Sports is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 10 Hamilton Landing, Novato, California 94949. 2K Sports can be served via its registered agent, The Corporation Services Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19806.

8. Rockstar is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 622 Broadway, New York, New York 10012. Rockstar can be served via its registered agent, The Corporation Services Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19806.

9. Take-Two is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 622 Broadway, New York, New York 10012. Take-Two can be served via its registered agent, The Corporation Services Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19806.

FACTUAL BACKGROUND

Walker Digital and the Patents

10. Walker Digital is a research and development laboratory consisting of a diverse group of innovators who study human behavior and utilize modern information technology to design novel solutions to business problems. Walker Digital has invested millions of dollars developing ground-breaking solutions to problems encountered in a wide range of industries including retail, vending, credit cards, security, gaming, and entertainment. This investment was used for many things, including the development of facilities to assist with the research, development and testing of new inventions, which, in turn, generated additional new solutions to problems and additional inventions. Many of these inventions and solutions have been the genesis for successful businesses, including priceline.com and Synapse, Inc.

11. Since 1993, Walker Digital has launched a number of businesses to exploit its in-house-developed intellectual property that is now a portfolio consisting of over 500 patents and patent applications. Walker Digital's founder, Jay Walker, is best known for creating www.priceline.com. He also has twice been named by the editors of *Time* magazine as one of the 50 most influential business leaders in the digital age, and *Business Week* selected him as one of its 25 internet pioneers most responsible for "changing the competitive landscape of almost every industry in the world."

12. Walker Digital's patents are in various commercial areas including retail, vending, credit cards, security, gaming, and entertainment.

13. Two of Walker Digital's gaming patents are at issue here. These patents concern systems and methods of distributed electronic tournaments for a plurality of players. These systems and methods exchange information with a central controller to influence game play, and also store certain information that is available for use in subsequent tournament play.

14. On May 1, 2001, the United States Patent and Trademark Office issued United States Patent No. 6,224,486 (the "'486 Patent") on an electronic tournaments invention. The Patent is entitled DATABASE DRIVEN ONLINE DISTRIBUTED TOURNAMENT SYSTEM. A copy of the '486 Patent is attached as Exhibit 1.

15. On July 30, 2002, the United States Patent and Trademark Office issued United States Patent No. 6,425,828 (the "'828 Patent") on an electronic tournaments invention. The Patent is entitled DATABASE DRIVEN ONLINE DISTRIBUTED TOURNAMENT SYSTEM. A copy of the '828 Patent is attached as Exhibit 2.

16. At all times Walker Digital has been the sole assignee of the '486 Patent and the '828 Patent.

17. On April 25, 2011, Walker Digital filed a complaint for patent infringement (the "First Complaint") in United States District Court for the District of Delaware. The First Complaint set forth Walker Digital's claims of infringement of the '486 Patent and the '828 Patent by 2K Games, 2K Sports, Rockstar, and Take-Two. The Defendants' registered agent was served with copies of the First Complaint on April 28, 2011. Defendants have or should have been aware of the '486 Patent, the '828 Patent, and Walker Digital's claims of infringement at least as early April 28, 2011.

Defendants' Infringing Products

18. Take-Two and 2K Games make, offer for sale, and/or sell within this judicial district *Bioshock 2*, which is an infringing software product.

19. The software product identified in paragraph 18 conducts a distributed electronic tournament for a plurality of players. The product exchanges information with a central controller to influence game play while a player plays in the tournament and stores player information that is available for use in a subsequent tournament.

20. Discovery may show that Take-Two and 2K Games make, offer for sale, and/or sell additional infringing software products.

21. Take-Two and 2K Sports make, offer for sale, and/or sell within this judicial district *Top Spin 4*, which is an infringing software product.

22. The software product identified in paragraph 21 conducts a distributed electronic tournament for a plurality of players. The product exchanges information with a central controller to influence game play while a player plays in the tournament and stores player information that is available for use in a subsequent tournament.

23. Discovery may show that Take-Two and 2K Sports make, offer for sale, and/or sell additional infringing software products.

24. Take-Two and Rockstar make, offer for sale, and/or sell within this judicial district *Red Dead Redemption*, which is an infringing software product.

25. The software product identified in paragraph 24 conducts a distributed electronic tournament for a plurality of players. The product exchanges information with a central controller to influence game play while a player plays in the tournament and stores player information that is available for use in a subsequent tournament.

26. Discovery may show that Take-Two and Rockstar make, offer for sale, and/or sell additional infringing software products.

CLAIMS FOR RELIEF

**First Count of Infringement
The '486 Patent Against 2K Games**

27. Walker Digital repeats and re-alleges paragraphs 1-26 as if fully set forth herein.

28. 2K Games, through at least the product identified in paragraph 18, has been and still is infringing the '486 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims of the '486 Patent.

29. 2K Games' acts of infringement have been and continue to be willful, knowing and deliberate.

30. As a direct and proximate result of 2K Games' acts of infringement, Walker Digital has been, is being, and will be damaged. Consequently, Walker Digital is entitled to compensation for its damages from 2K Games under 35 U.S.C. § 284 in an amount that cannot presently be quantified but will be ascertained through discovery or at trial.

**Second Count of Infringement
The '828 Patent Against 2K Games**

31. Walker Digital repeats and re-alleges paragraphs 1-26 as if fully set forth herein.

32. 2K Games, through at least the product identified in paragraph 18, has been and still is infringing the '828 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims of the '828 Patent.

33. 2K Games' acts of infringement have been and continue to be willful, knowing and deliberate.

34. As a direct and proximate result of 2K Games' acts of infringement, Walker Digital has been, is being, and will be damaged. Consequently, Walker Digital is entitled to

compensation for its damages from 2K Games under 35 U.S.C. § 284 in an amount that cannot presently be quantified but will be ascertained through discovery or at trial.

**Third Count of Infringement
The '486 Patent Against 2K Sports**

35. Walker Digital repeats and re-alleges paragraphs 1-26 as if fully set forth herein.

36. 2K Sports, through at least the product identified in paragraph 21, has been and still is infringing the '486 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims of the '486 Patent.

37. 2K Sports' acts of infringement have been and continue to be willful, knowing and deliberate.

38. As a direct and proximate result of 2K Sports' acts of infringement, Walker Digital has been, is being, and will be damaged. Consequently, Walker Digital is entitled to compensation for its damages from 2K Sports under 35 U.S.C. § 284 in an amount that cannot presently be quantified but will be ascertained through discovery or at trial.

**Fourth Count of Infringement
The '828 Patent Against 2K Sports**

39. Walker Digital repeats and re-alleges paragraphs 1-26 as if fully set forth herein.

40. 2K Sports, through at least the product identified in paragraph 21, has been and still is infringing the '828 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims of the '828 Patent.

41. 2K Sports' acts of infringement have been and continue to be willful, knowing and deliberate.

42. As a direct and proximate result of 2K Sports' acts of infringement, Walker Digital has been, is being, and will be damaged. Consequently, Walker Digital is entitled to

compensation for its damages from 2K Sports under 35 U.S.C. § 284 in an amount that cannot presently be quantified but will be ascertained through discovery or at trial.

**Fifth Count of Infringement
The '486 Patent Against Rockstar**

43. Walker Digital repeats and re-alleges paragraphs 1-26 as if fully set forth herein.

44. Rockstar, through at least the product identified in paragraph 24, has been and still is infringing the '486 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims of the '486 Patent.

45. Rockstar's acts of infringement have been and continue to be willful, knowing and deliberate.

46. As a direct and proximate result of Rockstar's acts of infringement, Walker Digital has been, is being, and will be damaged. Consequently, Walker Digital is entitled to compensation for its damages from Rockstar under 35 U.S.C. § 284 in an amount that cannot presently be quantified but will be ascertained through discovery or at trial.

**Sixth Count of Infringement
The '486 Patent Against Take-Two**

47. Walker Digital repeats and re-alleges paragraphs 1-26 as if fully set forth herein.

48. Take-Two, through at least the products identified in paragraphs 18, 21, and 24, has been and still is infringing the '486 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims of the '486 Patent.

49. Take-Two's acts of infringement have been and continue to be willful, knowing and deliberate.

50. As a direct and proximate result of Take-Two's acts of infringement, Walker Digital has been, is being, and will be damaged. Consequently, Walker Digital is entitled to

compensation for its damages from Take-Two under 35 U.S.C. § 284 in an amount that cannot presently be quantified but will be ascertained through discovery or at trial.

**Seventh Count of Infringement
The '828 Patent Against Take-Two**

51. Walker Digital repeats and re-alleges paragraphs 1-26 as if fully set forth herein.

52. Take-Two, through at least the products identified in paragraph 18 and 21 has been and still is infringing the '828 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims of the '828 Patent.

53. Take-Two's acts of infringement have been and continue to be willful, knowing and deliberate.

54. As a direct and proximate result of Take-Two's acts of infringement, Walker Digital has been, is being, and will be damaged. Consequently, Walker Digital is entitled to compensation for its damages from Take-Two under 35 U.S.C. § 284 in an amount that cannot presently be quantified but will be ascertained through discovery or at trial.

PRAYER FOR RELIEF

WHEREFORE, Walker Digital respectfully asks the Court for the following relief:

- (i) A judgment declaring that 2K Games has infringed the '486 Patent as alleged herein;
- (ii) A judgment declaring that 2K Games has willfully infringed the '486 Patent as alleged herein;
- (iii) A judgment declaring that 2K Games has infringed the '828 Patent as alleged herein;
- (iv) A judgment declaring that 2K Games has willfully infringed the '828 Patent as alleged herein;
- (v) A judgment declaring that 2K Sports has infringed the '486 Patent as alleged herein;

- (vi) A judgment declaring that 2K Sports has willfully infringed the '486 Patent as alleged herein;
- (vii) A judgment declaring that 2K Sports has infringed the '828 Patent as alleged herein;
- (viii) A judgment declaring that 2K Sports has willfully infringed the '828 Patent as alleged herein;
- (ix) A judgment declaring that Rockstar has infringed the '486 Patent as alleged herein;
- (x) A judgment declaring that Rockstar has willfully infringed the '486 Patent as alleged herein;
- (xi) A judgment declaring that Take-Two has infringed the '486 Patent as alleged herein;
- (xii) A judgment declaring that Take-Two has willfully infringed the '486 Patent as alleged herein;
- (xiii) A judgment declaring that Take-Two has infringed the '828 Patent as alleged herein;
- (xiv) A judgment declaring that Take-Two has willfully infringed the '828 Patent as alleged herein;
- (xv) A judgment and order awarding Walker Digital damages under 35 U.S.C. § 284, including treble damages for willful infringement as provided by 35 U.S.C. § 284;
- (xvi) A judgment and order granting supplemental damages for any continuing post-verdict infringement up until entry of the final judgment with an accounting as needed;
- (xvii) A judgment and order awarding Walker Digital pre-judgment and post-judgment interest on the damages awarded;
- (xviii) Such other and further relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Walker Digital requests a trial by jury on all issues so triable.

July 22, 2011

BAYARD, P.A.

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