

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

	x	
WALKER DIGITAL, LLC,	:	
	:	
Plaintiff,	:	Civil Action No. _____
	:	
v.	:	<b>JURY TRIAL DEMANDED</b>
	:	
MICROSOFT CORP., SONY COMPUTER ENTERTAINMENT AMERICA LLC, SONY NETWORK ENTERTAINMENT AMERICA INC., and SONY NETWORK ENTERTAINMENT INTERNATIONAL LLC,	:	
	:	
Defendants.	:	
	::	
	:	
	X	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Walker Digital, LLC (“Walker Digital”) by way of this Complaint against Microsoft Corp. (“Microsoft”), Sony Computer Entertainment America LLC (“SCEA”), Sony Network Entertainment America Inc. (“SNEA”), and Sony Network Entertainment International LLC (“SNEI”) (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 each Defendant has 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. Microsoft is a corporation organized and existing under the laws of the State of Washington, with its principal place of business at One Microsoft Way, Redmond, Washington, 98052.

7. SCEA is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 919 East Hillsdale Blvd., Foster City, California, 94404.

8. SNEA is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 550 Madison Avenue, New York, New York, 10022.

9. SNEI is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 6080 Center Drive, Los Angeles, California, 90045.

## **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](http://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](http://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 for adapting gaming devices to player preferences. These systems and methods configure, or are operative to configure, a gaming device to implement at least one

stored player preference in response to receiving a player identifier that is associated with the preference.

14. On August 29, 2000, the United States Patent and Trademark Office issued United States Patent No. 6,110,041 (“the ‘041 Patent”) on a gaming invention. The Patent is entitled METHOD AND SYSTEM FOR ADAPTING GAMING DEVICES TO PLAYING PREFERENCES. A copy of the ‘041 Patent is attached as Exhibit 1.

15. On September 25, 2001, the United States Patent and Trademark Office issued United States Patent No. 6,293,866 (“the ‘866 Patent”) on a gaming invention. The Patent is entitled SYSTEM FOR ADAPTING GAMING DEVICES TO PLAYING PREFERENCES. A copy of the ‘866 Patent is attached as Exhibit 2.

16. At all times Walker Digital has been the sole assignee of the ‘041 and ‘866 Patents.

***Defendants’ Infringing Products***

17. Microsoft makes, uses, offers for sale, and/or sells within this judicial district the Xbox 360 product.

18. Microsoft makes, uses, offers for sale, and/or sells within this judicial district the Xbox Live service.

19. Microsoft makes, uses, offers for sale, and/or sells within this judicial district the Xbox 360 product with Xbox Live service, which is an infringing system.

20. An Xbox 360 is a gaming device that is operable to receive preference data relative to a specific player for the purpose of configuration.

21. The Xbox Live service is coupled to the Xbox 360 and includes a data storage device operative to store a collection of data representing various operations of the Xbox 360.

Xbox Live also includes a processor that is operative to selectively transmit a portion of the collection of data to the Xbox 360 as preference data to implement the player preferences.

22. SCEA makes, uses, offers for sale, and/or sells within this judicial district the PlayStation®3 (“PS3”).

23. SCEA, SNEA, and SNEI make, use, offer for sale, and/or sell within this judicial district the PlayStation®Network (“PSN”) and PlayStation®Plus (“Plus”) service, which is an infringing system.

24. SCEA makes, uses, offers for sale, and/or sells within this judicial district the PS3 with the PSN and Plus service, which is an infringing system.

25. A PS3 is a gaming device that is operable to receive preference data relative to a specific player for the purpose of configuration.

26. The PlayStation®Plus service is coupled to the PS3 and includes a data storage device operative to store a collection of data representing various operations of the PS3. PlayStation®Plus also includes a processor that is operative to selectively transmit a portion of the collection of data to the PS3 as preference data to implement the player preferences.

### **CLAIMS FOR RELIEF**

#### **First Count of Infringement The ‘041 Patent Against Microsoft**

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

28. Microsoft, through at least the products identified in paragraphs 17-19, has been and still is infringing the ‘041 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims, including at least claim 43, of the ‘041 Patent.

29. As a direct and proximate result of Microsoft'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 Microsoft 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 '866 Patent Against Microsoft**

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

31. Microsoft, through at least the products identified in paragraphs 17-19, has been and still is infringing the '866 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims, including at least claim 11, of the '866 Patent.

32. As a direct and proximate result of Microsoft'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 Microsoft 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 '041 Patent Against SCEA**

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

34. SCEA, through at least the products identified in paragraphs 22-24, has been and still is infringing the '041 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims, including at least claim 43, of the '041 Patent.

35. As a direct and proximate result of SCEA'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 SCEA 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 '866 Patent Against SCEA**

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

37. SCEA, through at least the products identified in paragraph 22-24, has been and still is infringing the '866 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims, including at least claim 11, of the '866 Patent.

38. As a direct and proximate result of SCEA'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 SCEA 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 '041 Patent Against SNEA**

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

40. SNEA, through at least the products identified in paragraph 23, has been and still is infringing the '041 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims, including at least claim 43, of the '041 Patent.

41. As a direct and proximate result of SNEA'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 SNEA 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 '041 Patent Against SNEI**

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

43. SNEI, through at least the products identified in paragraph 23, has been and still is infringing the '041 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims, including at least claim 43, of the '041 Patent.

44. As a direct and proximate result of SNEI'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 SNEA 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 Microsoft has infringed the '041 Patent as alleged herein;
- (ii) A judgment declaring that Microsoft has infringed the '866 Patent as alleged herein;
- (iii) A judgment declaring that SCEA has infringed the '041 Patent as alleged herein;
- (iv) A judgment declaring that SCEA has infringed the '866 Patent as alleged herein;
- (v) A judgment declaring that SNEA has infringed the '041 Patent as alleged herein;
- (vi) A judgment declaring that SNEI has infringed the '041 Patent as alleged herein;
- (vii) A judgment and order awarding Walker Digital damages under 35 U.S.C. § 284;
- (viii) 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;



- (ix) A judgment and order awarding Walker Digital pre-judgment and post-judgment interest on the damages awarded;
- (x) 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.

August 8, 2011

**BAYARD, P.A.**

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