## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

1 <sup>ST</sup> TECHNOLOGY, LLC,	)
Plaintiff,	
V.	) COMPLAINT
MERGE GAMING and EVERLEAF GAMING LIMITED,  Defendants.	JURY DEMANDED

Plaintiff 1<sup>st</sup> Technology, LLC complains of defendants Merge Gaming and Everleaf Gaming Limited as follows:

## **JURISDICTION AND VENUE**

- 1. Title 28 U.S.C. § 1338(a) confers jurisdiction here because defendants have infringed plaintiff's patent. Federal law, namely the Patent Act of 1952, as amended, 35 U.S.C. § 271, makes patent infringement illegal and actionable through a private cause of action.
- 2. Defendants have transacted business in this judicial district by making, using, selling, or offering to sell and distributing software products that violate 1<sup>st</sup> Technology's patent either in this judicial district or in the United States.
- 3. Title 28 U.S.C. § 1391(d), the general federal venue statute and Title 28 U.S.C. § 1400(b), the specific venue statute related to patent cases, make venue proper in this case in this district.

## **PARTIES**

4. 1<sup>st</sup> Technology is a Nevada limited liability company with offices in Las Vegas, Nevada. 1<sup>st</sup> Technology is the assignee and owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 5,564,001 (the '001 Patent), which is entitled "Method and System for Interactively Transmitting Multimedia Information Over a Network Which Requires A Reduced Bandwidth."

- 5. Merge Gaming, is a foreign company with offices in Brisbane, Queensland, Australia. Merge Gaming has previously and is presently making, using, selling, offering for sale, and/or importing into the United States software products (on information and belief among other products, the Carbon Poker gaming software) that infringes one or more claims of the '001 Patent. Merge Gaming has infringed the '001 Patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.
- 6. Everleaf Gaming Limited is a foreign company with offices at Valley View Apartments Commercial Outlet No. 5, Sir Joseph Carbone Street, St. Julians, STJ 1320 Malta. Everleaf has previously and is presently making, using, selling, offering for sale, and/or importing into the United States a software products (information and belief among other products, the Cherry Poker gaming software) which infringe one or more claims of the '001 Patent. Everleaf has infringed the '001 Patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

### **BACKGROUND**

- 7. Dr. Scott Lewis is an individual residing in Los Gatos, California. Dr. Lewis is the controlling manager of 1<sup>st</sup> Technology LLC. Dr. Lewis is the inventor of the '001 Patent.
- 8. Dr. Lewis received B.S. and M.S. degrees with honors in mechanical and electrical engineering from M.I.T. Dr. Lewis has a Ph.D. from Oxford University in adaptive digital signal processing as a Marshall Scholar and an M.B.A. form Harvard Business School. Dr. Lewis led the development of single-chip video and audio compression solutions, as well as the first automotive video cellular telephone.
- 9. Dr. Lewis is the inventor of a number of patents in multimedia communication technology. The inventions of Dr. Lewis' patents are used in many online wagering systems.
- 10. Defendants Merge Gaming and Everleaf Gaming make software for use in, among other ways, online gaming.

#### PATENT INFRINGEMENT

# **Merge Gaming**

- 11. Merge Gaming has infringed and continues to infringe the '001 Patent either directly or indirectly through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.
- 12. Merge Gaming's infringement, contributory infringement and/or inducement to infringe has injured 1<sup>st</sup> Technology and it, therefore, is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.
- 13. Merge Gaming's infringement, contributory infringement and/or inducement to infringe has been willful and deliberate because it has been given notice of or knew of the '001 Patent and has nonetheless injured and will continue to injure 1<sup>st</sup> Technology, unless and until this Court enters an injunction, which prohibits further infringement and specifically enjoins further manufacture, use, sale and/or offer for sale of products or services that come within the scope of the '001 Patent.

## **Everleaf Gaming**

- 14. Everleaf has infringed and continues to infringe the '001 Patent either directly or indirectly through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.
- 15. Everleaf's infringement, contributory infringement and/or inducement to infringe has injured 1<sup>st</sup> Technology and it, therefore, is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.
- 16. Everleaf's infringement, contributory infringement and/or inducement to infringe has been willful and deliberate because it has been given notice of or knew of the '001 Patent and has nonetheless injured and will continue to injure 1<sup>st</sup> Technology, unless and until this Court enters an injunction, which prohibits further infringement and

specifically enjoins further manufacture, use, sale and/or offer for sale of products or services that come within the scope of the '001 Patent.

## **JURY DEMAND**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, 1<sup>st</sup> Technology requests a trial by jury on all issues presented that can properly be tried to a jury.

# **DEMAND FOR RELIEF**

WHEREFORE, 1<sup>st</sup> Technology asks this Court to enter judgment against defendants Merge Gaming and Everleaf Gaming and against their respective subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- A. An award of damages adequate to compensate 1<sup>st</sup> Technology for the infringement that has occurred, together with prejudgment interest from the date infringement began;
- B. All other damages permitted by 35 U.S.C. § 284;
- C. A finding that Merge and Everleaf have willfully infringed the '001 Patent.
- D. A finding that this case is exceptional and an award to 1<sup>st</sup> Technology of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- E. An injunction prohibiting further infringement, inducement and contributory infringement of the '001 Patent; and
- F. Such other and further relief as this Court or a jury may deem proper and just.

Dated: September 15, 2011 Respectfully submitted,

/s/William Flachsbart William Flachsbart

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