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6 Attorney for Plaintiff,
7 **GAMETEK LLC**

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 GAMETEK LLC,

Case No.: 3:12-cv-00502-BEN-RBB

12 Plaintiff,
13 v.

**FIRST AMENDED COMPLAINT FOR
INFRINGEMENT OF U.S. PATENT NO.
7,076,445**

14 THE PLAYFORGE, INC. and THE
PLAYFORGE, LLC,

DEMAND FOR JURY TRIAL

15 Defendants.
16

17 This is an action for patent infringement in which GAMETEK LLC submits this First
18 Amended Complaint¹ against Defendants named herein, namely THE PLAYFORGE, INC. and THE
19 PLAYFORGE, LLC, as follows:
20

21 **THE PARTIES**

22 1. GAMETEK LLC (“GAMETEK” or “Plaintiff”) is a California limited liability
23 company with a place of business at 500 Newport Center Drive, Suite 700, Newport Beach, CA
24 92660.
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27
28 ¹ Pursuant to Fed. R. Civ. P. 15(a)(2), GAMETEK obtained THE PLAYFORGE’s written consent prior to filing this First Amended Complaint.

1 are at least used in and/or accessible in this district. Further, on information and belief, Defendants
2 regularly conduct and/or solicit business, engage in other persistent courses of conduct, and/or
3 derive substantial revenue from goods and services provided to persons and/or entities in this
4 district.

5
6 **COUNT I**

7 **INFRINGEMENT OF U.S. PATENT NO. 7,076,445**

8 6. United States Patent No. 7,076,445 (“the ‘445 patent”), entitled “SYSTEM AND
9 METHODS FOR OBTAINING ADVANTAGES AND TRANSACTING THE SAME IN A
10 COMPUTER GAMING ENVIRONMENT,” issued on July 11, 2006.

11 7. GAMETEK is the present assignee of the entire right, title and interest in and to the
12 ‘445 patent, including all rights to sue for past and present infringement. Accordingly, GAMETEK
13 has standing to bring this lawsuit for infringement of the ‘445 patent.

14 8. The various claims of the ‘445 patent cover, inter alia, a method of managing a game
15 comprising displaying a plurality of game objects, determining if the user has sufficient
16 consideration to purchase a game object, presenting an offer to purchase the game object dependent
17 upon parameters comprising the tracked activity of the user and the indication that the user has
18 sufficient consideration, permitting the user to purchase the game object without interrupting the
19 game, supplying the purchased game object to the user without interrupting the game, and
20 incorporating the game object into the game.

21 9. On information and belief, THE PLAYFORGE has been and now is infringing the
22 ‘445 patent by actions comprising the making and/or using methods of managing a game comprising
23 displaying a plurality of game objects, determining if the user has sufficient consideration to
24 purchase a game object, presenting an offer to purchase the game object dependent upon parameters
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1 comprising the tracked activity of the user and the indication that the user has sufficient
2 consideration, permitting the user to purchase the game object without interrupting the game,
3 supplying the purchased game object to the user without interrupting the game, and incorporating
4 the game object into the game. On information and belief, such methods comprise *Zombie Farm*,
5 *Zombie Farm 2*, *Zombie Life*, and *Tree World*.
6

7 10. Further, on information and belief, THE PLAYFORGE hosts and/or has hosted the
8 game known as *Zombie Farm*.

9 11. Further, on information and belief, THE PLAYFORGE makes, uses, and hosts the
10 game known as *Zombie Farm*.

11 12. Further, on information and belief, THE PLAYFORGE hosts and/or has hosted the
12 game known as *Zombie Farm 2*.
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14 13. Further, on information and belief, THE PLAYFORGE makes, uses, and hosts the
15 game known as *Zombie Farm 2*.

16 14. Further, on information and belief, THE PLAYFORGE hosts and/or has hosted the
17 game known as *Zombie Life*.
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19 15. Further, on information and belief, THE PLAYFORGE makes, uses, and hosts the
20 game known as *Zombie Life*.

21 16. Further, on information and belief, THE PLAYFORGE hosts and/or has hosted the
22 game known as *Tree World*.

23 17. Further, on information and belief, THE PLAYFORGE makes, uses, and hosts the
24 game known as *Tree World*.
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26 18. THE PLAYFORGE was put on notice of the '445 patent at least by virtue of this suit
27 being filed, which was prior to the filing of this amended complaint. GAMETEK contends that, at a
28

1 minimum, THE PLAYFORGE's ongoing infringement of the '445 patent since receiving notice of
2 the '445 patent is willful, including because THE PLAYFORGE's infringement is clear and, at a
3 minimum, such infringement is an objectively reckless act.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, GAMETEK respectfully requests that this Court enter:

6
7 1. A judgment in favor of GAMETEK that THE PLAYFORGE has infringed the '445
8 patent;

9 2. A permanent injunction enjoining THE PLAYFORGE, and their officers, directors,
10 employees, agents, affiliates and all others acting in active concert therewith from infringing the
11 '445 patent;

12 3. A judgment and order requiring THE PLAYFORGE to pay to GAMETEK its
13 damages, including treble damages, for infringement, including willful infringement, of the '445
14 patent, as provided under 35 U.S.C. § 284.

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16 4. A judgment and order finding that this is an exceptional case within the meaning of
17 35 U.S.C. § 285 and awarding to GAMETEK its reasonable attorneys' fees;

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19 5. Any and all other relief to which GAMETEK may show itself to be entitled.

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of
22 any issues so triable by right.
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1 Dated: September 11, 2012

Respectfully submitted,

2 /s/ John J. Edmonds

3 John J. Edmonds

4 COLLINS EDMONDS POGORZELSKI

SCHLATHER & TOWER, PLLC

5 Attorney for Plaintiff

6 GAMETEK LLC

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CERTIFICATE OF SERVICE

I, John J. Edmonds, declares as follows:

I am over the age of eighteen years and am not a party to this action. I am employed at the law firm of Collins, Edmonds, Pogorzelski, Schlather & Tower, PLLC and I am a member of the bar of this Court. I hereby certify that on September 11, 2012, the following document was transmitted via the Court's Electronic Case Filing (ECF) system:

**FIRST AMENDED COMPLAINT
FOR INFRINGEMENT OF U.S. PATENT NO. 7,076,445**

I further certify that the attached document was sent on September 11, 2012, via the Court's Electronic Case Filing (ECF) system to all counsel of record in this action.

September 11, 2012

Respectfully Submitted,

/s/ John J. Edmonds

John J. Edmonds – LEAD COUNSEL

E-mail: jedmonds@cepiplaw.com

ATTORNEY FOR GAMETEK LLC.