

1 John J. Edmonds (State Bar No. 274200)
jedmonds@cepiplaw.com
2 COLLINS, EDMONDS, POGORZELSKI,
3 SCHLATHER & TOWER, PLLC
1851 East First Street, Suite 900
4 Santa Ana, California 92705
Telephone: (951) 708-1237
5 Facsimile: (951) 824-7901

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

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 GAMETEK LLC,

Case No.: '12CV2930 IEG MDD

12 Plaintiff,

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

13 v.

14 CIE GAMES, INC.,

DEMAND FOR JURY TRIAL

15 Defendant.

Complaint Filed: December 10, 2012
Trial Date: not set

16
17 This is an action for patent infringement in which GAMETEK LLC submits this Complaint
18 against the Defendant named herein, namely CIE GAMES, INC. (“Defendant”), as follows:
19

20 **THE PARTIES**

21 1. GAMETEK LLC (“GAMETEK” or “Plaintiff”) is a California limited liability
22 company with a place of business at 500 Newport Center Drive, Suite 700, Newport Beach, CA
23 92660.

24 2. On information and belief, CIE GAMES, INC. (“CIE”) is a Delaware corporation
25 with a place of business at 111 W Ocean Blvd. # 1800 Long Beach, CA 90802-7936.
26

27 **JURISDICTION AND VENUE**

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

4 7. GAMETEK is the present assignee of the entire right, title and interest in and to the
5 ‘445 patent, including all rights to sue for past and present infringement. Accordingly, GAMETEK
6 has standing to bring this lawsuit for infringement of the ‘445 patent.
7

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

16 9. On information and belief, CIE has been and now is infringing, including jointly, the
17 ‘445 patent by actions comprising managing a game comprising displaying a plurality of game
18 objects, determining if the user has sufficient consideration to purchase a game object, presenting an
19 offer to purchase the game object dependent upon parameters comprising the tracked activity of the
20 user and the indication that the user has sufficient consideration, permitting the user to purchase the
21 game object without interrupting the game, supplying the purchased game object to the user without
22 interrupting the game, and incorporating the game object into the game. On information and belief,
23 such methods comprise Car Town.
24
25

26 10. Further, on information and belief, CIE makes, uses, and hosts the game known as
27 Car Town.
28

1 11. As a result of CIE's infringing conduct, CIE has damaged GAMETEK. CIE is liable
2 to GAMETEK in an amount that adequately compensates GAMETEK for its infringement, which
3 by law, can be no less than a reasonable royalty.

4 12. CEI was put on notice of the '445 patent prior to the filing of this suit. GAMTEK
5 contends that, at a minimum, CIE's ongoing infringement of the '445 patent since receiving notice
6 of the '445 patent is willful, including because CIE's infringement is clear and, at a minimum, such
7 infringement is an objectively reckless act.
8

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, GAMETEK respectfully requests that this Court enter:

- 12 1. A judgment in favor of GAMETEK that CIE has infringed the '445 patent;
13 2. A judgment that CEI's infringement is and/or has been willful and objectively
14 reckless;
15 3. A permanent injunction enjoining CIE, and its officers, directors, employees, agents,
16 affiliates and all others acting in active concert therewith from infringing the '445 patent;
17 4. A judgment and order requiring CIE to pay to GAMETEK its damages, costs,
18 expenses, fees, and prejudgment and post-judgment interest for CIE's infringement of the '445
19 patent as provided under 35 U.S.C. §§ 284 and/or 285.
20 5. A judgment and order finding that this is an exceptional case within the meaning of
21 35 U.S.C. § 285 and awarding to GAMETEK its reasonable attorneys' fees;
22 6. Any and all other relief to which GAMETEK may show itself to be entitled.
23
24
25
26

27 **DEMAND FOR JURY TRIAL**
28

1 Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of
2 any issues so triable by right.
3
4

5 Dated: December 10, 2012

Respectfully submitted,

6
7 COLLINS, EDMONDS, POGORZELSKI,
8 SCHLATHER & TOWER, PLLC

9
10 /s/ John J. Edmonds
John J. Edmonds

11 Attorney for Plaintiff
12 GAMETEK LLC
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
GAMETEK LLC
(b) County of Residence of First Listed Plaintiff ORANGE COUNTY, CA
(c) Attorneys (Firm Name, Address, and Telephone Number)
COLLINS, EDMONDS, POGORZELSKI, SCHLATHER & TOWER, PLLC
1851 East First Street, Suite 900, SANTA ANA, CA 92705

DEFENDANTS
CIE GAMES, INC.
County of Residence of First Listed Defendant LOS ANGELES COUNTY
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
GIBSON, DUNN & CRUTCHER LLP '12CV2930 IEG MDD
333 South Grand Avenue
Los Angeles, CA 90071-3197

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
[] 1 U.S. Government Plaintiff
[] 2 U.S. Government Defendant
[X] 3 Federal Question (U.S. Government Not a Party)
[] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State [] 1 PTF [] 1 DEF
Citizen of Another State [] 2 PTF [] 2 DEF
Citizen or Subject of a Foreign Country [] 3 PTF [] 3 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: [] 110 Insurance, [] 120 Marine, [] 130 Miller Act, [] 140 Negotiable Instrument, [] 150 Recovery of Overpayment & Enforcement of Judgment, [] 151 Medicare Act, [] 152 Recovery of Defaulted Student Loans (Excl. Veterans), [] 153 Recovery of Overpayment of Veteran's Benefits, [] 160 Stockholders' Suits, [] 190 Other Contract, [] 195 Contract Product Liability, [] 196 Franchise
PERSONAL INJURY: [] 310 Airplane, [] 315 Airplane Product Liability, [] 320 Assault, Libel & Slander, [] 330 Federal Employers' Liability, [] 340 Marine, [] 345 Marine Product Liability, [] 350 Motor Vehicle, [] 355 Motor Vehicle Product Liability, [] 360 Other Personal Injury, [] 362 Personal Injury - Med. Malpractice
PERSONAL INJURY: [] 365 Personal Injury - Product Liability, [] 367 Health Care/Pharmaceutical Personal Injury Product Liability, [] 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY: [] 370 Other Fraud, [] 371 Truth in Lending, [] 380 Other Personal Property Damage, [] 385 Property Damage Product Liability
FORFEITURE/PENALTY: [] 625 Drug Related Seizure of Property 21 USC 881, [] 690 Other
LABOR: [] 710 Fair Labor Standards Act, [] 720 Labor/Mgmt. Relations, [] 740 Railway Labor Act, [] 751 Family and Medical Leave Act, [] 790 Other Labor Litigation, [] 791 Empl. Ret. Inc. Security Act
IMMIGRATION: [] 462 Naturalization Application, [] 463 Habeas Corpus - Alien Detainee (Prisoner Petition), [] 465 Other Immigration Actions
BANKRUPTCY: [] 422 Appeal 28 USC 158, [] 423 Withdrawal 28 USC 157
PROPERTY RIGHTS: [] 820 Copyrights, [X] 830 Patent, [] 840 Trademark
SOCIAL SECURITY: [] 861 HIA (1395ff), [] 862 Black Lung (923), [] 863 DIWC/DIWW (405(g)), [] 864 SSID Title XVI, [] 865 RSI (405(g))
FEDERAL TAX SUITS: [] 870 Taxes (U.S. Plaintiff or Defendant), [] 871 IRS—Third Party 26 USC 7609
OTHER STATUTES: [] 375 False Claims Act, [] 400 State Reapportionment, [] 410 Antitrust, [] 430 Banks and Banking, [] 450 Commerce, [] 460 Deportation, [] 470 Racketeer Influenced and Corrupt Organizations, [] 480 Consumer Credit, [] 490 Cable/Sat TV, [] 850 Securities/Commodities/Exchange, [] 890 Other Statutory Actions, [] 891 Agricultural Acts, [] 893 Environmental Matters, [] 895 Freedom of Information Act, [] 896 Arbitration, [] 899 Administrative Procedure Act/Review or Appeal of Agency Decision, [] 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
[X] 1 Original Proceeding [] 2 Removed from State Court [] 3 Remanded from Appellate Court [] 4 Reinstated or Reopened [] 5 Transferred from another district (specify) [] 6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
35 U.S.C. 271
Brief description of cause:
Patent Infringement

VII. REQUESTED IN COMPLAINT:
[] CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE See Attachment A. DOCKET NUMBER

DATE 12/12/2012 SIGNATURE OF ATTORNEY OF RECORD /s John J. Edmonds

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Print

Save As...

Reset

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ATTACHMENT A – RELATED CASES

No. 3:12-cv-00502-BEN-RBB Gametek LLC v. The Playforge, Inc., USDC Southern District of California;

No. 3:12-cv-00503-BEN-RBB Gametek LLC v. NHN USA, Inc. et al., USDC Southern District of California;

No. 3:12-cv-06184-LB Gametek LLC v. Gameview Studios, USDC Northern District of California