IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IRONBURG INVENTIONS LTD. a United Kingdom Limited Company, Plaintiff, vs. COLLECTIVE MINDS GAMING CO. LTD., a Canadian Limited Company, Defendant.	Civil Action No. 1:16-cv-04110-TWT

PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S DIRECT INFRINGEMENT CLAIMS AND MEMORANDUM OF LAW IN SUPPORT

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TABLE OF CONTENTS

Page

I. INTRODUCTION 1
II. LEGAL STANDARD 1
III. IRONBURG HAS ADEQUATELY PLEAD DIRECT INFRINGEMENT 3
IV. CONCLUSION 6

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TABLE OF AUTHORITIES

Page

CASES

Atwater Partners of Tex. LLC v. AT & T, Inc.,
No. 2:10–cv–175, 2011 WL 1004880 (E.D.Tex. Mar. 18, 2011) 4

Bell Atl. Corp. v. Twombly,
550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) 1, 2

Erickson v. Pardus,
551 U.S. 89, 127 S.Ct. 2197, 167 L.Ed.2d 1081 (2007) (per curiam) 2

Fabian v. Fulmer Helmets, Inc.,
628 F.3d 278 (6th Cir.2010) 2

In re Bill of Lading Transmission and Processing System Patent Litigation,
681 F.3d 1323 (Fed.Cir. 2012) 4

Iqbal,
556 U.S. 678, 129 S.Ct. 1937 2

Lucent Techs., Inc. v. Gateway, Inc.,
580 F.3d 1301 (Fed.Cir.2009) 4

McZeal v. Sprint Nextel Corp.,
501 F.3d 1354 (Fed.Cir.2007) 5

Oy Ajat, Ltd. v. Vatech Am., Inc.,
No. 10–4875, 2011 WL 1458052 (D.N.J. Apr. 14, 2011)........................4

STATUTES

35 U.S.C § 271(a) 1

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Plaintiff Ironburg Inventions Ltd. ("Plaintiff") hereby opposes Defendant Collective Minds Gaming Co. Ltd ("Defendant") Motion to Dismiss Plaintiff's Direct Infringement Claims. Ironburg respectfully requests that Defendant's Motion to Dismiss be denied for the reasons set forth below.

I. INTRODUCTION

Defendants Motion to Dismiss is entirely without merit. While it is true that Defendant induces others to infringe by modifying third party controllers to make the patented invention, it is also true that defendant itself modifies the same third party controllers to make the patented invention and then uses that patented invention in advertising to promote sales of their Strike Pack modification kits. Under 35 U.S.C § 271(a), "whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent." (2017). Ironburg has made this allegation in its Complaint, and its complaint is sufficiently plead.

II. LEGAL STANDARD

To survive a motion to dismiss, a plaintiff must plead "enough factual matter" that, when taken as true, "state[s] a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d

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929 (2007); *see also Fabian v. Fulmer Helmets, Inc.*, 628 F.3d 278, 280 (6th Cir.2010). This plausibility standard is met when "the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678, 129 S.Ct. 1937 (citing *Twombly*, 550 U.S. at 556, 127 S.Ct. 1955).

Although the standard "asks for more than a sheer possibility that a defendant has acted unlawfully," it is not "akin to a probability requirement." *Id.* (internal quotation *1332 marks omitted); see also *Twombly*, 550 U.S. at 556, 127 S.Ct. 1955 ("[O]f course, a well-pleaded complaint may proceed even if it strikes a savvy judge that actual proof of those facts is improbable, and that a recovery is very remote and unlikely.") (internal quotations and citation omitted); *Erickson v. Pardus*, 551 U.S. 89, 93, 127 S.Ct. 2197, 167 L.Ed.2d 1081 (2007) (per curiam) ("Specific facts are not necessary; the statement need only 'give the defendant fair notice of what the ... claim is and the grounds upon which it rests.' ") (quoting *Twombly*, 550 U.S. at 555, 127 S.Ct. 1955 (emphasis added) (citation omitted) (internal quotation marks omitted)). A complaint that merely pleads facts that are consistent with a defendant's liability "stops short of the line between possibility and plausibility...." *Twombly*, 550 U.S. at 546, 127 S.Ct. 1955 (citation omitted). "Determining whether a complaint states a plausible claim for relief will ... be a

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