

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

NEXRF CORP.,

Plaintiff,

v.

PLAYTIKA LTD., *et al.*,

Defendants.

Case No. 3:20-cv-00603-MMD-CLB

ORDER

I. SUMMARY

Plaintiff NEXREF Corp. sued Defendants Playtika Ltd., Playtika Holding Corp. (collectively, “Playtika”) and Caesars Interactive Entertainment (“Caesars”) for allegedly infringing five patents¹ by offering online slot machine games. (ECF No. 1.) Before the Court are Caesars and Playtika’s motions to dismiss (ECF Nos. 26, 28),² and Playtika’s motion for sanctions under Federal Rule of Civil Procedure 11 (ECF No. 53).^{3,4} As further explained below, because the Court agrees with Defendants in pertinent part that all five of Plaintiff’s asserted patents are invalid under *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208 (2014), and its progeny, the Court will grant both motions to dismiss. The Court will also deny Playtika’s motion for sanctions primarily because it is based on arguments that the Court does not rule on in this order.

///

¹The five patents are U.S. Patent Nos. 8,747,229 (the ’229 patent), 8,506,406 (the ’406 patent), 9,646,454 (the ’454 patent), 8,506,407 (the ’407 patent), and 9,373,116 (the ’116 patent) (collectively, the “asserted patents”). (ECF No. 1 at 1.)

²Plaintiff filed a combined response (ECF No. 47), and Defendants filed replies (ECF Nos. 51, 52).

³Plaintiff filed a response (ECF No. 56), and Playtika filed a reply (ECF No. 57).

⁴The Court denies the parties’ requests for oral argument. See L.R. 78-1.

1 **II. BACKGROUND**

2 The following allegations are adapted from the Complaint. (ECF No. 1.) Plaintiff
3 alleges that the asserted patents “disclose various systems and methods for
4 embodiments of a fully remote, multiplayer capable, secure, and engaging casino-style
5 gaming system.” (*Id.* at 2.) Said otherwise, the asserted patents generally claim slot
6 machine games playable on a computer or handheld device run on a remote server.
7 Plaintiff more specifically alleges that all asserted patents cover certain unconventional
8 elements:

- 9 1. A centralized game server that sends game outcomes and corresponding
10 images to a remote device;
- 11 2. A verification server coupled to the centralized game server that controls
12 access to gaming activities;
- 13 3. A relatively fast image and/or video delivery component.

14 (*Id.* at 2.)

15 Plaintiff further alleges that particular asserted patents contain additional
16 unconventional elements. (*Id.* at 2-3.) The '229 patent covers a payable module
17 associated with the centralized game server. (*Id.*) The '407 patent covers a transactional
18 system that credits funds from winning game outcomes to a user’s financial account. (*Id.*
19 at 3.) And the '116 patent covers location tracking of a user, along with providing that user
20 with rewards. (*Id.*)

21 Caesars owned Playtika for some time but does not anymore. (*Id.* at 4-5.) Both
22 Defendants offer various mobile slot machine games, some that allow users to wager real
23 money, and some that do not. (*Id.* at 5-7.) Plaintiff accuses these games of infringement.⁵

24 (*Id.* at 5-23.)

25 ///

26 _____
27 ⁵Plaintiff’s Complaint is unclear as to who makes what game, and precisely which
28 games Plaintiff is accusing of infringing which patents. Indeed, Defendants argue
Plaintiff’s Complaint is fatally unclear. (ECF Nos. 26 at 24-25, 28 at 10-16.) However, the
Court does not wade into these issues because it finds the asserted patents invalid under
Alice and its progeny.

1 Plaintiff's Complaint includes five counts, one for each of the asserted patents. (*Id.*)
2 In each count, Plaintiff alleges that Defendants infringe "the asserted claims of" each of
3 the asserted patents, and otherwise states that Defendants infringe "one or more claims
4 of" each patent, "including but not limited to claim 1[.]" (*See, e.g., id.* at 7.) But Plaintiff
5 characterizes claim 1 of each asserted patent as exemplary, and only ever specifically
6 includes the limitations of claim 1 of each asserted patent in its Complaint. (*Id.* at 7-8, 10,
7 14, 17, 20.)

8 Following the order that Plaintiff uses in the Complaint, and to provide necessary
9 context for the Court's discussion *infra*, claim 1 of each of the asserted patents follows
10 below.

11 **A. The '229 patent**

12 A gaming server system configured to communicate with at least one
13 network access device communicatively coupled to a network, the gaming
server system comprising:

14 a verification system configured to access a registration database
having a plurality of registration data associated with each registered
15 user;

16 a memory module configured to store a plurality of images
corresponding to at least one game outcome that are communicated
to the at least one network access device;

17 a centralized gaming server communicatively coupled to each of the
at least one network access device, the centralized gaming server
18 configured to generate at least one random game outcome by
random generation at the centralized gaming server;

19 a payable module associated with the centralized gaming server,
the payable module configured to determine one or more prizes
associated with a game outcome; and

20 the centralized gaming server configured to access the memory
module and communicate the plurality of images corresponding to
21 the at least one random game outcome to the at least one network
access device.

22 (*Id.* at 7-8.)

23 **B. The '406 Patent**

24 A system to run a gaming application on a network access device,
comprising:

25 the network access device; and

26 a remote gaming system including a verification system;

27 the network access device configured to transmit user identification
information and security information to the verification system;

28 the network access device configured to receive an
acknowledgement from the verification system indicating that the
user identification information and security information are valid;

1 the network access device configured to receive a game input from
2 a user of the network access device and transmit the game input to
3 the remote gaming system;
4 the remote gaming system configured to receive the game input and
5 generate a random game output, the remote gaming system further
6 configured to associate an image ID with the random game output
7 and select one or more images associated with the image ID for
8 encoding and broadcasting to the network access device;
9 the network access device configured to receive a plurality of
10 broadcast images generated by the remote gaming system.

11 (*Id.* at 10.)

12 **C. The '454 Patent**

13 A networked gaming system comprising:
14 a user identification received by at least one network access device
15 that is compared with registration data in a registration database,
16 wherein a player is provided access to a game when the user
17 identification matches the registered player data;
18 a transactional component that charges the registered player at least
19 one credit for a game outcome;
20 a centralized networked gaming module that performs game
21 operations and generates at least one random game output by
22 random generation at the networked gaming module;
23 the networked gaming module associates the at least one random
24 game output with an image ID; and
25 the networked gaming module communicates one or more images
26 corresponding to the image ID to the network access device.

27 (*Id.* at 14.)

28 **D. The '407 Patent**

A gaming system network, comprising:
a verification system configured to verify that a user attempting to
access the gaming system network is a registered player, the user
operating a network access device communicating with the gaming
system network;
a gaming system configured to generate at least one random game
output, the gaming system configured to associate an image ID with
the at least one random game output;
a video server configured to store a plurality of images corresponding
to at least one game, the video server configured to retrieve one or
more images associated with the image ID, wherein the one or more
images are representative of a game output, the video server
configured to communicate the one or more images to the network
access device; and
a transactional system configured to credit monetary funds to a
financial account of the user based on the at least one random game
output.

(*Id.* at 17.)

E. The '116 Patent

An interactive gaming system for a casino property, the interactive gaming
system comprising:

1 a wireless device associated with a registered user, wherein the
2 wireless device is used to determine a location of the registered user
3 and the wireless device communicates with a network using at least
4 one wireless networking protocol;
5 a verification system that accesses a registration database having
6 registration data associated with each registered user;
7 a centralized gaming server communicatively coupled to the wireless
8 device, the centralized gaming server generates at least one random
9 game outcome;
10 a memory module that stores a plurality of images corresponding to
11 the at least one game outcome that are communicated to the
12 wireless device;
13 the centralized gaming server accesses the memory module and
14 communicates the plurality of images corresponding to the random
15 game outcome to the wireless device; and a casino player tracking
16 system that includes,
17 a registered user profile that further includes a plurality of user
18 preferences,
19 a record of a plurality of accumulated points associated with a
20 betting activity of the registered user, wherein the betting
21 activity is associated with the random outcomes generated by
22 the centralized gaming server,
23 at least one complimentary good or service corresponding to
24 the accumulated points associated with the registered user;
25 and
26 a plurality of messages generated by the casino player
27 tracking system for the wireless device regarding the
28 complementary goods or services.

(*Id.* at 20.)

III. MOTIONS TO DISMISS

The Court begins by reciting the legal standards governing its review of these motions. It then analyzes Claim 1 of the '229 patent under the *Alice* framework as representative of the asserted claims of the '454 and '406 patents as well.⁶ The Court then analyzes Claim 1 of the '407 patent under the *Alice* framework, followed by Claim 1 of the '116 patent.⁷ Finally, the Court explains that it will not grant Plaintiff leave to amend, as an amendment would be futile. Again, and as noted, because the Court finds Defendants'

⁶Plaintiff stated that it did "not oppose treating the '229 Patent as representative of the '454 and '406 Patents for the purposes of this § 101 analysis." (ECF No. 47 at 16 n.10.) Plaintiff also identifies claim 1 of the '229 patent as exemplary, so the Court's analysis of claim 1 applies to all other claims of the '229 patent as well. (ECF No. 1 at 7.)

⁷As noted, Plaintiff itself holds these two claims out as exemplary of the asserted claims of these two patents, so the Court's findings as to these two claims apply to both patents more broadly. (ECF No. 1 at 17, 20.)

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.