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10 *Attorneys for Plaintiffs*
11 NANTWORKS, LLC and
NANT HOLDINGS IP, LLC

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14
15 NANTWORKS, LLC, and NANT
16 HOLDINGS IP, LLC,

17 Plaintiffs,

18 v.

19 NIANTIC, INC.,

20 Defendant.

Case No. 3:20-cv-06262-LB

THIRD AMENDED COMPLAINT FOR
PATENT INFRINGEMENT

JURY TRIAL DEMANDED

21
22 Plaintiffs NantWorks, LLC (“NantWorks”) and Nant Holdings IP, LLC
23 (“Nant IP”) (collectively, “Plaintiffs”), by and through their undersigned counsel, bring this
24 action for patent infringement under 35 U.S.C. § 271 against defendant Niantic, Inc.
25 (“Niantic” or “Defendant”) alleging, based upon personal knowledge with respect to
26 themselves and their own acts and on information and belief as to other matters, as follows:
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INTRODUCTION

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1. This is a civil action by plaintiffs NantWorks and Nant IP against defendant Niantic to stop its infringement of U.S. Patent Nos. 10,403,051 (the “051 Patent”), and 10,664,518 (the “518 Patent”) (collectively, the “Asserted Patents”), which claim groundbreaking augmented reality (“AR”) and gaming systems and methods for using them.

2. Plaintiffs develop various technologies to advance healthcare, commerce, and digital entertainment. NantWorks founder, Dr. Patrick Soon-Shiong, comes from a medical background, and has pioneered revolutionary new therapies for both cancer and diabetes by combining medical, engineering, and other disciplines. He is passionate about the innovative potential of converging disparate technologies and creative talents, and his inventions have been recognized by the issuance of hundreds of patents worldwide ranging from breakthrough cancer therapies to mobile location-based services. Dr. Soon-Shiong also is an avid investor in entrepreneurial companies with game-changing technologies in the fields of healthcare, education, science, and technology.

3. Through multiyear efforts, involving investments of tens of millions of dollars and the work of dozens of employees, Plaintiffs have developed a wide array of proprietary intellectual property relating to digital entertainment, including AR. As innovators, Plaintiffs safeguard their valuable intellectual property and have patented the cutting-edge features of their AR, image recognition, and gaming technologies that make digital entertainment products useful, efficient, and engaging for the end-user, including the Asserted Patents.

4. Defendant Niantic directly infringes the Asserted Patents by making, using, offering to sell, and/or selling in the United States and/or importing into the United States AR games (including its Pokémon Go Application (“Pokémon Go App”) and its Harry Potter Application (“Harry Potter App”). When these AR games are downloaded onto mobile devices, permitted to interact with backend servers, and used by Niantic, its

1 employees, or its agents, these games practice the inventions claimed in one or more claims
2 of each of the Asserted Patents, as detailed below.

3 5. Defendant Niantic also indirectly infringes the Asserted Patents by
4 inducing its customers and/or consumer end-users to directly infringe the Asserted Patents.
5 Niantic induces infringement by providing AR games, including its Pokémon Go App and
6 its Harry Potter App, that when downloaded onto mobile devices, permitted to interact with
7 backend servers, and used by customers and/or consumer end-users for AR gaming, as
8 directed and intended by Niantic, cause those customers and/or end-users to practice the
9 inventions claimed in one or more claims of the Asserted Patents, as detailed below.

10 6. Plaintiffs bring this suit to stop Niantic's free-riding on their patented
11 technologies, and they seek damages and other relief for Niantic's infringement of the
12 Asserted Patents.

13 THE PARTIES

14 7. Plaintiff NantWorks, LLC is a Delaware limited liability company
15 with its principal place of business located at 9920 Jefferson Boulevard, Culver City,
16 California 90232. NantWorks is the exclusive licensee of patents covering digital
17 entertainment (such as AR and gaming technologies), including the Asserted Patents.

18 8. Plaintiff Nant Holdings IP, LLC is a Delaware limited liability
19 company with its principal place of business located at 9920 Jefferson Boulevard, Culver
20 City, California 90232. Nant IP owns patents covering digital entertainment (such as AR
21 and gaming technologies), including the Asserted Patents.

22 9. Defendant Niantic, Inc. is a Delaware corporation with its principal
23 place of business located at 2 Bryant Street, Suite 220, San Francisco, California 94105.
24 Niantic maintains offices in San Francisco, California, operates and owns the websites
25 located at www.nianticlabs.com and niantic.helpshift.com, and markets, offers, and
26 distributes throughout the United States (including in California and within this District) AR
27 gaming applications, including the Pokémon Go App and the Harry Potter App, that
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1 infringe the Asserted Patents as set out herein.

2 **JURISDICTION AND VENUE**

3 10. This is an action for patent infringement arising under the Patent Laws
4 of the United States, 35 U.S.C. § 1 *et seq.* This Court has exclusive subject matter
5 jurisdiction over this Complaint and the matters asserted herein under 28 U.S.C. §§ 1331
6 and 1338(a).

7 11. This Court has both general and specific personal jurisdiction over
8 Niantic, who has established minimum contacts with this forum such that the exercise of
9 jurisdiction over Niantic would not offend traditional notions of fair play and substantial
10 justice. Niantic is registered to do business in the State of California (Registration
11 No. C3815285). Niantic maintains regular and established places of business in California,
12 including its principal place of business in this District, and conducts continuous and
13 systematic business in California, including in this District and elsewhere in California. In
14 addition, Niantic has committed, and continues to commit, acts that infringe the Asserted
15 Patents in violation of 35 U.S.C. § 271 in California (including in this District) by, among
16 other things, making, using, testing, offering to sell, selling, and/or importing products and
17 services that infringe the Asserted Patents, as set forth herein. In conducting business in
18 California and in this District, Niantic derives substantial revenue from the infringing
19 products being used, offered for sale, sold, and/or imported in California and this District.
20 These acts by Niantic have caused injury to Plaintiffs in California, including in this
21 District.

22 12. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b),
23 at least because Niantic has committed and continues to commit acts of direct and indirect
24 patent infringement in this District giving rise to this action, regularly conducts business in
25 this District, has a regular and established place of business in this District and employs
26 engineers and/or other personnel within this District, including at its principal place of
27 business in San Francisco, and is subject to personal jurisdiction in this District.



1 **INTRADISTRICT ASSIGNMENT**

2 13. This is an intellectual property action to be assigned on a district-wide
3 basis under Civil Local Rule 3-2(c).

4 **BACKGROUND**

5 **NantWorks’ Innovation**

6 14. Although the potential of digital entertainment (including AR and
7 gaming) was clear by 2011, developers faced daunting technical challenges in trying to
8 incorporate these technologies into mobile devices. Digital entertainment products had to
9 deliver on the promise of a fun and engaging experience at speeds and with a visual quality
10 that was unknown at that time in mobile devices.

11 15. That same year NantWorks was founded and invested in Fourth Wall
12 Studios, a Culver City, California-based company, to develop immersive storytelling
13 techniques for gaming. This began a four-year effort toward developing original digital
14 entertainment content to enable interaction with fictional worlds using mobile devices,
15 browsers, and even social networks.

16 16. Nantworks’ engineers initially began conceptualizing an AR game,
17 which they would later call “Scavenger Hunt,” and by December 2012 they had a fully
18 operational application which allowed teams of Nantworks’ employees to use their mobile
19 devices and search for AR objects around the company’s office during a NantWorks’
20 holiday party.

21 17. By 2013, Nantworks’ AR technologies had caught the attention of
22 Jakks Pacific (a leading toy and consumer products company), which partnered with
23 Nantworks to develop AR toys using Nantworks’ groundbreaking image recognition
24 technology to allow children to interact with associated AR characters using their mobile
25 device’s camera:



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