

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

IGT and IGT CANADA SOLUTIONS ULC, )  
)  
Plaintiffs, )  
) C.A. No. 6:21-CV-00331-ADA  
v. )  
) Judge: Honorable Alan D. Albright  
ZYNGA INC., )  
)  
Defendant. )

**PLAINTIFFS’ PRELIMINARY INFRINGEMENT CONTENTIONS**

Pursuant to Paragraphs 1 and 2 of the Court’s Order Governing Proceedings – Patent Case (signed June 24, 2021), Plaintiffs IGT (“IGT US”) and IGT Canada Solutions ULC (“IGT Canada”) (together, “IGT”) hereby provide these Preliminary Infringement Contentions to Defendant Zynga Inc. (“Zynga”).

Fact discovery has not yet begun and IGT’s investigation is ongoing. IGT expressly reserves the right to revise, amend, and/or supplement these infringement contentions, including after Zynga provides discovery or any other pertinent information, after the Court provides its Claim Construction Order, or for any other reason(s) contemplated by the Federal Rules of Civil Procedure, the Court’s Local Rules, or as allowed by the Court. IGT also reserves all rights to rely upon additional information and documents in support of its contentions and to revise its contentions.

**I. Identification of Asserted Claims and Accused Products**

Based on the information currently and reasonably available to IGT, in view of IGT’s present understanding of the proper construction of each of the claims listed below (collectively, the “Asserted Claims”) and based on IGT’s present understanding of the function and operation of the Zynga instrumentalities listed below (collectively, the “Accused Products”), Zynga has

infringed and continues to infringe at least the following Asserted Claims in violation of 35 U.S.C. § 271(a) by making, using, offering to sell, or selling within the United States, or by importing into the United States, at least the following Accused Products. Additionally, on information and belief, Zynga has developed and tested Accused Products in this District. As noted below, IGT provides its preliminary contentions regarding Zynga's infringement of each of the Asserted Claims by the Accused Products in the attached charts.

- **Exhibit A:** Claims 1, 4, 5, 7, 8, and 13 of U.S. Patent No. 8,708,791 (“’791 Patent”).
- **Exhibit B:** Claims 1, 4–8, 10, and 13–17 of U.S. Patent No. 9,159,189 (“’189 Patent”).
- **Exhibit C:** Claims 28–29, 31–33, 47–50, 84–86, 89–92, 99, and 100 of U.S. Patent No. 7,168,089 (“’089 Patent”).
- **Exhibit D:** Claims 1–4, 6–12, 14–18, 20–24, and 26–37 of U.S. Patent No. 7,303,473 (“’473 Patent”).
- **Exhibit E:** Claims 9–13, 15, and 17–18 of U.S. Patent No. 8,795,064 (“’064 Patent”).
- **Exhibit F:** Claims 24, 27–29, 31 and 34–36 of U.S. Patent No. 8,266,212 (“’212 Patent”).

Although discovery has not yet begun, Exhibits A–F contain charts identifying examples of where each element of each Asserted Claim is found in the Accused Products. Based on the information currently and reasonably available to IGT and based on IGT's present understanding of the function and operation of the Accused Products, each element of the Asserted Claims is present in the Accused Products literally or under the doctrine of equivalents. IGT reserves all rights to respond more fully regarding the doctrine of equivalents if and after Zynga provides discovery (including, to the extent Zynga contends that it does not literally infringe any Asserted Claim, the basis for such contention) and/or after the Court provides its Claim Construction Order.

IGT further reserves the right to revise, amend, and/or supplement the attached claim charts to the full extent contemplated by the Federal Rules of Civil Procedure, the Court's Local Rules, or as allowed by the Court, including after Zynga provides discovery or any other pertinent information and after the Court provides its Claim Construction Order.

Additionally, as set forth in IGT's First Amended Complaint for Patent Infringement, which is incorporated herein by reference, Zynga has infringed and continues to infringe at least one Asserted Claim of each of the '189 and '473 Patents in violation of 35 U.S.C. §§ 271(b), (c), and (f). (*See, e.g.*, Dkt. 7 ¶¶ 43–46, 76–79.)

Further, as set forth in IGT's First Amended Complaint for Patent Infringement, Zynga's infringement of the Asserted Claims has been willful. (*See, e.g.*, Dkt. 7 ¶¶ 27, 47, 60, 80, 92, 107.)

IGT's investigation is ongoing, and IGT reserves the right to identify additional Accused Products if it learns through discovery or otherwise that additional Zynga instrumentalities infringe any of the Asserted Claims.

## **II. Identification of Priority Dates**

Based on the information currently and reasonably available to IGT, each of the Asserted Claims is entitled to the preliminary priority dates identified below:

- The '791 Patent is a divisional of U.S. Patent Application Ser. No. 11/480,713, which was filed on July 3, 2006. Based on IGT's current investigation, Asserted Claims of the '791 Patent are entitled to a priority date no later than July 3, 2006.
- The '189 Patent claims priority to U.S. Provisional Patent Application Ser. No. 61/586,547, which was filed on January 13, 2012. Based on IGT's current investigation, Asserted Claims of the '189 Patent are entitled to a priority date no later than January 13, 2012.

- The '089 Patent is a continuation-in-part of U.S. Patent Application Ser. No. 09/732,650, which was filed on December 7, 2000. Based on IGT's current investigation, Asserted Claims of the '089 Patent are entitled to a priority date no later than December 7, 2000.
- The application from which the '473 Patent issued was filed on February 25, 2002. Based on IGT's current investigation, Asserted Claims of the '473 Patent are entitled to a priority date no later than February 25, 2002.
- The '064 Patent claims priority to U.S. Provisional Patent Application Ser. No. 60/418,397, which was filed on October 11, 2002. Based on IGT's current investigation, Asserted Claims of the '064 Patent are entitled to a priority date no later than October 11, 2002.
- The '212 Patent claims priority to U.S. Provisional Patent Application Ser. No. 60/332,593, which was filed on November 23, 2001. Based on IGT's current investigation, Asserted Claims of the '212 Patent are entitled to a priority date no later than November 23, 2001.

Additionally, contemporaneously with these Preliminary Infringement Contentions, IGT is producing copies of the file histories for each of the Patents-in-Suit.

IGT's investigation is ongoing. In the event that any of the Asserted Claims is found to not be entitled to the claimed priority date, such Asserted Claim(s) are entitled to claim priority to at least the date of the next-filed priority application, and are entitled to a priority date of no later than the date of filing of the application from which the Asserted Claims issued. IGT identifies the above priority dates for patents that claim priority to an earlier application expressly without waiver to asserting earlier invention dates. IGT reserves the right to assert invention dates earlier

than the aforementioned priority dates based on the earlier conception and/or reduction to practice of the Asserted Claims.

Dated: June 30, 2021

Respectfully submitted,

By: /s/ Leif R. Sigmond Jr.

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