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Attorneys for Plaintiff Gamevice, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GAMEVICE, INC.,

Plaintiff,

v.

NINTENDO CO., LTD., and NINTENDO OF
AMERICA, INC.

Defendants.

CASE NO. 3:18-cv-1942-RS

**GAMEVICE'S CASE
MANAGEMENT CONFERENCE
REPORT**

Date: February 3, 2022

Time: 10:00 a.m.

Place: Courtroom 3

Judge: Hon. Richard Seeborg

1 Gamevice incorporates the statements in its prior case management statements, Dkt Nos. 193
2 and 196, and adds the following information:¹

3 Gamevice is prepared to move forward with its patent infringement claims against the
4 accused Nintendo Switch products based on the two patents asserted in the original complaint, U.S.
5 Patent Nos. 9,808,713 and 9,855,498, both of which were also involved in ITC Investigation No.
6 337-TA-1111. Because the 1111 Investigation has been finally terminated, the stay of those claims
7 was lifted during the last case management conference. Gamevice also intends to seek leave to
8 amend the complaint to add allegations that the same accused products infringe various claims of
9 U.S. Patent No. 10,391,393, which was involved in ITC Investigation No. 337-TA-1197. The result
10 in the 1197 Investigation is currently on appeal before the Court of Appeals for the Federal Circuit,
11 but Gamevice intends to dismiss that appeal, which would result in a final termination of the 1197
12 Investigation and eliminate any basis for staying any infringement claims as to the '393 patent under
13 28 U.S.C. § 1659(a).

14 Gamevice proposes that the parties meet and confer on a schedule for (a) filing and
15 responding to Gamevice's planned motion to amend the complaint, (b) filing of Nintendo's answer
16 to the amended complaint or other responsive pleading, and (c) exchanging initial disclosures
17 sufficient to begin the *Markman* claim construction process. Because the parties have gone through
18 full discovery (including two rounds of inventor depositions and detailed infringement and invalidity
19 contentions), expert reports, pre-trial briefs, and exchange of trial exhibits and written trial testimony
20 in both the 1111 and 1197 Investigations, and have gone through trial and post-trial briefing in the
21 1197 Investigation, Gamevice submits that fact discovery, and particularly damages discovery,
22 should be stayed until after a claim construction decision is issued.

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27 ¹ On January 13, 2022, the Court issued a notice rescheduling the prior January 20, 2022,
28 case management conference and setting January 27, 2022, as the due date for a "joint" case
management statement. Nintendo, however, had already filed its case management statement on
January 13, 2022, before the rescheduling notice issued. Gamevice is, accordingly, submitting its
own comments separately.

1 Dated: January 27, 2022

By: /s/ Erik R. Puknys

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