

Hon. Tana Lin

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

AMERICAN GNC CORPORATION;

Plaintiff,

v.

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

Defendant.

Case No. 2:23-cv-00302-TL

**AMERICAN GNC'S ANSWER TO
COUNTERCLAIMS**

Jury Trial Demanded

PLAINTIFF'S ANSWER TO COUNTERCLAIMS
Case No. 2:23-cv-00302-TL

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1 650 351 7428

1 Plaintiff American GNC Corp. (“American GNC”) hereby responds to the counterclaims
2 of Defendant Nintendo of America Inc. (“NoA” or “Nintendo”) (Dkt. No. 39) as follows:

3 **PARTIES**

4 1. American GNC, on information and belief, admits the allegations in paragraph 1.

5 2. American GNC, lacks knowledge or information sufficient to form a belief as to
6 the truth of the allegations in paragraph 2 of the counterclaim, and therefore denies them.

7 3. American GNC admits that it was established in 1986.

8 4. American GNC admits that it is a corporation organized under the laws of
9 California with its principal place of business at 888 Easy Street, Simi Valley, California 93065.

10 5. American GNC admits that it has not made or sold video game consoles or
11 systems.

12 6. American GNC admits that it has not made or sold video games or video game
13 accessories.

14 7. American GNC admits that it is not a video game company.

15 8. American GNC, on information and belief, admits the allegations in paragraph 8.

16 9. American GNC, on information and belief, admits the allegations in paragraph 9.

17 10. American GNC admits that the Asserted Patents are U.S. Patent Nos. 6,508,122
18 (“the ’122 patent”) and 6,671,648 (“the ’648 patent”) (collectively, “Asserted Patents”).

19 **PRIOR ALLEGATIONS**

20 11. American GNC admits that it sued OnePlus Technology (Shenzhen) Co., Ltd
21 (“OnePlus”) and STMicroelectronics NV and STMicroelectronics S.R.L. (collectively
22 “STMicro”) on March 4, 2020 in the Western District of Texas.

23 12. American GNC admits that it asserted the ’122 patent and the ’648 patent in the
24 case captioned *American GNC Corporation v. OnePlus Technology (Shenzhen) Co., Ltd., et al.*,
25 No. 6:20-cv-171 (W.D. Tex.) (the “171 case”).

1 13. American GNC admits that it did not include allegations of infringement of the
2 '122 patent and the '648 patent by STMicro in the 171 case. Except as expressly admitted,
3 American GNC denies the remaining allegations of paragraph 13.

4 14. American GNC admits that it dismissed, without prejudice, Defendants
5 STMicroelectronics NV and STMicroelectronics S.R.L. from the 171 case on December 4, 2020.

6 **ACCUSED PRODUCTS**

7 15. American GNC admits that it named the Nintendo Switch, Nintendo Switch Lite,
8 Nintendo Joy-Con controllers, and Nintendo Pro controller as Accused Products in the
9 Complaint. American GNC also identified "other motion-sensing controllers sold or licensed by
10 Nintendo for use with the Switch." Except as expressly admitted, American GNC denies the
11 remaining allegations of paragraph 15.

12 16. American GNC admits that its infringement allegations include Nintendo's use of
13 components supplied by STMicro. Except as expressly admitted, American GNC denies the
14 remaining allegations of paragraph 16.

15 17. American GNC admits that its infringement allegations include Nintendo's use of
16 components supplied by STMicro. On information and belief, other components such as
17 processors also participate in the infringement. Except as expressly admitted, American GNC
18 denies the remaining allegations of paragraph 17.

19 18. American GNC admits that certain third-parties have a license to the Asserted
20 Patents.

21 19. This paragraph states a legal conclusion to which no response is required. To the
22 extent a response is required, American GNC admits that it does not accuse infringing acts
23 performed using licensed parts. Except as expressly admitted, American GNC denies the
24 remaining allegations of paragraph 19.

25 **JURISDICTION AND VENUE**

26 20. This paragraph states a legal conclusion to which no response is required. To the
27 extent a response is required, American GNC admits that Nintendo's counterclaims purport to
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1 arise under the Patent Laws of the United States, 35 U.S.C. § 100 et seq., and the Declaratory
2 Judgment Act, 28 U.S.C. §§ 2201 and 2202, and that Nintendo's counterclaims allege claims that
3 purport to invoke this Court's subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
4 American GNC denies that Nintendo is entitled to any relief.

5 21. This paragraph states a legal conclusion to which no response is required. To the
6 extent a response is required, American GNC responds that it will not challenge personal
7 jurisdiction or venue for purposes of Nintendo's present counterclaims. Except as expressly
8 admitted, American GNC denies the remaining allegations of paragraph 21.

9 **U.S. PATENT NO. 6,508,122**

10 22. Admitted.

11 23. Admitted. The '122 Patent claims priority to U.S. Provisional Application No.
12 60/154,700, filed on September 16, 1999.

13 24. Admitted.

14 25. Admitted.

15 26. Admitted.

16 27. American GNC admits that the '122 patent is subject to a terminal disclaimer.
17 American GNC admits that U.S. Patent No. 6,311,555 is not currently asserted against Nintendo.
18 American GNC lacks sufficient knowledge or information at this time to admit or deny the
19 remaining allegations of Paragraph 27 and on that basis, denies them.

20 28. Admitted.

21 29. American GNC lacks information about how Nintendo is construing, or the Court
22 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
23 information at this time to admit or deny the allegations of Paragraph 29 and on that basis, denies
24 them. American GNC specifically denies that the "Microelectromechanical systems (MEMS)"
25 claimed in the '122 patent existed before the '122 patent.

26 30. American GNC lacks information about how Nintendo is construing, or the Court
27 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
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1 information at this time to admit or deny the allegations of Paragraph 30 and on that basis, denies
2 them. American GNC specifically denies that the systems for measuring angular rate as claimed
3 in the '122 patent existed before the '122 patent.

4 31. American GNC lacks information about how Nintendo is construing, or the Court
5 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
6 information at this time to admit or deny the allegations of Paragraph 31 and on that basis, denies
7 them. American GNC specifically denies that the angular rate sensors as claimed in the '122
8 patent existed before the '122 patent.

9 32. American GNC lacks information about how Nintendo is construing, or the Court
10 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
11 information at this time to admit or deny the allegations of Paragraph 32 and on that basis, denies
12 them. American GNC specifically denies that the microelectronic circuitry as claimed in the
13 '122 patent existed before the '122 patent.

14 33. American GNC lacks information about how Nintendo is construing, or the Court
15 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
16 information at this time to admit or deny the allegations of Paragraph 33 and on that basis, denies
17 them. American GNC specifically denies that the signal processing as claimed in the '122 patent
18 existed before the '122 patent.

19 34. American GNC admits that in certain applications, an angular rate measurement
20 can be obtained from a gyroscope. American GNC lacks information about how Nintendo is
21 construing, or the Court may construe, terms used in this paragraph. American GNC lacks
22 sufficient knowledge or information at this time to admit or deny the allegations of Paragraph 34
23 and on that basis, denies them.

24 35. American GNC lacks information about how Nintendo is construing, or the Court
25 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
26 information at this time to admit or deny the allegations of Paragraph 35 and on that basis, denies
27 them.

1 36. American GNC lacks information about how Nintendo is construing, or the Court
2 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
3 information at this time to admit or deny the allegations of Paragraph 36 and on that basis, denies
4 them.

5 37. American GNC lacks information about how Nintendo is construing, or the Court
6 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
7 information at this time to admit or deny the allegations of Paragraph 37 and on that basis, denies
8 them.

9 38. This paragraph states a legal conclusion to which no response is required. To the
10 extent a response is required, American GNC lacks information about how Nintendo is
11 construing, or the Court may construe, terms used in this paragraph. American GNC lacks
12 sufficient knowledge or information at this time to admit or deny the allegations of Paragraph 38
13 and on that basis, denies them.

14 39. American GNC lacks information about how Nintendo is construing, or the Court
15 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
16 information at this time to admit or deny the allegations of Paragraph 39 and on that basis, denies
17 them.

18 40. American GNC lacks information about how Nintendo is construing, or the Court
19 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
20 information at this time to admit or deny the allegations of Paragraph 40 and on that basis, denies
21 them.

22 41. American GNC lacks information about how Nintendo is construing, or the Court
23 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
24 information at this time to admit or deny the allegations of Paragraph 41 and on that basis, denies
25 them. American GNC specifically denies that the angular rate sensors as claimed in the '122
26 patent existed before the '122 patent.

1 42. American GNC lacks information about how Nintendo is construing, or the Court
2 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
3 information at this time to admit or deny the allegations of Paragraph 42 and on that basis, denies
4 them. American GNC specifically denies that the angular rate sensors as claimed in the '122
5 patent existed before the '122 patent.

6 43. American GNC lacks information about how Nintendo is construing, or the Court
7 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
8 information at this time to admit or deny the allegations of Paragraph 43 and on that basis, denies
9 them. American GNC specifically denies that the angular rate sensors as claimed in the '122
10 patent existed before the '122 patent.

11 44. American GNC admits that it was not the first to use the word "MEMS" or
12 "MicroElectroMechanical Systems." Except as expressly admitted, American GNC denies the
13 remaining allegations of paragraph 44.

14 45. American GNC lacks information about how Nintendo is construing, or the Court
15 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
16 information at this time to admit or deny the allegations of Paragraph 45 and on that basis, denies
17 them. American GNC specifically denies that the MEMS as claimed in the '122 patent existed
18 before the '122 patent.

19 46. American GNC lacks information about how Nintendo is construing, or the Court
20 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
21 information at this time to admit or deny the allegations of Paragraph 46 and on that basis, denies
22 them.

23 47. American GNC admits that it does not own a semiconductor fabrication plant.
24 Except as expressly admitted, American GNC denies the remaining allegations of paragraph 47.

25 48. American GNC lacks information about how Nintendo is construing, or the Court
26 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
27 information at this time to admit or deny the allegations of Paragraph 48 and on that basis, denies
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1 them. American GNC specifically denies that the Attitude Heading Reference Systems as
2 claimed in the '122 patent existed before the '122 patent.

3 49. American GNC lacks information about how Nintendo is construing, or the Court
4 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
5 information at this time to admit or deny the allegations of Paragraph 49 and on that basis, denies
6 them. American GNC specifically denies that the Inertial Measurement Units as claimed in the
7 '122 patent existed before the '122 patent.

8 50. American GNC admits that there are natural phenomena referred to as Coriolis
9 force. American GNC lacks information about how Nintendo is construing, or the Court may
10 construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
11 information at this time to admit or deny the allegations of Paragraph 50 and on that basis, denies
12 them

13 51. American GNC lacks information about how Nintendo is construing, or the Court
14 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
15 information at this time to admit or deny the allegations of Paragraph 51 and on that basis, denies
16 them. American GNC specifically denies that the dither driver signals, capacitive pickoff
17 excitation signals, displacement restoring signals, angular rate signals, and digital low frequency
18 inertial element displacement signals as claimed in the '122 patent existed before the '122 patent.

19 **U.S. PATENT NO. 6,671,648**

20 52. Admitted.

21 53. Admitted.

22 54. Admitted.

23 55. Admitted.

24 56. Admitted.

25 57. American GNC admits that the '648 patent is subject to a terminal disclaimer.
26 American GNC admits that U.S. Patent No. 6,456,939 is not currently asserted against Nintendo.

1 American GNC lacks sufficient knowledge or information at this time to admit or deny the
2 remaining allegations of Paragraph 57 and on that basis, denies them.

3 58. Admitted.

4 59. American GNC lacks information about how Nintendo is construing, or the Court
5 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
6 information at this time to admit or deny the allegations of Paragraph 59 and on that basis, denies
7 them. American GNC specifically denies that the micro inertial measurement units as claimed in
8 the '648 patent existed before the '648 patent.

9 60. American GNC lacks information about how Nintendo is construing, or the Court
10 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
11 information at this time to admit or deny the allegations of Paragraph 60 and on that basis, denies
12 them. American GNC specifically denies that the angular rate producers as claimed in the '648
13 patent existed before the '648 patent.

14 61. American GNC lacks information about how Nintendo is construing, or the Court
15 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
16 information at this time to admit or deny the allegations of Paragraph 61 and on that basis, denies
17 them. American GNC specifically denies that the acceleration producers as claimed in the '648
18 patent existed before the '648 patent.

19 62. American GNC lacks information about how Nintendo is construing, or the Court
20 may construe, terms used in this paragraph. American GNC lacks sufficient knowledge or
21 information at this time to admit or deny the allegations of Paragraph 62 and on that basis, denies
22 them. American GNC specifically denies that the angular increment and velocity increment
23 producers as claimed in the '648 patent existed before the '648 patent.

24 63. Admitted.

25 **BACKGROUND**

26 64. This paragraph states a legal conclusion to which no response is required. To the
27 extent a response is required, American GNC admits that this action concerns the infringement
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1 and presumptive validity of the Asserted Patents. Except as expressly admitted, American GNC
2 denies the remaining allegations of paragraph 64.

3 **FIRST COUNTERCLAIM – NON-INFRINGEMENT OF THE '122 PATENT**

4 65. American GNC realleges and incorporates by reference the responses in the
5 foregoing paragraphs.

6 66. American GNC admits that the Complaint used claim 1 as an example to
7 demonstrate its basis for asserting infringement. Except as expressly admitted, Vineyard denies
8 the remaining allegations of paragraph 66.

9 67. This paragraph states a legal conclusion to which no response is required. To the
10 extent a response is required, American GNC admits that Nintendo purports to seek entry of a
11 declaratory judgment that it does not infringe any asserted claim of the '122 Patent. American
12 GNC otherwise denies the allegations in paragraph 67.

13 **SECOND COUNTERCLAIM – INVALIDITY OF THE '122 PATENT**

14 68. American GNC realleges and incorporates by reference the responses in the
15 foregoing paragraphs.

16 69. This paragraph states a legal conclusion to which no response is required. To the
17 extent a response is required, Vineyard admits that it contends that the '122 Patent is valid.
18 Except as expressly admitted, Vineyard denies the remaining allegations of paragraph 69.

19 70. Vineyard denies the allegations in paragraph 70.

20 71. This paragraph states a legal conclusion to which no response is required. To the
21 extent a response is required, American GNC admits that Nintendo purports to seek entry of a
22 declaratory judgment that the Asserted Claims of the '122 Patent are invalid and/or
23 unenforceable. American GNC otherwise denies the allegations in paragraph 71.

24 **THIRD COUNTERCLAIM – NON-INFRINGEMENT OF THE '648 PATENT**

25 72. American GNC realleges and incorporates by reference the responses in the
26 foregoing paragraphs.

1 73. American GNC admits that the Complaint used claim 1 as an example to
2 demonstrate its basis for asserting infringement. Except as expressly admitted, American GNC
3 denies the remaining allegations of paragraph 73.

4 74. This paragraph states a legal conclusion to which no response is required. To the
5 extent a response is required, American GNC admits that Nintendo purports to seek entry of a
6 declaratory judgment that it does not infringe any asserted claim of the '648 Patent. American
7 GNC otherwise denies the allegations in paragraph 67.

8 **FOURTH COUNTERCLAIM – INVALIDITY OF THE '648 PATENT**

9 75. American GNC realleges and incorporates by reference the responses in the
10 foregoing paragraph.

11 76. This paragraph states a legal conclusion to which no response is required. To the
12 extent a response is required, American GNC admits that it contends that the '648 Patent is valid.
13 Except as expressly admitted, American GNC denies the remaining allegations of paragraph 76.

14 77. American GNC denies the allegations in paragraph 77. American GNC further
15 responds that the Court has already found the '648 patent to be patent-eligible under 35 U.S.C. §
16 101 (Dkt. 38).

17 78. This paragraph states a legal conclusion to which no response is required. To the
18 extent a response is required, American GNC admits that Nintendo purports to seek entry of a
19 declaratory judgment that the Asserted Claims of the '122 Patent are invalid and/or
20 unenforceable. American GNC otherwise denies the allegations in paragraph 78.

21 **RESPONSE TO NINTENDO'S PRAYER FOR RELIEF**

22 In response to Nintendo's prayer for relief, American GNC denies the allegations therein
23 and further denies that Nintendo is entitled to any relief whatsoever.

24 **JURY TRIAL DEMAND**

25 Pursuant to Rule 38 of the Federal Rules of Civil Procedure American GNC requests a
26 trial by jury on all claims and issues so triable.

1 Dated: February 13, 2024

By: /s/ Michael N. Zachary

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CERTIFICATE OF SERVICE

The undersigned attorney certifies that on February 13, 2024, I directed the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel on record in the matter.

/s/ Michael N. Zachary

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