

1 Francisco A. Villegas (Bar No. 206997)
Damir Cefo (*pro hac vice, to be filed*)
2 Mark W. Halderman (*pro hac vice, to be filed*)
Evan M. Rosenbaum (Bar No. 310414)
3 fvillegas@villegascefo.com
dcefo@villegascefo.com
4 mhalderman@villegascefo.com
erosenbaum@villegascefo.com
5 VILLEGAS & CEFO, LLP
1350 Avenue of the Americas, Floor 2
6 New York, NY 10019
Telephone: (646) 844-0679
7
8 John V. Picone III (Bar No. 187226)
jpicone@spencerfane.com
9 SPENCER FANE LLP
225 West Santa Clara Street, Suite 1500
10 San Jose, CA 95113
Telephone: (408) 286-5100
11
12 Attorneys For Plaintiff
B.S.D. CROWN, LTD.

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 B.S.D. CROWN, LTD.,
17 Plaintiff,
18 v.

19
20 AMAZON.COM, INC., AMAZON WEB
21 SERVICES, INC. and AMAZON.COM
SERVICES, LLC

22 Defendants.
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25
26
27
28

Case No. 3:24-CV-03503-JD

**PLAINTIFF B.S.D. CROWN, LTD.'S
INITIAL DISCLOSURE OF ASSERTED
CLAIMS AND INFRINGEMENT
CONTENTIONS (PATENT L.R. 3-1 AND
3-2)**

Pursuant to Patent L.R. 3-1 of the United States District Court for the Northern District of California, Plaintiff B.S.D. Crown, Ltd. ("Plaintiff" or "BSD") hereby submits the accompanying Disclosure of Asserted Claims and Preliminary Infringement Contentions ("Patent Disclosures") in support of its allegations of infringement of U.S. Patent No. 8,934,887 ("the '887 Patent" or "the Asserted Patent") against Defendants Amazon.com, Inc. ("Amazon.com"), Amazon Web Services, Inc. ("AWS") and Amazon.com Services, LLC ("Amazon Services") (collectively, "Defendants").

BSD's discovery and investigation in this matter is ongoing. These Patent Disclosures are being made early in the case (prior to the Court issuing a Claim Construction Order, and just a few months into fact discovery). BSD filed its Complaint accusing Defendants of infringing the '887 Patent on June 11, 2024. Discovery opened in this matter on August 19, 2024.

BSD reserves the right to amend and/or supplement these disclosures in the event: (1) new, additional, or different information is learned as discovery progresses; and/or (2) in light of any claim constructions by the Court.

Patent L.R. 3-1: Disclosure of Asserted Claims and Infringement Contentions:

(a) **Infringed Claims:** *"Each claim of each patent in suit that is allegedly infringed by each opposing party, including for each claim the applicable statutory subsections of 35 U.S.C. § 271 asserted."*

Response:

Pursuant to Patent L.R. 3-1(a), and based on the information available at this time, BSD asserts infringement under subsection (a) of 35 U.S.C. § 271 by each of the Defendants of Claims 11, 15, 16, 17, 20, 23, 24, and 25 of the '887 Patent.

(b) **The Infringing Products:** *"Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality ("Accused Instrumentality") of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus shall be identified by name or model number, if known. Each method or process shall be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process."*

Response:

Claims 11, 15, 16, 17, 20, 23, 24, and 25 of the '887 Patent are infringed by the following

1 services/products that are owned and/or operated by Defendants: Luna (also known as Solstice or
2 Tempo) and cloud game streaming on at least its EC2 platform.

3
4 (c) **Chart of Infringed Claims:** *“A chart identifying specifically where and how each
5 limitation of each asserted claim is found within each Accused Instrumentality,
6 including for each limitation that such party contends is governed by 35 U.S.C. §
112(6), the identity of the structure(s), act(s), or material(s) in the Accused
Instrumentality that performs the claimed function.”*

7 **Response:**

8 Attached hereto as Exhibit A are claim charts identifying how each element of each
9 asserted claim is performed by the Accused Instrumentalities.

10
11 (d) **Indirect Infringement:** *“For each claim which is alleged to have been indirectly
12 infringed, an identification of any direct infringement and a description of the acts of
13 the alleged indirect infringer that contribute to or are inducing that direct
infringement. Insofar as alleged direct infringement is based on joint acts of multiple
parties, the role of each such party in the direct infringement must be described.”*

14 **Response:**

15 Plaintiff has not yet asserted a claim of indirect infringement in this case, but Plaintiff
16 reserves the right to amend this response in the event that new, additional, and/or different
17 information is learned as discovery progresses.

18 (e) **Literal and Equivalents Infringement:** *“Whether each limitation of each asserted
19 claim is alleged to be literally present or present under the doctrine of equivalents in
20 the Accused Instrumentality.”*

21 **Response:**

22 BSD contends that all of the elements of the asserted claims of the '887 Patent are
literally infringed by the Accused Instrumentalities.

23 BSD reserves the right to amend this response to include a doctrine of equivalents
24 allegation in light of any claim construction by the Court or as BSD receives additional
25 discovery.

26
27 (f) **Priority Date:** *“For any patent that claims priority to an earlier application, the
28 priority date to which each asserted claim allegedly is entitled.”*

1 **Response:**

2 Claims 11, 15, 16, 17, 20, 23, 24, and 25 of the '887 Patent are entitled to at least the
3 priority date of May 31, 2012, based on the filing date of the Provisional Application No.
4 61/653,819.

5
6 (g) **Plaintiff's Patented Products:** *"If a party claiming patent infringement wishes to*
7 *preserve the right to rely, for any purpose, on the assertion that its own or its licensee's*
8 *apparatus, product, device, process, method, act, or other instrumentality practices the*
9 *claimed invention, the party shall identify, separately for each asserted claim, each*
10 *such apparatus, product, device, process, method, act, or other instrumentality that*
11 *incorporates or reflects that particular claim."*

12 **Response:**

13 Plaintiff does not assert that its own or its licensee's apparatus, product, device, process,
14 method, act, or other instrumentality practices the claimed invention.

15 (h) **Infringement Period:** *"Identify the timing of the point of first infringement, the start*
16 *of claimed damages, and the end of claimed damages."*

17 **Response:**

18 On information and belief, based on testing in 2023, the timing of Defendants' first
19 infringement occurred no later than March 1, 2022, when Defendants launched Luna for the
20 public. Defendants' Luna Developer Guide indicates that it was copyrighted in 2017, meaning
21 infringement may have begun in or around 2017. Discovery is ongoing and Defendant reserves
22 the right to amend its contentions to identify an earlier date of infringement. Pursuant to 35
23 U.S.C. § 286, BSD identifies the start of the claimed damage period as June 11, 2016, which is
24 six years before the filing date of the Complaint. BSD further identifies the end of the claimed
25 damages period as September 24, 2032, which is the expiration date of the '887 Patent.

26 (i) **Willful Infringement:** *"If a party claiming patent infringement alleges willful*
27 *infringement, the basis for such allegation."*

28 **Response:**

Plaintiff has not yet asserted a claim of willful infringement in this case, but Plaintiff
reserves the right to amend this response in the event that new, additional, and/or different

1 information is learned as discovery progresses.

2 **Patent L.R. 3-2: Document Production Accompanying Disclosure:**

3 Pursuant to Patent L.R. 3-2 of the United States District Court for the Northern District of
4 California, Plaintiff hereby submits its document production accompanying its Disclosure of
5 Asserted Claims and Preliminary Infringement Contentions.

6 *(a) Documents (e.g., contracts, purchase orders, invoices, advertisements, marketing*
7 *materials, offer letters, beta site testing agreements, and third party or joint development*
8 *agreements) sufficient to evidence each discussion with, disclosure to, or other manner of*
9 *providing to a third party, or sale of or offer to sell, or any public use of, the claimed invention*
10 *prior to the date of application for the patent in suit. A party's production of a document as*
11 *required herein shall not constitute an admission that such document evidences or is prior art*
12 *under 35 U.S.C. § 102*

11 Plaintiff is not currently aware of any such documents.

12 *(b) All documents evidencing the conception, reduction to practice, design, and development*
13 *of each claimed invention, which were created on or before the date of application for the*
14 *patent in suit or the priority date identified pursuant to Patent L.R. 3-1(f), whichever is earlier*

14 BSD200000001-BSD200000272, BSD200000278, BSD200000415-BSD200000443

15 *(c) A copy of the file history for each patent in suit*

16 BSD200000001-BSD200000278, BSD200000415-BSD200000428

17 *(d) All documents evidencing ownership of the patent rights by the party asserting patent*
18 *infringement*

19 BSD200000273-BSD200000277

20 *(e) If a party identifies instrumentalities pursuant to Patent L.R. 3-1(g), documents sufficient*
21 *to show the operation of any aspects or elements of such instrumentalities the patent claimant*
22 *relies upon as embodying any asserted claims*

22 After a diligent and reasonably inquiry, Plaintiff is not currently aware of any such
23 documents.

24 *(f) All agreements, including licenses, transferring an interest in any patent-in-suit*

25 After a diligent and reasonably inquiry, Plaintiff has not granted any license to the '887
26 Patent.

27 *(g) All agreements that the party asserting infringement contends are comparable to a license*
28 *that would result from a hypothetical reasonable royalty negotiation*

1 After a diligent and reasonably inquiry, Plaintiff is not currently aware of any such
2 documents.

3 ***(h) All agreements that otherwise may be used to support the party asserting infringement's***
4 ***damages case***

5 After a diligent and reasonably inquiry, Plaintiff is not currently aware of any such
6 documents.

7 ***(i) If a party identifies instrumentalities pursuant to Patent L.R. 3-1(g), documents sufficient***
8 ***to show marking of such embodying accused instrumentalities and if it wants to preserve the***
9 ***right to recover lost profits based on such products, sales, revenues, costs and profits of such***
10 ***embodying accused instrumentalities***

11 After a diligent and reasonably inquiry, Plaintiff is not currently aware of any such
12 documents.

13 ***(j) All documents comprising or reflecting a F/RAND commitment or agreement with respect***
14 ***to the asserted patent(s)***

15 After a diligent and reasonably inquiry, Plaintiff is not currently aware of any such
16 documents.

17 Dated: October 15, 2024

18 By: /s/ Francisco Villegas

19 Francisco A. Villegas
20 Damir Cefo (*pro hac vice*)
21 Mark W. Halderman (*pro hac vice*)
22 Evan M. Rosenbaum
23 VILLEGAS & CEFO LLP

24 John V. Picone III
25 SPENCER FANE LLP

26 Attorneys for Plaintiff
27 B.S.D. CROWN, LTD.