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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

EVOLUTION MALTA LIMITED, EVOLUTION GAMING MALTA LIMITED, EVOLUTION GAMING LIMITED and SIA EVOLUTION LATVIA, Plaintiffs, vs. LIGHT & WONDER, INC. f/k/a SCIENTIFIC GAMES CORP. and LNW GAMING, INC. f/k/a SG GAMING, INC., Defendants,	CASE NO.: 2:24-cv-00993-CDS-EJY **DEFENDANTS' LPR 1-8 DISCLOSURES AND ACCOMPANYING LPR 1-9 DOCUMENT PRODUCTION**

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I. INTRODUCTION

Defendants Light & Wonder, Inc. f/k/a Scientific Games Corp. and LNW Gaming, Inc. f/k/a SG Gaming, Inc. (collectively, "L&W"), by and through their undersigned counsel and based upon the information currently and reasonably available to them, hereby provide Plaintiffs Evolution Malta Limited, Evolution Gaming Malta Limited, Evolution Gaming Limited, and SIA Evolution Latvia (collectively, "Plaintiffs or Evolution") with their Invalidity Contentions and Non-Infringement Contentions with respect to the following claims (the "Asserted Claims") of the following patents (the "Asserted Patents") identified in Evolution's Infringement Contentions:

- U.S. Patent No. 10,629,024 (the "'024 Patent"): claims 1-5, 7-12, 14-18, and 20;
- U.S. Patent No. 11,011,014 (the "'014 Patent"): claims 1-3, 5-11, 13-19, and 21-24; and
- U.S. Patent No. 11,756,371 (the "'371 Patent"): claims 1, 2, 4-12, 14-22, and 24-30.

L&W is also serving herewith its accompanying document production under LPR 1-9 and Exhibits A-1 through A-31, which show where in the prior art each element of each of the Asserted Claims is found. In addition, L&W is serving Exhibits B-1 through B-3, which provide a detailed description of the factual and legal grounds for L&W's contentions of non-infringement on a claim-by-claim basis.

II. LPR 1-8 DISCLOSURES AND CONTENTIONS

Exhibits A-1 through A-31 include claim charts of prior art references that, alone and/or in combination with (i) the knowledge of a person of ordinary skill in the art, (ii) what was already known in the art, and/or (iii) other references disclosed herein, render the Asserted Claims of the Asserted Patents invalid under 35 U.S.C. §§ 102 and/or 103. This cover pleading further includes exemplary combinations of prior art that render obvious the Asserted Claims and exemplary motivations for making such combinations. Exhibits B-1 through B-3 include claim charts that provide a detailed description of the factual and legal grounds for L&W's contentions of non-infringement on a claim-by-claim basis.

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A. LPR 1-8(a) Disclosures: Grounds For Contentions Of Non-Infringement

1. Preliminary Statement

L&W's Non-Infringement Contentions address the claims asserted against L&W in Plaintiffs' September 18, 2024 Disclosure of Asserted Claims (the "Asserted Claims") and Infringement Contentions. In the event Plaintiffs assert additional or different claims of the Asserted Patents, L&W expressly reserves the right to address the non-infringement of those claims.

Plaintiffs bear the burden of proving that the Accused Products infringe the Asserted Patents. L&W reserves the right to challenge the sufficiency of proof of infringement of any and all elements of the Asserted Claims. L&W does not infringe any of the Asserted Claims under 35 U.S.C. § 271(a), (b), or (f) because L&W does not make, use, sell, offer to sell, import, or export a product that infringes any of the Asserted Claims. Likewise, L&W does not induce or contribute to another's infringement of any of the Asserted Claims.

L&W submits these contentions without waiving any arguments about the sufficiency or substance of Evolution's Infringement Contentions and without waiving any challenges to Evolution's apparent claim constructions. L&W's contentions are based, at least in part, on Evolution's apparent constructions of the Asserted Claims and Evolution's application of those apparent constructions in its Infringement Contentions. L&W does not agree with Evolution's apparent constructions or application of the claims, and L&W denies infringement. L&W's contentions should not be construed as an admission regarding the proper construction of any limitation in any Asserted Claim and should not be deemed to represent or limit the claim constructions L&W will advance in this matter.

Discovery and L&W's investigation into this case is in its early stages and is ongoing. L&W's Non-Infringement Contentions are being made in good faith and are based on information obtained and reviewed to date, and L&W reserves the right to amend or supplement its contentions, based on additional information obtained or reviewed through further discovery or investigation. For example, L&W reserves the right to amend or supplement its contentions in view of (1) information provided by Evolution, positions that Evolution or its fact or expert

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witnesses may take, and/or any finding by this Court concerning issues of infringement and/or invalidity; (2) any change by Evolution in the claims it is asserting; (3) the Court's claim construction order; or (4) any other basis in law or in fact.

Further, these contentions are provided without prejudice to the rights of L&W to introduce at trial expert opinions relating to currently known facts and subsequently discovered facts, subsequently discovered evidence of currently known facts, and any subsequently discovered evidence to support L&W's arguments or rebut Plaintiffs' arguments; and to produce and introduce at trial all evidence, whenever discovered, relating to the proof of currently known and subsequently discovered facts. The contentions set forth below are provided by L&W without waiver of L&W's right to: (1) object to the use of any statement herein in this or any other action on any ground, including, without limitation, privilege, relevance or materiality; (2) object to any request for further discovery relating to the subject matter of the statements herein; or (3) revise, correct, supplement, or clarify any of the statements provided herein.

Through these Non-Infringement Contentions, L&W does not intend to disclose information that is protected by the attorney-client privilege, the attorney work-product immunity, the common-interest privilege, or any other applicable privilege or immunity. To the extent that L&W inadvertently discloses information that may be protected from discovery under the attorney-client privilege, the attorney work-product immunity, the common-interest privilege, or any other applicable privilege or immunity, such inadvertent disclosure does not constitute a waiver of any such privilege or immunity.

2. Evolution Failed To Sufficiently Identify Any Accused Instrumentality That Meets All Claim Limitations

L&W's provision of these Non-Infringement Contentions is neither an admission nor a concession that Plaintiffs properly set forth bases for infringement of the Asserted Claims in their Complaint or Infringement Contentions as required under LPR 1-6(b) and (c).

Indeed, Evolution has failed to sufficiently identify the Accused Instrumentality as required by LPR 1-6(b). Evolution's Infringement Contentions do not establish that any Accused Product meets all the elements of the Asserted Claims.

In Evolution's identification of accused products, Evolution identifies Roulette X as infringing the '024 Patent and the '014 Patent and identifies Roulette X and Power X as infringing the '371 Patent. (*see* Plaintiffs' LPR 1-6 Disclosure of Asserted Claims and Infringement Contentions and Accompanying LPR 1-7 Document Production, dated September 18, 2024 at 3-4.) In Evolution's claims charts (Exhibits A-C), Evolution, however, relies on L&W's Quartz Hybrid cabinet and Quartz Standalone cabinet products to satisfy the Asserted Claims. (*See, e.g.*, Plaintiffs' LPR 1-6 Disclosure of Asserted Claims and Infringement Contentions and Accompanying LPR 1-7 Document Production, dated September 18, 2024, Exhibit A at 3, 29-30, Exhibit B at 3, Exhibit C at 3.)

In violation of LPR 1-7(c), Evolution's Infringement Contentions do not establish that L&W's Roulette X and Power X—the only Accused Products—meet all the elements of the Asserted Claims. Specifically, Roulette X and Power X are software programs—an application of a game that can be played on electronic gaming terminals. Evolution's Infringement Contentions fail to show that ***Roulette X and Power X themselves*** contain a processor as required by the Asserted Claims. Instead, Evolution's Infringement Charts rely on the processor of L&W's Quartz Hybrid gaming terminal and/or L&W's Quartz Standalone gaming terminal to satisfy this limitation. (Plaintiffs' LPR 1-6 Disclosure of Asserted Claims and Infringement Contentions and Accompanying LPR 1-7 Document Production, dated September 18, 2024, Exhibit A at 29-30, Exhibit B at 29, Exhibit C at 34-35.)

In addition to not establishing that L&W's Roulette X and Power X meet all the elements of the Asserted Claims, Evolution has not established that L&W's Quartz Hybrid and Quartz Standalone products satisfy all elements of the Asserted Claims. Evolution freely mixes and matches which gaming terminal satisfies each element of the Asserted Claims without identifying a single gaming terminal or gaming system that meets all the limitations of the Asserted Claims. For example, in Exhibit A, Evolution only identifies L&W's Quartz Hybrid cabinet as meeting the limitation of 1[c] of the '024 Patent. Exhibit A at 29-30. Given these violations, L&W specifically reserves its right to move to strike Evolution's Infringement Contentions.

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3. Disclosure Of Non-Infringement Contentions

*** CONFIDENTIAL DESIGNATION BEGINS ***

[redacted]

*** CONFIDENTIAL DESIGNATION END ***

A chart identifying the Asserted Claims and the grounds for L&W's assertion of non-infringement as to each limitation of each claim at issue, are attached as Exhibits B-1 through B-3. The identification of documents, specific pages or portions of documents is exemplary. L&W reserves the right to rely on other documents, the entirety of the documents discussed and cited in these contentions, regardless of whether specific pages and/or portions are explicitly cited herein.

Discovery and L&W's investigation in connection with this case are continuing. L&W reserves the right to amend or supplement its contentions, as permitted, based on additional information obtained or reviewed through further discovery or investigation.

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B. LPR 1-8(b) Disclosures: Identification Of Items Of Prior Art That Anticipate And/Or Render Obvious The Asserted Claims

Subject to Defendants' reservation of rights, Defendants contend that the following prior art patents, printed publications, and systems, alone and/or in combination, anticipate and/or render obvious the Asserted Claims of the Asserted Patents.

Discovery is ongoing, and Defendants' prior art investigation and third party discovery are therefore not yet complete. Accordingly, Defendants reserve the right to present additional items of prior art located during the course of discovery or further investigation. For example, Defendants expect to issue subpoenas to third parties believed to have knowledge, documentation, and/or additional prior art. These third parties include, without limitation, at least the inventors, developers, or assignees of the prior art identified in these disclosures.

Defendants disclose the following prior art that anticipates and/or renders obvious the Asserted Claims:

Patents and Patent Publications		
Patent or Publication No.	**Country of Origin**	**Date of Publication or Issue**
US Patent Publication No. 2008/0248853 to Kido ("Kido 853")	USA	Oct. 9, 2008 (filed Mar. 28, 2008)
US Patent Publication No. 2002/0167126 to Raedt ("Raedt")	USA	Nov. 14, 2002 (filed Mar. 9, 2001)
US Patent Publication No. 2016/0155296 to Baron ("Baron")	USA	June 2, 2016 (filed Dec. 2, 2014)
US Patent Publication No. 2011/0006477 to Miller ("Miller")	USA	Jan. 13, 2012 (filed July 9, 2009)
US Patent Publication No. 2008/0242393 to Kido ("Kido 393")	USA	Oct. 2, 2008 (filed Mar. 28, 2008)
US Patent Publication No. 2007/0060262 to Kosaka ("Kosaka")	USA	Mar. 15, 2007 (filed Aug. 8, 2006)
US Patent Publication No. 2011/0109040 ("Thibault")	USA	May 12, 2011 (filed July 6, 2009)
US Patent Publication No. 2014/0128141 ("Bontempo 141")	USA	May 8, 2014 (filed Jan. 9, 2014)
US Patent Publication No. 2017/0193742 ("Lim")	USA	July 6, 2017 (filed Mar. 20, 2017)
US Patent No. 5,636,838 to Caro ("Caro")	USA	June 10, 1007 (Sep. 23, 1994)

Patents and Patent Publications		
Patent or Publication No.	**Country of Origin**	**Date of Publication or Issue**
US Patent No. 5,743,798 to Adams ("Adams")	USA	Apr. 28, 1998 (filed Sep. 30, 1996)
US Patent No. 5,743,800 to Huard ("Huard")	USA	Apr 28, 1998 (filed Aug. 16, 1996)
US Patent No. 7,533,885 to Nicely ("Nicely 885")	USA	May 19, 2009 (filed Feb. 23, 2005)
US Patent No. 7,708,630 to Nicely ("Nicely 630")	USA	May 4, 2010 (filed Dec. 11, 2006)
US Patent No. 7,762,883 to Griswold ("Griswold")	USA	July 27, 2010 (filed Mar. 1, 2007)
US Patent No. 8,986,106 to Nicely ("Nicely 106")	USA	Mar. 24, 2015 (filed Sep. 2, 2011)
US Patent No. 10,546,457 to Snow ("Snow")	USA	Jan. 28, 2020 (filed Sep. 26, 2016)
US Patent No. 7,478,812 to Sokolov ("Sokolov")	USA	Jan. 20, 2009 (filed Sep. 30, 2004)
US Patent No. 7,857,697 ("Govender")	USA	Dec. 28, 2010 (filed Dec. 19, 2005)
US Patent No. 9,361,755 ("Gagner")	USA	June 7, 2016 (filed Oct. 1, 2015)
US Patent No. 7,674,172 to Miltenberger ("Miltenberger 172")	USA	Mar. 9, 2010 (filed Nov. 10, 2006)
US Patent No. 9,600,974 to Yee ("Yee")	USA	Mar. 21, 2017 (filed Sep. 20, 2013)
US Patent No. 9,646,459 to Hsu ("Hsu")	USA	May 9, 2017 (filed July 26, 2013)
US Patent No. 5,540,442 to Orselli ("Orselli")	USA	July 30, 1996 (filed Apr. 18, 1995)
US Patent No. 8,002,621 to Mattice ("Mattice")	USA	Aug. 23, 2011 (filed Sep. 1, 2006)
US Patent No. 9,327,186 to Pececnik ("Pececnik")	USA	May 3, 2016 (filed May 16, 2015)
WO 2016/118075 A1 to Koh ("Koh")	Singapore	July 28, 2016 (filed Jan. 22, 2015)
WO 2015/139088 A1 to Witty ("Witty")	Australia	Sep. 24, 2015 (Filed Mar. 18, 2014)

Defendants also disclose the references applied during patent examination, and specifically those that were applied in rejections under § 102 or § 103.

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Defendants also contend that the Asserted Claims are invalid in view of public knowledge and uses and/or offers for sale or sales of products and services that are prior art. The following lists each system that is presently known by Defendants to constitute prior art. Defendants contend that the following descriptions and events are stated on information and belief, and are supported by the information and documents that will be produced by Defendants and/or third parties. As discovery is ongoing, Defendants continue to investigate these prior art systems.

Defendants also reserve the right to rely upon any system, public knowledge or use embodying or otherwise incorporating any of the prior art disclosed herein, alone or in combination. Defendants further reserve the right to rely upon any other documents or references describing any such system, knowledge, or use.

The following systems, and any other systems identified in these contentions, are prior art that anticipates and/or renders obvious the Asserted Claims:

Prior Art Systems		
Product	**Entity**	**Offer for Sale or Public Use Date**
Double Ball Roulette	AGS, Evolution	On or before August 27, 2016
Jumbo Roulette with Random Pay	Jumbo Technology	On or before May 13, 2017[1]
Back2Back Roulette (aka B2B Roulette)	Light & Wonder, Inc.	On or before October 2016

C. LPR 1-8(c) Disclosures: Each Item Of Prior Art That Anticipates And/Or Renders Obvious The Asserted Claims, And Obviousness Combinations

Based on presently known information and the apparent constructions Plaintiffs are asserting in its Infringement Contentions, the prior art references identified above anticipate the Asserted Claims and/or, alone or in combination with the knowledge of a person of ordinary skill in the art, or what was already known in the art, render the Asserted Claims obvious. To the extent Plaintiffs assert that any of the prior art references charted in Exhibits A-1 through A-31 fail to explicitly or inherently disclose any element of the Asserted Claims, Defendants contend

[1] https://web.archive.org/web/20170513080637/http:/www.jumbogames.com.tw/pro_view.php?products_sn=4

that it would have been obvious to modify such reference to include the allegedly missing element, in view of the knowledge of one of ordinary skill in the art, the admitted prior art of the Asserted Patents, and/or in combination with any of the other prior art references identified in the Exhibits or herein for that respective patent. To the extent Plaintiffs contend that any primary reference does not anticipate the Asserted Claims, Defendants contend that it would have been obvious to combine or modify the primary references with concepts from other prior art, as explained herein.

In particular, for each limitation of the Asserted Claims that Plaintiffs contend is not met by a particular primary reference, Defendants contend that the limitation (and claim as a whole) is obvious based on a combination of that particular primary reference with (1) any other reference as identified in Exhibits A-1 through A-31 or herein as disclosing that limitation, (2) any admitted prior art, and/or (3) the knowledge of a person of ordinary skill in the art including any of the references and concepts discussed herein regarding the relevant background and state of the art. Defendants' obviousness grounds for each dependent claim incorporate the obviousness grounds for the claim(s) from which the dependent claim depends in addition to any obviousness grounds identified in the charts for the dependent claim.

Defendants do not yet have the benefit of Plaintiffs' positions on the prior art, including what (if any) elements it contends are missing in each prior art reference, whether Plaintiffs agree that a reference is in fact prior art, and whether Plaintiffs agree that a person of ordinary skill in the art would be motivated to combine specific references. Defendants reserve the right to supplement these obviousness positions (including identifying additional prior art combinations and the associated reasons to combine) as discovery in the case progresses, including third party discovery and expert discovery.

Consistent with the Supreme Court's decision in *KSR Int'l, Co. v. Teleflex, Inc.*, 172 S. Ct. 1727 (2007), a patent claim is invalid under 35 U.S.C. § 103 if the differences between the subject matter claimed and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art ("POSA"). In this regard, a combination of familiar elements according to known methods is

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likely to be obvious when it does no more than yield predictable results. When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, and if a person of ordinary skill can implement a predictable variation, the patent statute likely bars its patentability. A court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions. In this analysis, often, it will be necessary to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. But the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

In considering obviousness, any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed. The proper inquiry is whether a designer of ordinary skill, facing the wide range of needs created by developments in the field of endeavor, would have seen a benefit of combining prior art elements. When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue known options. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under the patent laws. Indeed, common sense teaches that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents or other prior art references together like pieces of a puzzle.

The sources of information for an obviousness analysis can include: market forces; design incentives; the interrelated teachings of multiple patents; any need or problem known in the field of endeavor at the time of the invention addressed by the patent; and the background knowledge, creativity and common sense of the person of ordinary skill. An analysis of

obviousness can include recourse to logic, judgment and common sense available to the person of ordinary skill that do not necessarily require explication in any reference.

Here, the suggestion or motivation to combine prior art references is provided by the explicit and implicit teachings of the cited references themselves, the knowledge of one of ordinary skill in the art, and/or the nature of the problem(s) purportedly being solved.

1. Background And State Of The Art

Defendants set forth below a summary of its current understanding of the state of the art as understood as of the asserted priority date of the Asserted Patents for the general subject matter of the Asserted Patents. The information discussed in this section may have formed the background knowledge of a person of ordinary skill in the art at the time the Asserted Patents were filed and may have been used in determining whether and how to combine references to achieve the claimed inventions. *See Randall Mfg. v. Rea*, 733 F.3d 1355, 1362 (Fed. Cir. 2013) (stating that "the knowledge [of a person of ordinary skill in the art] is part of the store of public knowledge that must be consulted when considering whether a claimed invention would have been obvious"). Defendants expressly reserve the right to rely on each of the prior art references, systems, concepts, and technologies discussed in this Section with respect to each of the Asserted Patents.

State Of The Art – Prior Art References

In addition to the prior art identified above that anticipates and/or renders obvious the Asserted Claims of the Asserted Patents, Defendants disclose the following prior art references showing the state of the art and background knowledge of a person of ordinary skill in the art at the time of the alleged invention.

Patents and Patent Publications		
Patent or Publication No.	**Country of Origin**	**Date of Publication or Issue**
US Patent Publication No. 2014/0228093 to Jarvis	USA	Aug. 14, 2014 (filed Apr. 22, 2014)
US Patent No. 7,811,168 to Parham	USA	Oct. 12, 2010 (filed Feb. 27, 2003)
US Patent Publication No. 2013/0260869 to Basallo	USA	Oct. 3, 2013 (filed Mar. 11, 2013)

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Patents and Patent Publications		
Patent or Publication No.	**Country of Origin**	**Date of Publication or Issue**
U.S. Patent No. 10,065,106 to Fitoussi	USA	Issued Sep. 4, 2018; published June 15, 2017 (filed Apr. 8, 2016)
US Patent No. 8,556,711 to Bernsen	USA	Oct. 15, 2013 (filed Sep. 29, 2011)
US Patent No. 11,3733,479 to Czyzewski	USA	June 28, 2022 (filed Mar. 16, 2020; claims priority to U.S. Appl. No. 14/027,082, filed Sep. 13, 2013 and published Mar. 19, 2015)

Prior Art Systems		
Product	**Entity**	**Offer for Sale or Public Use Date**
Double Action Roulette	TCSJohnHuxley	On or before January 2011
Lucky Ball Roulette	TCSJohnHuxley	On or before October 2017
Dragon Roulette	TCSJohnHuxley	On or before Apr. 20, 2014[2]
Lucky Lady Roulette	Novomatic	On or before Jan. 23, 2017[3]
Roulette Online by IGT	IGT	On or before Jan. 7, 2011[4]
Immersive Roulette	Evolution Games	On or before Jan. 29, 2018[5]
Golden Chip Mystery on Diamond Video Roulette	Interblock	On or before Sep. 7, 2017[6]

State Of The Art And Admitted Prior Art – Patent Specifications

The specifications of the Asserted Patents admit that many of the features described and claimed are known in the art and can be implemented using "any suitable," conventional means.

Roulette Wheel: The Asserted Patents admit that the claimed "roulette wheel" is known and can be implemented using any suitable, conventional means: "Roulette wheel 102 can be any suitable roulette wheel. This roulette wheel can be a real, physical roulette wheel. For example, roulette wheel 102 can be a single zero or double zero roulette wheel. In some embodiments, when implemented as a single zero roulette wheel, the wheel can have 37 positions number as follows: 0, 32, 15, 19, 21, 2, 25, 17, 34, 6, 27, 13, 36, 11, 30, 8, 23, 10, 5,

[2] LW-00001046.
[3] LW-00001230.
[4] LW-00001218.
[5] LW-00001235.
[6] LW-00001071.

24, 16, 33, 1, 20, 14, 31, 9, 22, 18, 29, 7, 28, 12, 35, 3, and 26. In some embodiments, when implemented as a double zero roulette wheel, the wheel can have 38 positions number as follows: 0, 28, 9, 26, 30, 11, 7, 20, 32, 17, 5, 22, 34, 15, 3, 24, 36, 13, 1, 00, 27, 10, 25, 29, 12, 8, 19, 31, 18, 6, 21, 33, 16, 4, 23, 35, 14, and 2." ('024 Patent, 2:56-3:1.)

Wheel Sensor: The Asserted Patents admit that the claimed "wheel sensor" is known and can be implemented using any suitable, conventional means: "Referring back to FIG. 1, wheel sensor 104 can detect the spinning of the wheel and the position in which the ball falls. The sensor can be implemented in any suitable manner. For example, the sensor can be implemented as a camera." (*Id.*, 3:9-12.)

Dealer Computer: The Asserted Patents admit that the described "dealer computer" is known and can be implemented using any suitable, conventional computer: "Dealer computer 106 can be any suitable computer that can be used by a game presenter to monitor game activity." (*Id.*, 3:16-17.)

Core Application Computer: The Asserted Patents admit that the described "core application computer" is conventional and any suitable computer can be used: "Core application computer 108 can be any suitable computer that controls the activity of the game being presented by the system 100." (*Id.*, 3:23-25.)

Video Switch: The Asserted Patents admit that the described "video switch" is conventional and that any suitable video switch will suffice: "Any suitable video switch can be used in some embodiments." (*Id.*, 3:33-35.)

Video/audio Encoder: The Asserted Patents confirm that the described "video/audio encoder" is conventional: "Video/audio encoder 116 can be any suitable video and/or audio encoder. In some embodiments, encoder 116 can be implemented as multiple encoders, any of which encoders can be different from any others of the encoders. For example, when using multiple encoders, some may be video encoders and some may be audio encoders. Some may be high definition encoders, while others can be standard definition encoders, as another example." (*Id.*, 3:36-43.)

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Audio Mixer and Digitizer: The Asserted Patents likewise confirm that the described "audio mixer and digitizer" is well-known and performs its traditional functions: "Audio mixer and digitizer 118 can be any suitable audio mixer and digitizer for receiving sound-effect signals and background-music signals from audiovisual control system 122 and voice signals from microphone 120, mixing those signals, digitizing those signals, and providing those signals to encoder 116." (*Id.*, 3:44-49.)

Microphone: The Asserted Patents admit that the described "microphone" is a conventional microphone that performs standard microphone functions: "Microphone 120 can be any suitable microphone for capturing the voice of a game presenter (or dealer). In some embodiments, microphone 120 can be part of another device, such as a headset, one of cameras 112 and 114, etc." (*Id.*, 3:50-53.)

Audiovisual Control System: The Asserted Patents admit that the described "audiovisual control system" is "any suitable," conventional computer system: "Audiovisual control system 122 can be any suitable computer system for controlling sound effects, background music, light emitting diodes in matrix 126, any other suitable lights, etc." (*Id.*, 3:54-57.)

LED Driver: The Asserted Patents confirm that the described "LED driver" is "any suitable" circuitry that can drive LED lights: "LED driver 124 can be any suitable driver circuitry for driving LEDs, lights, and/or any other visual effects that are presented on or around the wheel and/or in the field of view of one or more of cameras 112 and 114." (*Id.*, 3:62-65.)

LED Matrix: The Asserted Patents admit that the described "LED matrix" is as it sounds—a conventional collection of LED lights: "LED matrix 126 can be any suitable collection of one or more LEDs, lights, and/or any other visual effects that are presented on or around the wheel and/or in the field of view of one or more of cameras 112 and 114." (*Id.*, 3:66-4:2.)

Computer Network: The Asserted Patents also admit that the described "computer network" is a routine, conventional communication network: "Computer network 128 can be any suitable communication network or combination of communication networks that can be used by a device 130, 132, and/or 134 for communicating with the remainder of system 100. For

example, network 128 can include the Internet, one or more mobile telephone networks, one or more mobile data networks, one or more cable television networks, one or more satellite networks, one or more WiFi networks, one or more local area networks, one or more wide area networks, and/or any other one or more suitable communication networks." (*Id.*, 4:3-12.)

Player Devices: The Asserted Patents admit that the claimed "player devices" are routine devices that allow a user to interact with the system: "Player devices 120, 132, and 134 can be any suitable devices for interacting with the remainder of system 100." (*Id.*, 4:13-14.) The devices themselves also use routine, conventional, and well-known concepts ("these devices can present a user interface, video, and audio") that "allow a player to experience a wagering game." (*Id.*, 4:15-17.)

Game Display: The Asserted Patents admit that the claimed and described "game display" is a conventional display: "Game display 136 can be any suitable display for presenting visual effects in the field of view of one or more cameras." (*Id.*, 4:26-28.)

Hardware Processor: The Asserted Patents admit that the claimed "hardware processor" is conventional and routine: "Hardware processor 602 can include any suitable hardware processor, such as a microprocessor, a micro-controller, digital signal processor(s), dedicated logic, and/or any other suitable circuitry for controlling the functioning of a general-purpose computer or a special-purpose computer in some embodiments." (*Id.*, 6:41-46.)

Memory: The Asserted Patents admit that the described "memory" is conventional and routine: "Memory 604 can be any suitable memory for storing programs, data, media content, and/or any other suitable information in some embodiments. For example, memory 604 can include random access memory, read-only memory, flash memory, and/or any other suitable memory." (*Id.*, 6:47-51.)

Storage: The Asserted Patents admit that the described "storage" is conventional and routine: "Storage 606 can be any suitable storage for storing programs, data, media content, and/or any other suitable information in some embodiments. For example, storage 606 can include flash memory, hard disk drive, optical media, and/or any other suitable storage." (*Id.*, 6:52-56.)

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Display/audio interface(s): The Asserted Patents admit that the described "display/audio interface(s)" can be "any suitable," i.e., conventional, circuitry: "Display/audio interface(s) 608 can be any suitable circuitry for controlling and driving output to one or more display/audio output circuitries in some embodiments. For example, display/audio interface(s) 608 can be circuitry for driving an LCD display, a speaker, an LED, or any other type of output device." (*Id.*, 6:57-62.)

Input interface(s): The Asserted Patents admit that the "input interface(s)" can also be "any suitable" circuitry: "Input interface(s) 610 can be any suitable circuitry for controlling and receiving input from any suitable input device(s) in some embodiments. For example, input interface(s) 610 can be any suitable circuitry for receiving input from an input device, such as a touch screen, from one or more buttons, from a voice recognition circuit, from a microphone, from a camera, from an optical sensor, from an accelerometer, from a temperature sensor, from a near field sensor, and/or any other type of input device." (*Id.*, 6:63-7:4.)

Communication Interface(s): The Asserted Patents admit that the described "communication interface(s)" can be "any suitable" circuitry: "Communication interface(s) 612 can be any suitable circuitry for interfacing with one or more communication networks, such as network 128 as shown in FIG. 1. For example, interface(s) 612 can include network interface card circuitry, wireless communication circuitry, and/or any other suitable type of communication network circuitry." (*Id.*, 7:5-10.)

Bus: The Asserted Patents admit that the described "bus" can be "any mechanism for communicating between two or more components." (*Id.*, 7:11-13.)

Computer Readable Media: The Asserted Patents admit that the claimed "computer readable media" can be "any suitable computer readable media" that is capable of storing instructions: In some implementations, any suitable computer readable media can be used for storing instructions for performing the functions and/or processes described herein. For example, in some implementations, computer readable media can be transitory or non-transitory. For example, non-transitory computer readable media can include media such as non-transitory forms of magnetic media (such as hard disks, floppy disks, etc.), non-transitory forms of optical

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media (such as compact discs, digital video discs, Blu-ray discs, etc.), non-transitory forms of semiconductor media (such as flash memory, electrically programmable read only memory (EPROM), electrically erasable programmable read only memory (EEPROM), etc.), any suitable media that is not fleeting or devoid of any semblance of permanence during transmission, and/or any suitable tangible media." (*Id.*, 7:24-39.)

In addition to the above, the remainder of the specification of the Asserted Patents further illustrates the conventional, non-inventive nature of the alleged invention:

- "Turning to FIG. 2, an example 200 of a process for implementing a wagering game in accordance with some embodiments is shown. As illustrated, after process 200 begins at 202, the process can receive bet information at 204. ***Any suitable bet information*** can be received in some embodiments. For example, in some embodiments, the bet information can include ***any suitable roulette bet*** (as known in the art), such as a bet on one or more wheel positions and an amount wagered (e.g., $20)." (*Id.*, 4:31-3.)
- "Next, at 206, a roulette wheel and ball can be spun. This can be performed in ***any suitable manner***." (*Id.*, 4:40-41.)
- "At 208, bets can then be closed by process 200. This can occur in response to a game presenter selecting on dealer computer 106 to close bets, based on an automatic timer, and/or based on ***any other suitable factors***." (*Id.*, 4:48-51.)
- "Then, at 210, process 200 can randomly select one or more of the roulette wheel numbers. These numbers can be selected in ***any suitable manner*** and ***any suitable number*** of numbers can be selected." (*Id.*, 4:56-59.)
- "In some embodiments, ***any suitable visual effect*** can be presented to enhance the player's experience." (*Id.*, 5:7-8.)
- "At 212, process 200 can next determine the increased payouts for the numbers selected at 210. ***Any suitable payouts*** can be used in some embodiments." (*Id.*, 5:13-15.)

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- "Turning to FIG. 4, an example of a visual effect of numbers being randomly selected is shown. For example, the '5' and the '3rd of 12' numbers are shown with lightning effects. ***Any suitable visual effect*** can be used in some embodiments. In some embodiments, no visual effect can be used." (*Id.*, 6:17-22.)

2. Prior Art That Anticipates And/Or Renders Obvious The Asserted Claims

The prior art references identified in the following table anticipate and/or render obvious Asserted Claims of the Asserted Patents. Defendants' identification of the below prior art references does not preclude Defendants from identifying other invalidating references, including those that that anticipate the Asserted Claims, or function as single-reference obviousness prior art. Indeed, fact discovery has only recently commenced, and third-party discovery has not yet begun. Moreover, Defendants' invalidity theories may change based on changes permitted to Plaintiffs' infringement contentions, Plaintiffs' claim construction positions, or any order by the Court relating to claim construction.

Anticipatory and/or Single-Reference Obviousness Prior Art	Patent / Claim(s)
Double Ball Roulette anticipates and/or renders obvious	'024 Patent, claims 1-5, 7-12, 14-18, and 20; '014 Patent, claims 1-3, 5-11, 13-19, and 21-24; '371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Jumbo Roulette with Random Pay anticipates and/or renders obvious	'024 Patent, claims 1-5, 7-12, 14-18, and 20; '014 Patent, claims 1-3, 5-11, 13-19, and 21-24; '371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Kido 853 anticipates and/or renders obvious	'024 Patent, claims 1-5, 7-12, 14-18, and 20;

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Anticipatory and/or Single-Reference Obviousness Prior Art	Patent / Claim(s)
	’014 Patent, claims 1-3, 5-11, 13-19, and 21-24; ’371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Raedt anticipates and/or renders obvious	’024 Patent, claims 1-5, 7-12, 14-18, and 20; ’014 Patent, claims 1-3, 5-11, 13-19, and 21-24; ’371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Baron anticipates and/or renders obvious	’024 Patent, claims 1-5, 7-12, 14-18, and 20; ’014 Patent, claims 1-3, 5-11, 13-19, and 21-24; ’371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Miltenberger 172 anticipates and/or renders obvious	’024 Patent, claims 1-5, 7-12, 14-18, and 20; ’014 Patent, claims 1-3, 5-11, 13-19, and 21-24; ’371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Yee anticipates and/or renders obvious	’024 Patent, claims 1-5, 7-12, 14-18, and 20; ’014 Patent, claims 1-3, 5-11, 13-19, and 21-24; ’371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Hsu anticipates and/or renders obvious	’024 Patent, claims 1-5, 7-12, 14-18, and 20; ’014 Patent, claims 1-3, 5-11, 13-19, and 21-24; ’371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Orselli anticipates and/or renders obvious	’024 Patent, claims 1-5, 7-12, 14-18, and 20;

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Anticipatory and/or Single-Reference Obviousness Prior Art	Patent / Claim(s)
	’014 Patent, claims 1-3, 5-11, 13-19, and 21-24; ’371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Miller anticipates and/or renders obvious	’024 Patent, claims 1-5, 7-12, 14-18, and 20; ’014 Patent, claims 1-3, 5-11, 13-19, and 21-24; ’371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Pececnik anticipates and/or renders obvious	’024 Patent, claims 1-5, 7-12, 14-18, and 20; ’014 Patent, claims 1-3, 5-11, 13-19, and 21-24; ’371 Patent, claims 1, 2, 4-12, 14-22, and 24-30

In addition to the prior art cited above, the following references disclose the alleged “innovation” of the Asserted Patents, *i.e.*, “randomly select[ing] one or more of the roulette wheel numbers, and determin[ing] the increased payouts for those randomly selected numbers” (Complaint, ¶¶ 44, 69, 96):

- Caro
- Huard (*see*, *e.g.*, Yee, 1:37-44: “U.S. Pat. No. 5,743,800, issued Apr. 28, 1998, to Huard et al., discloses a progressive side bet applicable to roulette that a player wins when a randomly selected number is the winning number ….”)
- Nicely 885
- Snow

3. Obviousness Combinations

The following combinations are merely exemplary and provided as examples of combinations that render the Asserted Claims invalid. Defendants’ identification of the below exemplary combinations does not preclude Defendants from identifying other invalidating

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combinations as discovery progresses. Indeed, fact discovery has only recently commenced, and third-party discovery has not yet begun. Moreover, Defendants' obviousness combinations may change based on changes permitted to Plaintiffs' infringement contentions, Plaintiffs' claim construction positions, or any order by the Court relating to claim construction.

Exemplary Obviousness Combinations	Patent / Claim(s)
Double Ball Roulette in view of any of the references cited in Section II.C.3.a	'371 Patent, claims 6, 16, 22
Double Ball Roulette in view of any of the references cited in Section II.C.3.b	'024 Patent, claims 4, 11, 17; '014 Patent, claims 2, 10, 18
Double Ball Roulette in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	'024 Patent, claims 5, 12, 18; '014 Patent, claims 3, 11, 19
Double Ball Roulette in view of any of the references cited in Section II.C.3.c	'014 Patent, claims 7, 8, 15, 16, 23, 24; '371 Patent, claims 7, 17, 27
Double Ball Roulette in view of any of the references cited in Section II.C.3.d	'024 Patent, claims 7, 14, 20; '014 Patent, claims 5, 13, 21; '371 Patent, claims 4, 14, 24
Double Ball Roulette in view of any of the references cited in Section II.C.3.e	'024 Patent, claims 2, 9, 16
Double Ball Roulette in view of any of the references cited in Section II.C.3.f	'024 Patent, claims 3, 10
Double Ball Roulette in view of any of the references cited in Section II.C.3.g	'371 Patent, claims 2, 12, 22
Double Ball Roulette in view of any of the references cited in Section II.C.3.h	'014 Patent, claims 6, 14, 22; '371 Patent, claims 5, 15, 25
Double Ball Roulette in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.h	'024 Patent, claims 1, 8, 15; '014 Patent, claims 1, 6, 9, 14, 17, 22; '371 Patent, claims 1, 5, 6, 8-11, 15, 16, 18-21, 25, 26, 28-30
Double Ball Roulette in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.b	'024 Patent, claims 4, 11, 17; '014 Patent, claims 2, 10, 18
Double Ball Roulette in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited	'024 Patent, claims 5, 12, 18;

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Exemplary Obviousness Combinations	Patent / Claim(s)
in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’014 Patent, claims 3, 11, 19
Double Ball Roulette in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Double Ball Roulette in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Double Ball Roulette in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Double Ball Roulette in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Double Ball Roulette in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Jumbo Roulette with Random Pay in view of any of the references cited in Section II.C.3.a	’371 Patent, claims 6, 16, 26
Jumbo Roulette with Random Pay in view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18
Jumbo Roulette with Random Pay in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c.	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Jumbo Roulette with Random Pay in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Jumbo Roulette with Random Pay in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Jumbo Roulette with Random Pay in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Jumbo Roulette with Random Pay in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10

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Exemplary Obviousness Combinations	Patent / Claim(s)
Jumbo Roulette with Random Pay in view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Jumbo Roulette with Random Pay in view of any of the references cited in Section II.C.3.h	’014 Patent, claims 6, 14, 22; ’371 Patent, claims 5, 15, 25
Kido 853 in view of any of the references cited in Section II.C.3.a	’371 Patent, claims 6, 16, 26
Kido 853 in view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18
Kido 853 in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Kido 853 in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Kido 853 in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Kido 853 in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Kido 853 in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Kido 853 in view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Kido 853 in view of any of the references cited in Section II.C.3.h	’014 Patent, claims 6, 14, 22; ’371 Patent, claims 5, 15, 25
Raedt in view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18
Raedt in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Raedt in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Raedt in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21;

Exemplary Obviousness Combinations	Patent / Claim(s)
	’371 Patent, claims 4, 14, 24
Raedt in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Raedt in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Raedt in view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Raedt in view of any of the references cited in Section II.C.3.h	’014 Patent, claims 6, 14, 22; ’371 Patent, claims 5, 15, 25
Raedt in view of any of the references cited in Section II.C.3.a	’024 Patent, claims 1, 8, 15; ’014 Patent, claims 1, 9, 17; ’371 Patent, claims 1, 6, 8-11, 16, 18-21, 26, 28-30
Raedt in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18
Raedt in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Raedt in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Raedt in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Raedt in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Raedt in view of any of the references cited in Section II.C.3.a , in further view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Raedt in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Raedt in view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.h	’014 Patent, claims 6, 14, 22; ’371 Patent, claims 5, 15, 25
Baron in view of any of the references cited in Section II.C.3.a	’371 Patent, claims 6, 16, 26
Baron in view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18

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Exemplary Obviousness Combinations	Patent / Claim(s)
Baron in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Baron in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Baron in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Baron in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Baron in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Baron in view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Baron in view of any of the references cited in Section II.C.3.h	’014 Patent, claims 6, 14, 22; ’371 Patent, claims 5, 15, 25
Miltenberger 172 in view of any of the references cited in Section II.C.3.a	’371 Patent, claims 6, 16, 26
Miltenberger 172 in view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18
Miltenberger 172 in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Miltenberger 172 in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Miltenberger 172 in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Miltenberger 172 in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Miltenberger 172 in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Miltenberger 172 in view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Miltenberger 172 in view of any of the references cited in Section II.C.3.h	’014 Patent, claims 6, 14, 22; ’371 Patent, claims 5, 15, 25

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Exemplary Obviousness Combinations	Patent / Claim(s)
Miltenberger 172 in view of any of the other references cited in Section II.C.2	'024 Patent, claims 1-5, 7-12, 14-18, and 20; '014 Patent, claims 1-3, 5-11, 13-19, and 21-24; '371 Patent, claims 1, 2, 4-12, 14-22, and 24-30
Miltenberger 172 in view of any of the other references cited in Section II.C.2, in further view of any of the references cited in Section II.C.3.a	'371 Patent, claims 6, 16, 26
Miltenberger 172 in view of any of the other references cited in Section II.C.2, in further view of any of the references cited in Section II.C.3.b	'024 Patent, claims 4, 11, 17; '014 Patent, claims 2, 10, 18
Miltenberger 172 in view of any of the other references cited in Section II.C.2, in further view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	'024 Patent, claims 5, 12, 18; '014 Patent, claims 3, 11, 19
Miltenberger 172 in view of any of the other references cited in Section II.C.2, in further view of any of the references cited in Section II.C.3.c	'014 Patent, claims 7, 8, 15, 16, 23, 24; '371 Patent, claims 7, 17, 27
Miltenberger 172 in view of any of the other references cited in Section II.C.2, in further view of any of the references cited in Section II.C.3.d	'024 Patent, claims 7, 14, 20; '014 Patent, claims 5, 13, 21; '371 Patent, claims 4, 14, 24
Miltenberger 172 in view of any of the other references cited in Section II.C.2, in further view of any of the references cited in Section II.C.3.e	'024 Patent, claims 2, 9, 16
Miltenberger 172 in view of any of the other references cited in Section II.C.2, in further view of any of the references cited in Section II.C.3.f	'024 Patent, claims 3, 10
Miltenberger 172 in view of any of the other references cited in Section II.C.2, in further view of any of the references cited in Section II.C.3.g	'371 Patent, claims 2, 12, 22
Miltenberger 172 in view of any of the other references cited in Section II.C.2, in further view of any of the references cited in Section II.C.3.h	'014 Patent, claims 6, 14, 22; '371 Patent, claims 5, 15, 25
Yee in view of any of the references cited in Section II.C.3.a	'371 Patent, claims 6, 16, 26
Yee in view of any of the references cited in Section II.C.3.b	'024 Patent, claims 4, 11, 17; '014 Patent, claims 2, 10, 18
Yee in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	'024 Patent, claims 5, 12, 18; '014 Patent, claims 3, 11, 19

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Exemplary Obviousness Combinations	Patent / Claim(s)
Yee in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Yee in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Yee in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Yee in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Yee in view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Yee in view of any of the references cited in Section II.C.3.h	’014 Patent, claims 6, 14, 22; ’371 Patent, claims 5, 15, 25
Hsu in view of any of the references cited in Section II.C.3.a	’371 Patent, claims 6, 16, 26
Hsu in view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18
Hsu in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Hsu in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Hsu in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Hsu in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Hsu in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Hsu in view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12 , 22
Hsu in view of any of the references cited in Section II.C.3.h	’024 Patent, claims 1, 4, 5, 8, 11, 12, 15, 17, 18; ’014 Patent, claims 1-3, 6-11, 14-19, 22-24; ’371 Patent, claims 1, 2, 5-12, 15-22, 25-30
Hsu in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.a	’371 Patent, claims 6, 16, 26

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Exemplary Obviousness Combinations	Patent / Claim(s)
Hsu in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18
Hsu in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Hsu in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Hsu in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Hsu in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Hsu in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Hsu in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Orselli in view of any of the references cited in Section II.C.3.a	’371 Patent, claims 6, 16, 26
Orselli in view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18
Orselli in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Orselli in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Orselli in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Orselli in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Orselli in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10

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Exemplary Obviousness Combinations	Patent / Claim(s)
Orselli in view of any of the references cited in Section II.C.3.g	'371 Patent, claims 2, 12, 22
Orselli in view of any of the references cited in Section II.C.3.h	'014 Patent, claims 6, 14, 22; '371 Patent, claims 5, 15, 25
Orselli in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.a	'024 Patent, claims 1, 4, 8, 11, 15, 17; '014 Patent, claims 1, 2, 6, 9, 10, 14, 17, 18, 22; '371 Patent, claims 1, 2, 5, 6, 8-12, 15, 16, 18-22, 25, 26, 28-30
Orselli in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.b	'024 Patent, claims 4, 11, 17; '014 Patent, claims 2, 10, 18
Orselli in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	'024 Patent, claims 5, 12, 18; '014 Patent, claims 3, 11, 19
Orselli in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.c	'014 Patent, claims 7, 8, 15, 16, 23, 24; '371 Patent, claims 7, 17, 27
Orselli in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.d	'024 Patent, claims 7, 14, 20; '014 Patent, claims 5, 13, 21; '371 Patent, claims 4, 14, 24
Orselli in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.e	'024 Patent, claims 2, 9, 16
Orselli in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.f	'024 Patent, claims 3, 10
Orselli in view of any of the references cited in Section II.C.3.h, in further view of any of the references cited in Section II.C.3.a, in further view of any of the references cited in Section II.C.3.g	'371 Patent, claims 2, 12, 22
Miller in view of any of the references cited in Section II.C.3.a	'371 Patent, claims 6, 16, 26
Miller in view of any of the references cited in Section II.C.3.b	'024 Patent, claims 4, 11, 17;

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Exemplary Obviousness Combinations	Patent / Claim(s)
	’014 Patent, claims 2, 10, 18
Miller in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Miller in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Miller in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Miller in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Miller in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Miller in view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Miller in view of any of the references cited in Section II.C.3.h	’014 Patent, claims 6, 14, 22; ’371 Patent, claims 5, 15, 25
Pececnik in view of any of the references cited in Section II.C.3.a	’371 Patent, claims 6, 16, 26
Pececnik in view of any of the references cited in Section II.C.3.b	’024 Patent, claims 4, 11, 17; ’014 Patent, claims 2, 10, 18
Pececnik in view of any of the references cited in Section II.C.3.b, in further view of any of the references cited in Section II.C.3.c	’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 11, 19
Pececnik in view of any of the references cited in Section II.C.3.c	’014 Patent, claims 7, 8, 15, 16, 23, 24; ’371 Patent, claims 7, 17, 27
Pececnik in view of any of the references cited in Section II.C.3.d	’024 Patent, claims 7, 14, 20; ’014 Patent, claims 5, 13, 21; ’371 Patent, claims 4, 14, 24
Pececnik in view of any of the references cited in Section II.C.3.e	’024 Patent, claims 2, 9, 16
Pececnik in view of any of the references cited in Section II.C.3.f	’024 Patent, claims 3, 10
Pececnik in view of any of the references cited in Section II.C.3.g	’371 Patent, claims 2, 12, 22
Pececnik in view of any of the references cited in Section II.C.3.h	’014 Patent, claims 6, 14, 22; ’371 Patent, claims 5, 15, 25

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a. References Disclosing Generating A GUI On A Player Device For Displaying Game Information And Receiving User Input

As of the claimed priority date of the ’024, ’014, and ’371 Patents, the generation of graphical user interfaces (GUIs) on player devices for displaying game information and receiving user input was known. At least the following references disclose or suggest generating a GUI on a player device for displaying game information and receiving user input:

- Jumbo Roulette with Random Pay
- Kido 853
- Baron
- Miltenberger 172
- Yee
- Hsu
- Miller
- Pececnik
- Koh
- Witty
- Mattice
- Kido 393
- Kosaka
- Nicely 630
- Griswold
- Nicely 106
- Snow
- Lim
- Gagner
- Bontempo 141

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b. References Disclosing A Display Adjacent To A Roulette Wheel

As of the claimed priority date for the ’024, ’014, and ’371 Patents, displays adjacent to roulette wheels were known. At least the following references disclose or suggest a display adjacent to a roulette wheel:

- Jumbo Roulette with Random Pay
- Raedt
- Baron
- Miltenberger 172
- Yee
- Hsu
- Orselli
- Pececnik
- Koh
- Witty
- Kido 393
- Kosaka
- Adams
- Huard
- Nicely 630
- Nicely 106
- Snow
- Back2Back Roulette
- Gagner
- Bontempo 141

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c. References Disclosing A Lightning Visual Effect Or Other Visual Indication To Identify A Randomly Selected Position

As of the claimed priority date of the ’024, ’014, and ’371 Patents, it was known to use a lightning visual effect or other visual indication to identify a randomly selected position of a roulette wheel. At least the following references disclose or suggest a lightning visual effect or other visual indication to identify a randomly selected position:

- Jumbo Roulette with Random Pay
- Kido 853
- Miltenberger 172
- Yee
- Hsu
- Kosaka
- Adams
- Snow
- Bontempo 141

Notwithstanding the above, Defendants contend that limitations of the Asserted Claims directed to (i) presenting a lightning visual effect, and (ii) indicating “500×” are non-limiting and should be given no patentable weight because they are directed to printed matter. *See* ’024 Patent, claims 5, 12, 18; ’014 Patent, claims 3, 8, 11, 16, 19, 24; ’371 Patent, claims 7, 17, 27.

d. References Disclosing Randomly Selecting A Second Position And Providing An Increased Payout For The Second Position Different Than An Increased Payout For A First Randomly Selected Position

As of the claimed priority date of the ’024, ’014, and ’371 Patents, it was known to randomly select first and second positions and provide an increased payout for the second position different than an increased payout for the first randomly selected position. At least the following references disclose or suggest randomly selecting a second position and providing an increased payout for the second position different than an increased payout for a first randomly selected position:

- Jumbo Roulette with Random Pay
- Raedt
- Griswold
- Huard

e. References Disclosing A Wheel Sensor

As of the claimed priority date of the ’024, ’014, and ’371 Patents, wheel sensors were known. At least the following references disclose or suggest a wheel sensor:

- Kido 853
- Miltenberger 172
- Yee
- Witty
- Nicely 630
- Snow
- Lim
- Gagner
- Bontempo 141

f. References Disclosing Closing Bets When The Roulette Wheel And The Ball Are Determined To Have Been Spun

As of the claimed priority date of the ’024, ’014, and ’371 Patents, it was known to close bets when the roulette wheel and ball are determined to have been spun. At least the following references disclose or suggest closing bets when the roulette wheel and ball are determined to have been spun:

- Miller
- Witty
- Kido 393
- Kosaka
- Snow

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g. References Disclosing A Display That Identifies A Randomly Selected Position

As of the claimed priority date of the ’024, ’014, and ’371 Patents, it was known to use a display to identify a randomly selected roulette position. At least the following references disclose or suggest a display that identifies a randomly selected position:

- Orselli
- Jumbo Roulette with Random Pay
- Raedt
- Baron
- Miltenberger 172
- Yee
- Hsu
- Orselli
- Pececnik
- Koh
- Witty
- Kido 393
- Kosaka
- Adams
- Huard
- Nicely 630
- Nicely 106
- Snow
- Back2Back Roulette
- Gagner
- Bontempo 141

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h. References Disclosing A Hardware Processor Configured To Cause A Ball And Roulette Wheel To Automatically Spin And/Or Carry Out Other Aspects Of Roulette

As of the claimed priority date of the ’024, ’014, and ’371 Patents, hardware processors configured to cause a ball and roulette wheel to automatically spin and/or carry out other aspects of roulette were known. At least the following references disclose or suggest a hardware processor configured to cause a ball and roulette wheel to automatically spin and/or carry out other aspects of roulette:

- Jumbo Roulette with Random Pay
- Baron
- Kido 853
- Miltenberger 172
- Yee
- Miller
- Pececnik
- Witty
- Mattice
- Kido 393
- Kosaka
- Adams
- Nicely 630
- Nicely 106
- Snow
- Lim
- Gagner
- Bontempo 141

4. Motivations To Combine

A hallmark of the *KSR* approach to obviousness is flexibility. *See KSR,* 550 U.S. at 414-18 (rejecting the Federal Circuit’s “rigid” application of the teaching, suggestion, or motivation

to combine test, instead espousing an "expansive and flexible" approach). The Supreme Court in *KSR* mandated flexibility in at least two respects: first with regard to the proper understanding of the scope of the prior art, and second with regard to appropriate reasons to modify the prior art. In its cases decided since *KSR*, the Federal Circuit has reiterated these two aspects of flexibility. *See, e.g., Intel Corp. v. Qualcomm Inc*., 21 F.4th 784, 795 (Fed. Cir. 2021) (the obviousness analysis is not "confined by a formalistic conception of the words teaching, suggestion, and motivation")`

The Supreme Court instructed the Federal Circuit in *KSR* that persons having ordinary skill in the art have common sense, which may be used to glean suggestions from the prior art that go beyond the primary purpose for which that prior art was produced. *Id.*. at 421-22. Thus, the Supreme Court taught that a proper understanding of the prior art extends to all that the art reasonably suggests, and is not limited to its articulated teachings regarding how to solve the particular technological problem with which the art was primarily concerned. *Id*. at 418 ("As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ."). "The obviousness analysis cannot be confined . . . by overemphasis on the importance of published articles and the explicit content of issued patents." *Id*. at 419; *see also Randall Mfg. v. Rea*, 733 F.3d 1355, 1362 (Fed. Cir. 2013) (recalling *KSR's* criticism of an overly rigid approach to obviousness that has "little recourse to the knowledge, creativity, and common sense that an ordinarily skilled artisan would have brought to bear when considering combinations or modifications," and discussing the importance of evidence showing "the knowledge and perspective of one of ordinary skill in the art" that may provide "critical background information that could easily explain why an ordinarily skilled artisan would have been motivated to combine or modify the cited references to arrive at the claimed inventions").

"Under the correct analysis, any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed." *KSR* 550 U.S. at 420. The Supreme Court emphasized the principle that

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"[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* at 416. A key inquiry is whether the "improvement is more than the predictable use of prior art elements according to their established function." *Id.* at 417. Indeed, the Supreme Court held that a person of ordinary skill in the art is "a person of ordinary creativity, not an automaton" and "in many cases a person of ordinary skill in the art will be able to fit the teachings of multiple patents together like pieces of a puzzle." *Id*. at 421. The Federal Circuit has also clarified, moreover, that a proposed reason to combine the teachings of prior art disclosures may be proper, even when the problem addressed by the combination might have been more advantageously addressed in another way. *PAR Pharm., Inc. v. TWI Pharms., Inc.*, 773 F.3d 1186, 1197-98 (Fed. Cir. 2014) ("Our precedent, however, does not require that the motivation be the *best* option, only that it be a *suitable* option from which the prior art did not teach away.") (emphasis in original).

The rationale to combine or modify prior art references is significantly stronger when the references seek to solve the same problem, come from the same field, and correspond well together. *See In re Inland Steel Co.*, 265 F.3d 1354, 1362 (Fed. Cir. 2001) (allowing two references to be combined as invalidating art under similar circumstances where the art "focus[ed] on the same problem ... c[a]me from the same field of art [and] ... the identified problem found in the two references correspond[ed] well").

The Supreme Court has further held that, "[w]hen a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill . . . ." *Id*. at 417.

Multiple teachings, suggestions, motivations, and/or reasons to modify any of the references and/or to combine two or more of the prior art references set forth herein come from many sources, including the prior art itself (individual references and as a whole), common

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knowledge, common sense, predictability, expectations, industry trends, design incentives or need, market demand or pressure, market forces, obviousness to try, the nature of the problem faced, and/or knowledge possessed by a person of ordinary skill. Defendants reserve the right to present expert testimony on, among other things, the teachings, suggestions, motivations, and/or reasons to modify any of the references and/or to combine any two or more of the prior art references presented in Exhibits A-1 through A-31 and herein. Certain of these rationales are discussed more specifically below. The fact that other rationales are not discussed more specifically should not be interpreted as an admission or concession that the other rationales do not apply.

As further described below, motivations to combine the teachings of the prior art references disclosed herein are found in: (1) the knowledge of persons of ordinary skill in the art, including the express, implied, and inherent teachings of the prior art references themselves as described herein and in Exhibits A-1 through A-31, and the admitted prior art of the Asserted Patents; (2) the fact that the prior art is generally directed towards the same subject matter as the Asserted Patents; (3) market forces and design incentives, including the need to address issues and suggest similar solutions; and/or the predictable results obtained by applying known techniques to modify existing solutions.

(1) Same Field of Technology

Each of the identified prior art references relates to the field of wagering. The references disclose systems, methods, and computer-readable media for implementing the wagering game roulette. Many of the references are directed to implementations of roulette that involve randomly selecting one or more positions and increasing the payouts for the selected positions.

A person of ordinary skill in the art would naturally look to these references, related patents, patent applications, publications, and related commercial products/systems to provide insight into how the industry/field as a whole, inventors, authors, or companies viewed and applied these inventions, teachings, and commercial products/systems. Based on their related disclosures, one of ordinary skill in the art at the time of the invention would have been motivated to apply the teachings from one reference to another in the same way.

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(2) Market Forces and Design Incentives Drove Similar Solutions in the Prior Art

Many of the identified references address the same issues and suggest similar solutions in the field of wagering. Indeed, the need to provide gamblers with new, exciting variants of roulette was already recognized in the prior art and the field of the invention, and this need would have provided a person of ordinary skill in the art motivation to combine the prior art references identified herein.

(3) Combination of Known Methods/Techniques/Elements Yields Predictable Results

Generally, motivation to combine any of the references for the Asserted Patents with other references exists within the references themselves, as well as within the knowledge of those of ordinary skill in the art at the relevant time. Many of the identified references address the same issues and suggest similar solutions in the field of wagering. Replacing a single winning payout per wager in roulette with multiple possible payout amounts was already recognized in the prior art and the field of the invention and would provide a person of ordinary skill in the art motivation to combine the references identified above.

Moreover, the purported inventions are built with components, features, and technology that significantly pre-dates the Asserted Patents. As the Asserted Patents recognize, many of the claimed features are conventional and can be implemented using any suitable, known means. *See* Section II.C.1 infra. The combination of such conventional elements according to known methods does no more than yield predictable results and is therefore obvious.

D. LPR 1-8(d) Disclosures: Charts Identifying Where In Each Item Of Prior Art Each Limitation Of Each Asserted Claim Is Found

Exhibits A-1 through A-31 to Defendants' contentions are charts that specifically identify where each element of each Asserted Claim is found in the prior art.

The claim charts in these contentions provide example sections within the prior art references that teach or suggest each and every element of the Asserted Claims either expressly or inherently. The contentions set forth obviousness arguments based on the disclosures in each of the references, teachings well known at the time of filing, admitted prior art, and the

knowledge of a person of ordinary skill in the art at the time the respective patent application was filed. If needed, all of the art disclosed in the exhibits or herein can be used in combination for an obvious determination.

E. LPR 1-8(e) Disclosures: Invalidity Under 35 U.S.C. § 112 and 101

Defendants contend that the Asserted Claims of the Asserted Patents are invalid under 35 U.S.C. § 101. *See*, *e.g.*, Dkt. Nos. 34, 66.

Defendants contend that the Asserted Claims of the Asserted Patents are invalid under 35 U.S.C. § 112 because (1) the claims are indefinite; (2) the claims are not enabled; and/or (3) the claims lack adequate written description. Defendants' contentions that the following claims are invalid under 35 U.S.C. § 112 are made in the alternative, and do not constitute, and should not be interpreted as, admissions regarding the construction or scope of the claims of the Asserted Patents, or that any of the claims of the Asserted Patents are not anticipated or rendered obvious by any prior art.

These contentions are based on Defendants' current understanding of Plaintiffs' Infringement Contentions. To the extent Plaintiffs contend that the prior art references identified above would not enable a person of ordinary skill to make or use the elements of the Asserted Claims against which they are cited, and to the extent Plaintiffs contend that the Asserted Claims cover something different from what Defendants understand them to cover, the Asserted Claims may not comply with the enablement, written description, and/or definiteness requirements of 35 U.S.C. § 112. Because compliance with the requirements of 35 U.S.C. § 112 depends on the construction of the claims—and no claim construction positions have been exchanged, no claim construction order issued, and no expert discovery undertaken—Defendants' positions on written description, enablement, and/or indefiniteness are necessarily preliminary at this early stage of the case. Defendants reserve all rights to amend or further revise these contentions based on further developments in the case in accordance with the Court's Rules or as otherwise authorized by the Court.

The written description and enablement requirements are analyzed by comparing the claims with the disclosure in the specification. If the claimed invention does not appear in the

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specification, the claim fails regardless of whether one of skill in the art could make or use the claimed invention. *See, e.g., Ariad Pharms., Inc. v. Eli Lilly & Co*., 598 F.3d 1336, 1348 (Fed. Cir. 2010).

Section 112 requires that the specification shall describe "the manner and process of making and using [the claimed invention], in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the [claimed invention]." 35 U.S.C. §112(a). To satisfy the enablement requirement, a patentee must "describe the manner and process of making and using the invention so as to enable a person of skill in the art to make and use the full scope of the invention without undue experimentation." *See, e.g., LizardTech, Inc. v. Earth Res. Mapping, Inc.*, 424 F.3d 1336, 1344-45 (Fed. Cir. 2005).

Section 112 further requires that a patent specification contain "a written description of the invention." 35 U.S.C. § 112(a). "The purpose of the written description requirement is to prevent an applicant from later asserting that he invented that which he did not." *Amgen, Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1330 (Fed. Cir. 2003). "[T]he test for sufficiency is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date." *Ariad Pharmaceuticals, Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010). "[T]he test requires an objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art. Based on that inquiry, the specification must describe an invention understandable to that skilled artisan and show that the inventor actually invented the invention claimed." *See, e.g., Ariad*, 598 F.3d at 1351-52.

A patent must also be precise enough to afford clear notice of what is claimed. *Nautilus, Inc. v. Biosig Instruments, Inc*., 134 S. Ct. 2120, 2124 (2014). A patent is invalid for indefiniteness under Section 112 if its claims, read in light of the specification delineating the patent, and the prosecution history, fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention. *Id*. "[I]t cannot be sufficient that a court can ascribe some meaning to a patent's claim; the definiteness inquiry trains on the understanding of a skilled

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artisan at the time of the patent application, not that of a court viewing matters post hoc." *Id*. at 2130. The definiteness inquiry necessarily demands that the "patent and prosecution history disclose a single known approach or establish that, where multiple known approaches exist, a person of ordinary skill in the art would know which approach to select." *Id*.

A claim term can be indefinite based on multiple grounds ranging from substantive concerns to unresolvable drafting errors, each of which can be fatal to the validity of the claims as a matter of law. For example, the Federal Circuit has repeatedly held that apparatus claims that contain method claim limitations are indefinite because it is impossible to determine when direct infringement occurs. *See, e.g., Rembrandt Data Techs., LP v. AOL, LLC*, 641 F.3d 1331, 1339-40 (Fed. Cir. 2011) (an independent claim that recited both an apparatus and a method of using that apparatus was indefinite, as was its dependent claims); *IPXL Holdings v. Amazon.com*, 430 F.3d 1377, 1384 (Fed. Cir. 2005); *In re Katz Interactive Call Processing Patent Litigation*, 639 F.3d 1303, 1318 (Fed. Cir. 2011) (mixed claims "create confusion as to when direct infringement occurs because they are directed both to systems and to actions performed by" users). Claim terms that lack antecedent basis are indefinite. *See, e.g., Allen Eng'g Corp. v. Bartell Indus., Inc*., 299 F.3d 1336, 1348-49 (Fed. Cir. 2002) (claim ending in the middle of a claim limitation was indefinite because it was "impossible to discern the scope of such a truncated limitation").

These are merely examples and are not intended to be limiting. Defendants reserve all rights to amend their Invalidity Contentions under 35 U.S.C. § 112, including after an Asserted Claim is ultimately construed by the Court, in response to any interpretation of an Asserted Claim embodied in Plaintiffs' infringement positions, and/or to account for any changes in the law concerning invalidity under 35 U.S.C. §112. Defendants additionally reserve the right to provide additional explanation and/or argument for their Invalidity Contentions under § 112, including, for example, based on expert testimony.

1. The '024 Patent

The Asserted Claims of the '024 Patent are invalid for lack of written description and enablement under 35 U.S.C. § 112. Any claims having the limitations identified below, as well

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as all claims that directly or indirectly depend from those claims, are also invalid for lack of written description and enablement. The ’024 Patent fails to disclose the following limitations in the specification and/or fails to describe the manner and process of making and using the invention so as to enable a person of skill in the art to make and use the full scope of the invention without undue experimentation.

- receive first bet information for a first bet from a first player device of a first player *on a spin of the roulette wheel*, the first bet information corresponding to at least a first position on the roulette wheel;
- receive second bet information for a second bet from a second player device of a second player *on the spin of the roulette wheel*, the second bet information corresponding to at least a second position on the roulette wheel that is different from the first position;
- determine that the roulette wheel and the ball have been spun *for the spin of the roulette wheel*;
- randomly select a first selected position on the roulette wheel *for the spin of the roulette wheel* prior to the ball falling into a position on the roulette wheel, wherein the first selected position is the same as the first position;
- determine a first payout for first position and a second payout for the second position *for the spin of the roulette wheel*, wherein the first payout is higher than the second payout;
- determine that the ball has fallen in the first position *for the spin of the roulette wheel*; and
- indicating that the first player is to be paid at the first payout *for the spin of the roulette wheel*.

’024 Patent, Claim 1.

- receiving, using a hardware processor, first bet information for a first bet from a first player device of a first player *on a spin of a roulette wheel*, the first bet information corresponding to at least a first position on the roulette wheel;
- receiving, using the hardware processor, second bet information for a second bet from a second player device of a second player *on the spin of the roulette wheel*, the second bet information corresponding to at least a second position on the roulette wheel that is different from the first position;

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- determining, using the hardware processor, that the roulette wheel and a ball on the roulette wheel have been spun *for the spin of the roulette wheel*;
- randomly selecting, using the hardware processor, a first selected position on the roulette wheel *for the spin of the roulette wheel* prior to the ball falling into a position on the roulette wheel, wherein the first selected position is the same as the first position;
- determining, using the hardware processor, a first payout for first position and a second payout for the second position *for the spin of the roulette wheel*, wherein the first payout is higher than the second payout;
- determining, using the hardware processor, that the ball has fallen in the first position *for the spin of the roulette wheel*; and
- indicating, using the hardware processor, that the first player is to be paid at the first payout *for the spin of the roulette wheel*.

'024 Patent, Claim 8.

- receiving first bet information for a first bet from a first player device of a first player *on a spin of a roulette wheel*, the first bet information corresponding to at least a first position on the roulette wheel;
- receiving second bet information for a second bet from a second player device of a second player *on the spin of the roulette wheel*, the second bet information corresponding to at least a second position on the roulette wheel that is different from the first position;
- determining that the roulette wheel and a ball on the roulette wheel have been spun *for the spin of the roulette wheel*;
- randomly selecting a first selected position on the roulette wheel *for the spin of the roulette wheel* prior to the ball falling into a position on the roulette wheel, wherein the first selected position is the same as the first position;
- determining a first payout for first position and a second payout for the second position *for the spin of the roulette wheel*, wherein the first payout is higher than the second payout;
- determining that the ball has fallen in the first position *for the spin of the roulette wheel*; and
- indicating that the first player is to be paid at the first payout *for the spin of the roulette wheel*.

'024 Patent, Claim 15.

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Applicant added the above italicized limitations during prosecution of the ’024 Patent, but there is no support in the as-filed application for these limitations. For at least this reason, independent claims 1, 8, and 15 of the ’024 Patent and all claims that directly or indirectly depend therefrom are invalid for lack of written description and enablement.

The Asserted Claims of the ’024 Patent are also indefinite under 35 U.S.C. § 112. Any claims having the limitations identified below, as well as all claims that directly or indirectly depend from those claims, are invalid as indefinite. By asserting that these limitations are indefinite, Defendants do not waive their rights to argue that the claims may also be anticipated or obvious under §§ 102 and 103. Claim construction has not yet begun, and Defendants reserve the right to add to, amend, and supplement this list to identify further indefinite limitations. The Asserted Claims of the ’024 Patent fail to particularly point out and distinctly claim the subject matter which the applicants regarded as the invention, and persons of ordinary skill in the art would not have understood what was being claimed, because the following limitations fail to inform with reasonable certainty of the boundaries of the claims.

- randomly select a first selected position on the roulette wheel for the spin of the roulette wheel prior to the ball falling into a position on the roulette wheel, wherein the first selected position is the same as the first position; (’024 Patent, claim 1)
- randomly select a second selected position on the roulette wheel; and (’024 Patent, claim 7)
- randomly selecting, using the hardware processor, a first selected position on the roulette wheel for the spin of the roulette wheel prior to the ball falling into a position on the roulette wheel, wherein the first selected position is the same as the first position; (’024 Patent, claim 8)
- randomly selecting a second selected position on the roulette wheel; and (’024 Patent, claim 14)
- randomly selecting a first selected position on the roulette wheel for the spin of the roulette wheel prior to the ball falling into a position on the roulette wheel, wherein the first selected position is the same as the first position; (’024 Patent, claim 15)
- randomly selecting a second selected position on the roulette wheel; and (’024 Patent, claim 20)

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The specification of the '024 Patent (at 4:61-65) states that "[a]lthough the term 'random' is used herein, it should be understood that pseudo-random functions can be used to approximate random functions and thereby select pseudo-random numbers, which can be considered to be random numbers." This indicates that "randomly selecting," as claimed in the '024 Patent, encompasses pseudo-random selection. The Asserted Claims of the '371 Patent, however, recite selection of positions "randomly or pseudo-randomly," thus indicating that random selection and pseudo-random selection are distinct. These contradictory indications render the '024 Patent's claims indefinite, as a person of ordinary skill in the art would not understand with reasonable certainty the scope of the claimed "randomly selecting."

2. The '014 Patent

The Asserted Claims of the '014 Patent are invalid for lack of written description and enablement under 35 U.S.C. § 112. Any claims having the limitations identified below, as well as all claims that directly or indirectly depend from those claims, are invalid for lack of written description and enablement. The '014 Patent fails to disclose the limitations in the specification and/or fails to describe the manner and process of making and using the invention so as to enable a person of skill in the art to make and use the full scope of the invention without undue experimentation.

- "at least one hardware processor collectively configured to:" ('014 Patent, claim 1)
- "using at least one hardware processor," "using the at least one hardware processor," "using the least one hardware processor" ('014 Patent, claim 9)
- "A non-transitory computer-readable medium containing computer executable instructions that, when executed by at least one processor, cause the at least one processor to perform a method for wagering, the method comprising" ('014 Patent, claim 17)

In the parent '024 Patent, Applicant claimed "a hardware processor" configured to execute certain steps. In filing the subsequent application for the '014 Patent, Applicant broadened the claim language to recite "*at least one* hardware processor *collectively configured to*" execute steps, as seen above. However, there is no description in the specification of the Asserted Patents of using multiple hardware processors collectively to perform the purported

invention. The specification also provides no explanation of what "collectively configured to" means in the context of the Asserted Patents. For at least this reason, any claims having the limitations identified above, as well as all claims that directly or indirectly depend from those claims, are invalid for lack of written description and enablement.

- "the first bet information corresponding to only a single first position on the roulette wheel" and "the second bet information corresponding to only a single second position on the roulette wheel" ('014 Patent, claim 1)
- "the first bet information corresponding to only a single first position on the roulette wheel" and "the second bet information corresponding to only a single second position on the roulette wheel" ('014 Patent, claim 9)
- "the first bet information corresponding to only a single first position on the roulette wheel" and "the second bet information corresponding to only a single second position on the roulette wheel" ('014 Patent, claim 17)

In the parent '024 Patent, Applicant claimed "the first bet information corresponding to at least a first position on the roulette wheel" and "the second bet information corresponding to at least a second position on the roulette wheel." In filing the subsequent application for the '014 Patent, Applicant amended the claim language to recite that the first and second bet information each "correspond[] to *only a single ... position*." But there is no description in the Asserted Patents' specification of bet information being limited to correspond only to a single position. The specification teaches that the claimed "bet information" is on "one or more wheel positions" ('014 Patent at 4:36-41) and discloses no embodiments in which bet information is limited to "only a single … position." For at least this reason, any claims having the limitations identified above, as well as all claims that directly or indirectly depend from those claims, are invalid for lack of written description and enablement.

- receive first bet information for a first bet *on a spin of the roulette wheel* via the first graphical user interface, the first bet information corresponding to only a single first position on the roulette wheel;
- receive second bet information for a second bet *on the spin of the roulette wheel* via the second graphical user interface, the second bet information corresponding to only a single second position on the roulette wheel that is different from the single first position;
- determine that the roulette wheel and the ball have been spun *for the spin of the roulette wheel*;

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- randomly select a first selected position on the roulette wheel *for the spin of the roulette wheel* prior to the ball falling into an outcome position on the roulette wheel, wherein the first selected position is the same as the single first position;

- determine a first payout for the first single position and a second payout for the single second position *for the spin of the roulette wheel*, wherein the first payout is higher than the second payout;

- determine that the ball has fallen in the single first position *for the spin of the roulette wheel*; and

- indicate that the first player is to be paid at the first payout *for the spin of the roulette wheel*.

'014 Patent, Claim 1.

- receiving, using the at least one hardware processor, first bet information for a first bet *on a spin of the roulette wheel* via the first graphical user interface, the first bet information corresponding to only a single first position on the roulette wheel;

- receiving, using the least one hardware processor, second bet information for a second bet *on the spin of the roulette wheel* via the second graphical user interface, the second bet information corresponding to only a single second position on the roulette wheel that is different from the single first position;

- determining, using the least one hardware processor, that the roulette wheel and the ball have been spun *for the spin of the roulette wheel*;

- randomly selecting, using the least one hardware processor, a first selected position on the roulette wheel *for the spin of the roulette wheel* prior to the ball falling into an outcome position on the roulette wheel, wherein the first selected position is the same as the single first position;

- determining, using the least one hardware processor, a first payout for the single first position and a second payout for the single second position *for the spin of the roulette wheel*, wherein the first payout is higher than the second payout;

- determining, using the least one hardware processor, that the ball has fallen in the single first position *for the spin of the roulette wheel*; and

- indicating, using the least one hardware processor, that the first player is to be paid at the first payout *for the spin of the roulette wheel*.

'014 Patent, Claim 9.

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- receiving first bet information for a first bet *on a spin of the roulette wheel* via the first graphical user interface, the first bet information corresponding to only a single first position on the roulette wheel;
- receiving second bet information for a second bet *on the spin of the roulette wheel* via the second graphical user interface, the second bet information corresponding to only a single second position on the roulette wheel that is different from the single first position;
- determining that the roulette wheel and the ball have been spun *for the spin of the roulette wheel*;
- randomly selecting a first selected position on the roulette wheel *for the spin of the roulette wheel* prior to the ball falling into an outcome position on the roulette wheel, wherein the first selected position is the same as the single first position;
- determining a first payout for the single first position and a second payout for the single second position *for the spin of the roulette wheel*, wherein the first payout is higher than the second payout;
- determining that the ball has fallen in the single first position *for the spin of the roulette wheel*; and
- indicating that the first player is to be paid at the first payout *for the spin of the roulette wheel*.

'014 Patent, Claim 17.

As with the similar "on a spin of the roulette wheel" limitations of the '024 Patent, there is no support in the Asserted Patents' specification for the italicized limitations above. For at least this reason, the claims identified above and all claims that directly or indirectly depend therefrom are invalid for lack of written description and enablement.

The Asserted Claims of the '014 Patent are also indefinite under 35 U.S.C. § 112. Any claims having the limitations identified herein, as well as all claims that directly or indirectly depend from those claims, are invalid as indefinite. By asserting that these limitations are indefinite, Defendants do not waive their rights to argue that the claims may also be anticipated or obvious under §§ 102 and 103. Claim construction has not yet begun, and Defendants reserve the right to add to, amend, and supplement this list to identify further indefinite limitations. The Asserted Claims of the '014 Patent fail to particularly point out and distinctly claim the subject matter which the applicants regarded as the invention, and persons of ordinary skill in the art

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would not have understood what was being claimed, because the following limitations fail to inform with reasonable certainty of the boundaries of the claims.

- randomly select a first selected position on the roulette wheel for the spin of the roulette wheel prior to the ball falling into an outcome position on the roulette wheel, wherein the first selected position is the same as the single first position; ('014 Patent, claim 1)

- randomly select a second selected position on the roulette wheel; and ('014 Patent, claim 5)

- wherein the first graphical user interface includes a roulette board and wherein the at least one hardware processor is further configured to highlight the first selected position in response to the first selected position being randomly selected. ('014 Patent, claim 7)

- randomly selecting, using the least one hardware processor, a first selected position on the roulette wheel for the spin of the roulette wheel prior to the ball falling into an outcome position on the roulette wheel, wherein the first selected position is the same as the single first position; ('014 Patent, claim 9)

- randomly selecting a second selected position on the roulette wheel; and ('014 Patent, claim 13)

- wherein the first graphical user interface includes a roulette board and further comprising highlighting the first selected position in response to the first selected position being randomly selected. ('014 Patent, claim 15)

- randomly selecting a first selected position on the roulette wheel for the spin of the roulette wheel prior to the ball falling into an outcome position on the roulette wheel, wherein the first selected position is the same as the single first position; ('014 Patent, claim 17)

- randomly selecting a second selected position on the roulette wheel; and ('014 Patent, claim 21)

- wherein the first graphical user interface includes a roulette board and wherein the method further comprises highlighting the first selected position in response to the first selected position being randomly selected. ('014 Patent, claim 23)

The specification of the '014 Patent (at 4:63-67) states that "[a]lthough the term 'random' is used herein, it should be understood that pseudo-random functions can be used to approximate random functions and thereby select pseudo-random numbers, which can be considered to be random numbers." This indicates that "randomly selecting," as claimed in the '014 Patent,

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encompasses pseudo-random selection. The Asserted claims of the '371 Patent, however, recite selection of positions "randomly or pseudo-randomly," thus indicating that random selection and pseudo-random selection are distinct. These contradictory indications render the '014 Patent's claims indefinite, as a POSA would not understand with reasonable certainty the scope of the claimed "randomly selecting."

3. The '371 Patent

The Asserted Claims of the '371 Patent are invalid for lack of written description and enablement under 35 U.S.C. § 112. Any claims having the limitations identified below, as well as all claims that directly or indirectly depend from those claims, are invalid for lack of written description and enablement. The '371 Patent fails to disclose the limitations in the specification and/or fails to describe the manner and process of making and using the invention so as to enable a person of skill in the art to make and use the full scope of the invention without undue experimentation.

- randomly or pseudo-randomly select a first selected position of the plurality of positions on the roulette wheel to have a first increased payout *for the spin of the roulette wheel* prior to the ball landing into any of the plurality of positions on the roulette wheel *for the spin*;
- determine that the ball has landed into the first selected position *for the spin*; and
- determine that the first increased payout is applicable to a first bet made on the first selected position *for the spin of the roulette wheel*, wherein the first increased payout is greater than a first non-selected payout that would have been applicable to the first bet on the first selected position *for the spin* had the first selected position not been selected by the randomly or pseudo-randomly selecting the first selected position *for the spin*.

'371 Patent, Claim 1.

- randomly or pseudo-randomly selecting a first selected position of a plurality of positions on a roulette wheel to have a first increased payout *for a spin of the roulette wheel* prior to a ball landing into any of the plurality of positions on the roulette wheel *for the spin*;
- determining that the ball has landed into the first selected position *for the spin*; and
- determining that the first increased payout is applicable to a first bet made on the first selected position *for the spin of the roulette wheel*, wherein the

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first increased payout is greater than a first non-selected payout that would have been applicable to the first bet on the first selected *position for the spin* had the first selected position not been selected by the randomly or pseudo-randomly selecting the first selected position *for the spin*.

'371 Patent, Claim 11.

- randomly or pseudo-randomly selecting a first selected position of a plurality of positions on a roulette wheel to have a first increased payout *for a spin of the roulette wheel* prior to a ball landing into any of the plurality of positions on the roulette wheel *for the spin*;
- determining that the ball has landed into the first selected position *for the spin*; and
- determining that the first increased payout is applicable to a first bet made on the first selected position *for the spin of the roulette wheel*, wherein the first increased payout is greater than a first non-selected payout that would have been applicable to the first bet on the first selected position *for the spin* had the first selected position not been selected by the randomly or pseudo-randomly selecting the first selected position *for the spin*.

'371 Patent, Claim 21.

As with the similar "on a spin of the roulette wheel" limitations of the '024 and '014 Patents, there is no support in the Asserted Patents' specification for the italicized limitations above. For at least this reason, the claims identified above and all claims that directly or indirectly depend therefrom are invalid for lack of written description and enablement.

- "at least one hardware processor collectively configured to:" ('371 Patent, claim 1)
- "causing, by at least one hardware processor, a first graphical user interface to be presented on a first player device, wherein the first graphical user interface includes a roulette board;" ('371 Patent, claim 11)
- "A non-transitory computer-readable medium containing computer executable instructions that, when executed by at least one processor, cause the at least one processor to perform a method for wagering, the method comprising:" ('371 Patent, claim 21)

As with the similar "at least one hardware processor collectively configured to" limitations of the '014 Patent, there is no support in the Asserted Patents' specification for the italicized limitations above. For at least this reason, the claims identified above and all claims

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that directly or indirectly depend therefrom are invalid for lack of written description and enablement.

The Asserted Claims of the '371 Patent are also indefinite under 35 U.S.C. § 112. Any claims having the limitations identified herein, as well as all claims that directly or indirectly depend from those claims, are also invalid as indefinite. By asserting that these limitations are indefinite, Defendants do not waive their rights to argue that the claims may also be anticipated or obvious under §§ 102 and 103. Claim construction has not yet begun, and Defendants reserve the right to add to, amend, and supplement this list to identify further indefinite limitations. The Asserted Claims of the '371 Patent fail to particularly point out and distinctly claim the subject matter which the applicants regarded as the invention, and persons of ordinary skill in the art would not have understood what was being claimed, because the following limitations fail to inform with reasonable certainty of the boundaries of the claims.

- *randomly or pseudo-randomly* select a first selected position of the plurality of positions on the roulette wheel to have a first increased payout for the spin of the roulette wheel prior to the ball landing into any of the plurality of positions on the roulette wheel for the spin; ('371 Patent, claim 1)

- *randomly or pseudo-randomly* selecting a first selected position of a plurality of positions on a roulette wheel to have a first increased payout for a spin of the roulette wheel prior to a ball landing into any of the plurality of positions on the roulette wheel for the spin; ('371 Patent, claim 11)

- *randomly or pseudo-randomly* selecting a first selected position of a plurality of positions on a roulette wheel to have a first increased payout for a spin of the roulette wheel prior to a ball landing into any of the plurality of positions on the roulette wheel for the spin; ('371 Patent, claim 21)

The specification of the '371 Patent (at 4:65-5:2) states that "[a]lthough the term 'random' is used herein, it should be understood that pseudo-random functions can be used to approximate random functions and thereby select pseudo-random numbers, which can be considered to be random numbers." This indicates that "randomly selecting" encompasses the use of pseudo-random functions. The limitations reproduced above, however, recite selection of positions "randomly or pseudo-randomly," thus indicating that random selection and pseudo-

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random selection are distinct. These contradictory indications render the '371 Patent's claims indefinite, as a POSA would not understand with reasonable certainty the scope of the claimed "randomly or pseudo-randomly selecting."

F. LPR 1-8(f) Disclosures: A Detailed Description Of The Factual And Legal Grounds For Contentions Of Unenforceability

The Asserted Patents are unenforceable due to inequitable conduct by one or more of the individuals associated with the filing and prosecution of the Asserted Patents before the United States Patent and Trademark Office (the "PTO").

Pursuant to 37 C.F.R. § 1.56, "[e]ach individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability." 37 C.F.R. § 1.56(c) provides that "Individuals associated with the filing or prosecution of a patent application within the meaning of this section are: (1) Each inventor named in the application; (2) Each attorney or agent who prepares or prosecutes the application; and (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, the applicant, an assignee, or anyone to whom there is an obligation to assign the application."

One or more of the individuals associated with the filing and prosecution of the Asserted Patents (collectively, the "Duty-Bound Individuals") had knowledge of information material to the patentability of one or more claims of the Asserted Patents during prosecution of these patents. Despite this, such individuals failed to disclose this information to the PTO during prosecution. As one example, the Duty-Bound Individuals failed to disclose to the PTO Evolution's Double Ball Roulette game released in 2016, more than a year before the claimed February 5, 2018 priority date of the Asserted Patents. (Evolution Press Release dated August 17, 2016;[7] Roulette77;[8] Evolution Annual Report 2016;[9] Double Ball Roulette YouTube video dated August 7, 2016 with Evolution watermark[10]). As explained herein and in Exhibit A-2,

[7] https://www.evolution.com/news/interim-report-january-june-2016/
[8] LW-00001777.
[9] LW-00002210.
[10] LW-00001232.

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Double Ball Roulette anticipates and/or renders obvious one or more claims of the Asserted Patents, and Double Ball Roulette is therefore material to the patentability of these claims.

On information and belief, one or more of the Duty-Bound individuals had knowledge of Evolution's Double Ball Roulette but failed to disclose it to the PTO during prosecution of the Asserted Patents. The named inventor of the Asserted Patents, Mr. Todd Haushalter, has been Chief Product Officer at Evolution since August 2015, continuing to the present day. In his capacity as Chief Product Officer, Mr. Haushalter is "[r]esponsible for the overall product and marketing strategy" and is "the chief inventor, motivator and activist for [Evolution's] games"[11]:

Chief Product Officer
Evolution Gaming
Aug 2015 - Present · 9 yrs 2 mos
Malta

Responsible for the overall product and marketing strategy and the chief inventor, motivator and activist for the games. Keep the teams laser-focused on ensuring our product is constantly evolving. Foster and push a culture of constant innovation. Ensure the games are easily understood by all new players, while continually evolving and appealing to the most aggressive players. Optimize for all mobile devices and desktop so games can be enjoyed any time any place with equally high quality. In short, think about the player first and make games players will love.

Ensure the timely delivery of the product roadmap. Push a culture that operates more on data and less by feel and work closely with business intelligence and risk departments to gain deeper insights into how we can improve games and protect them from advantage play. Constantly challenge the roadmap and reprioritise based on industry trends and company needs.

Above all, offer a product that our players will love, will make our operators successful, and will further separate us from the competition.

Mr. Haushalter was thus serving as Evolution's Chief Product Officer in 2016, when Double Ball Roulette was released by Evolution, and from February 5, 2018 to September 12, 2023, the time period during which the Asserted Patents were prosecuted. On information and belief, Mr. Haushalter had knowledge of Evolution's Double Ball Roulette product at least as early as of its 2016 release by Evolution, and yet, Mr. Haushalter did not disclose Double Ball Roulette to the PTO during prosecution of the Asserted Patents from 2018-2023.

[11] LW-00001786.

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In fact, Mr. Haushalter and the other Duty-Bound Individuals cited *no prior art at all* to the PTO during the prosecution of the ’024 Patent. In the prosecution of the ’014 Patent, Mr. Haushalter and the other Duty-Bound Individuals did not cite any new prior art to the PTO, instead filing an Information Disclosure Statement (IDS) that only listed documents of record in the earlier-filed application for the ’024 Patent. Likewise, in the prosecution of the ’371 Patent, Mr. Haushalter and the other Duty-Bound Individuals only cited PTO Office Actions and a Notice Allowance from the prosecutions of the ’024 and ’014 Patents. It is not credible that Mr. Haushalter, in his role as Chief Product Officer for Evolution—responsible for “offer[ing] a product that … will further separate us from the competition”—was not aware of any information material to patentability beyond that cited by the PTO during the prosecutions of the Asserted Patents. As established herein, the concept of randomly selecting a roulette position and increasing the payout for that position was well-known in the art as of the claimed February 5, 2018 priority date of the Asserted Patents. A person in Mr. Haushalter’s position would have been aware of prior art teaching this concept, including product offerings by competitors like Jumbo Technology.

As another example, the Duty-Bound Individuals failed to disclose to the PTO U.S. Patent No. 9,327,186 to Pececnik (“Pececnik”) during the prosecutions of the Asserted Patents. On February 5, 2019, Evolution filed U.S. Patent App. No. 16/268,104 (“the ’104 Application”). LW-00002160-2209. The ’104 Application named Mr. Haushalter as an inventor, and the application was prosecuted by Matthew Byrne, an attorney of the law firm Byrne Poh LLP, who signed all papers filed by Evolution. *See*, *e.g.*, LW-00002160, LW-00002168-2175, LW-00002197-2201. In an Office Action dated July 10, 2020, PTO Examiner Matthew D. Hoel cited Pececnik and the ’024 Patent as being pertinent to the ’104 Application, and Mr. Byrne subsequently filed a response on behalf of Evolution. LW-00001959-1984.

The application for the ’014 Patent was pending as of the July 10, 2020 Office Action in which Pececnik was cited, and Evolution filed the application for the ’371 Patent on April 30, 2021. Mr. Byrne, the prosecutor of Evolution’s ’104 Application, also prosecuted the applications for Evolution’s ’014 and ’371 Patents. PTO Examiner Hoel, who examined the

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'104 Application, also examined the applications for the '014 and '371 Patents. At least Mr. Byrne—and possibly other Duty-Bound Individuals, including Mr. Haushalter, a named inventor on the '104 Application—had knowledge of Pececnik during the prosecutions of the '014 and '371 Patents but failed to disclose Pececnik to the PTO. As explained herein and in Exhibit A-18, Pececnik anticipates and/or renders obvious one or more claims of the Asserted Patents, and Pececnik is therefore material to the patentability of these claims.

But for the withholding of Double Ball Roulette, Pececnik, and other information material to the patentability of one or more claims of the Asserted Patents, the PTO would not have allowed the Asserted Patents. The single most reasonable inference to be drawn from the above facts is that Mr. Haushalter, Mr. Byrne, and possibly other Duty-Bound Individuals specifically intended to deceive the PTO by failing to disclose prior art material to patentability during the prosecutions of the Asserted Patents.

In addition, one or more of the Duty-Bound Individuals materially misrepresented the disclosure of the prior art during prosecution of the Asserted Patents. During prosecution of the '024 Patent, PTO Examiner Hoel issued an Office Action rejecting pending claims as being anticipated by U.S. Patent No. 9,600,974 to Yee ("Yee"). The rejected claims required, among other limitations, "randomly select a first selected position on the roulette wheel," and PTO Examiner Hoel cited 9:31-10:14 of Yee (portions of which are reproduced below), as disclosing this claim element:

> A number and associated color within a range of numbers and associated colors may be randomly generated, as indicated at 106. For example, an outcome generation apparatus may be used to randomly generate a number from the group consisting of 00 and integers between 0 and 36, for American-style roulette, or from the group consisting of integers between 0 and 36, for European-style roulette…. Randomly generating the number and associated color may involve, for example, … activating a random number generator and using a result of the random number generator to select the number and associated color. More specifically, the number and associated color may be randomly generated, for example, … by receiving electronic authorization at a processor 350, 414, 428, 480, 597, or 642 (see FIGS. 4 through 6 and 8) via a dealer interface 418 (see FIGS. 5A and 5B) to activate a random number generator (e.g., programmed into or otherwise operatively connected to the processor 350, 414, 428, 480, 597, or 642 (see FIGS. 4 through 6 and 8) and automatically apply a formula, or by automatically, electronically activating a random number generator using a processor 350, 414, 428, 480, 597, or 642 (see FIGS. 4 through 6 and 8) and automatically applying a formula to generate a random number

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> and associated color from within the range of numbers and associated colors.

(Yee, 9:40-10:14.)

In response, Evolution amended the pending claims to recite "randomly select a first selected position on the roulette wheel <u>for the spin of the roulette wheel prior to the ball falling into a position on the roulette wheel</u>." ('024 Patent File History, Response dated Oct. 28, 2019 at 2-8) (underlining showing limitations added via amendment). Evolution also argued that 9:31-10:14 of Yee "clearly explains that [the randomly generated number] would be the number corresponding to a position on a roulette wheel into which a ball drops," and "the ball falling into the position is the random generation of a number":

> In rejecting claim 1 prior to the present amendments, the Examiner pointed to column 9, line 31 through column 10, line 14 of Yee as allegedly showing "randomly select a first selected position on the roulette wheel."
>
> While this portion of Yee discusses randomly generating a number, it clearly explains that this number would be the number corresponding to a position on a roulette wheel into which a ball drops. That is, the ball dropping into the position is the random generation of a number.
>
> At no point does Yee show or suggest "randomly select[ing] a first selected position on [a] roulette wheel for [a] spin of the roulette wheel prior to the ball falling into a position on the roulette wheel" as recited in claim 1 as amended.
>
> Thus, claim 1 is allowable. Likewise, claims 8 and 15 which include similar limitations to claim 1, and claims 2-7, 9-14, and 16-20, which depend from one of claims 1, 8, and 15, are also allowable.

('024 Patent File History, Response dated Oct. 28, 2019 at 10.)

Evolution's argument materially misrepresented Yee's disclosure: In addition to disclosing a random number generated via a ball dropping into a position of a roulette wheel, the cited portion of Yee also discloses the generation of random numbers via a processor-controlled random number generator, consistent with the disclosure of the Asserted Patents. The cited

portion of Yee discloses, for example, "activat[ing] a random number generator (e.g., programmed into or otherwise operatively connected to the processor 350, 414, 428, 480, 597, or 642 (see FIGS. 4 through 6 and 8) and automatically apply a formula, or by automatically, electronically activating a random number generator using a processor 350, 414, 428, 480, 597, or 642 (see FIGS. 4 through 6 and 8) and automatically applying a formula to generate a random number." (Yee, 9:64-10:14.) Further, Yee's random selection of roulette positions occurs prior to a ball falling into a position on the roulette wheel. *See*, *e.g.*, Exhibit A-28, '014 Patent, Limitation 1(i).

PTO Examiner Hoel relied on Evolution's misrepresentation of Yee's disclosure in allowing the claims of the '024, '014, and '371 Patents. In fact, the examiner's Reasons for Allowance of the '024 Patent quoted Evolution's erroneous statements:

> ***Reasons for Allowance***
>
> The following is an examiner's statement of reasons for allowance:
>
> The closet prior art is Yee, et al. (9,600,974 B2) (NF, 06-28-2019, pages 2 and 3). Yee teaches a system for wagering comprising a roulette wheel and a ball to be used in the roulette wheel (Fig. 5B, 21 :20-46). Yee receives first bet information for a first bet from a first player device, the first bet information corresponding to at least a first position on the roulette wheel (individual player stations at Fig. 5A, 19:30-55; wager accepted from a player, 102, Fig. 1,7:49-8:9). Yee receives second bet information for a second bet from a second player device of a second player, the second bet information corresponding to at least a second position on the roulette wheel that is different from the first position (individual player stations at Fig. 5A, 19:30-55; wager accepted from a player, 102, Fig. 1,7:49-8:9). The claims as presently amended cite randomly selecting a first selected position on the roulette wheel for the spin of the roulette wheel prior to the ball falling into a position on the roulette wheel, wherein the first selected position is the same as the first position. Generally speaking the "position" being selected in this portion of Claim 1 corresponds to the selection made in box 210 of FIG. 2 of the present application. While this Yee (9:31-10:14) discusses randomly generating a number, it clearly explains that this number would be the number corresponding to a position on a roulette wheel into which a ball drops. That is, the ball dropping into the position is the random generation of a number. The random selection is thus made by the processor rather than merely depending on the random location of the ball stopping. The examiner respects that the applicants may have different reasons for allowance.

('024 Patent File History, Notice of Allowability dated Dec. 16, 2019 at 3.) PTO Examiner Hoel provided similar reasons for allowance in allowing the subsequent '014 and '371 Patents. ('014

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Patent File History, Notice of Allowability dated Jan. 22, 2021 at 3; '371 Patent File History, Corrected Notice of Allowability dated July 26, 2023 at 3.)

But for Evolution's material misrepresentation of Yee's disclosure, the PTO would not have allowed the Asserted Patents. The single most reasonable inference to be drawn from the above facts is that Mr. Haushalter, Mr. Byrne, and other Duty-Bound Individuals specifically intended to deceive the PTO by misrepresenting Yee's disclosure during the prosecutions of the Asserted Patents.

G. LPR 1-8(g) Disclosures: Intention To Petition For Review Before The United States Patent and Trademark Office

Defendants intend to petition for *inter partes* review (IPR) of the Asserted Patents before the PTO. The IPR petitions are expected to challenge all of the Asserted Claims of the Asserted Patents based on one or more of the prior art references disclosed herein.

III. LPR 1-9 DOCUMENT PRODUCTION ACCOMPANYING INVALIDITY CONTENTIONS

A. LPR 1-9(a) Document Production: Documentation Sufficient To Show The Operation Of Any Aspects Or Elements Of An Accused Instrumentality Identified By The Patent Claimant

In accordance with LPR 1-9(a), Defendants are producing documentation within their possession, custody, and control sufficient to show the operation of aspects or elements of the Accused Instrumentalities charted by Plaintiffs in its Infringement Contentions. Defendants' search for technical documents is ongoing. Accordingly, Defendants reserve the right to supplement their production, as provided by the local rules, and during the course of discovery.

B. LPR 1-9(b) Document Production: Copies Of The Prior Art Identified Under LPR 1-8(b)

In accordance with LPR 1-9(b), Defendants are producing a copy of all prior art references identified in these Invalidity Contentions. Defendants are also producing prior art references concerning prior art systems and methods. Each of the prior art references is identified by production number in Exhibit C. Defendants' search for prior art references, additional documentation, and/or corroborating evidence concerning prior art apparatuses and methods is ongoing. Accordingly, Defendants reserve the right to supplement their production,

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as provided by the local rules, as additional prior art references, additional documentation, and/or corroborating evidence concerning prior art documents/apparatuses, and methods are obtained during the course of discovery.

IV. RESERVATIONS

A. General Reservations

Defendants reserve the right, to the extent permitted by the Court and the applicable statutes and rules, to supplement and/or amend these Invalidity Contentions based on prior art currently known to Plaintiffs and prior art identified or provided to Plaintiffs by Defendants or any third parties.

Defendants provide the information herein and in the accompanying claim charts and document production for the sole purpose of complying with LPR 1-8. The information provided herein, in the accompanying claim charts, and production of documents shall not be deemed an admission or agreement regarding (a) the scope of any claims, (b) the proper construction of those claims or any terms contained therein, and/or (c) Plaintiffs' infringement theories or mappings in its Infringement Contentions. Nothing contained in these Invalidity Contentions, including the accompanying claim charts and document production, should be understood or deemed to be an express or implied admission or contention with respect to the proper construction of any terms in the Asserted Claims, that any claim limitation is definite or otherwise amenable to construction, or with respect to the alleged infringement of any claim.

B. Ongoing Discovery and Disclosures

Because only limited discovery has occurred, Defendants reserve the right to seek to revise, amend, and/or supplement the information provided herein, including identifying, charting, and relying on additional references, consistent with the Patent Rules and the Federal Rules of Civil Procedure. Fact discovery is ongoing, and expert discovery has not yet begun. Some or all of the items of prior art identified herein or otherwise identified in the prior art publications, patents or other documents identified by Defendants have been and will be the subject of continuing investigation and discovery, including potentially third party discovery as well as expert discovery.

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Similarly, Defendants have not yet had the opportunity to take any depositions of the inventor named on the face of the Asserted Patents or other persons having relevant information. Defendants reserve the right to seek to revise, amend or supplement these contentions pursuant to Federal Rule of Civil Procedure 26(e) and the Orders of record in this matter, to the extent appropriate in light of further investigation and discovery regarding the defenses, the review and analysis of expert witnesses, or supplemental contentions by Plaintiffs.

C. Claim Construction

The Court has not construed the Asserted Claims. Defendants map the prior art references to the Asserted Claims based on Plaintiffs' apparent constructions, to the extent understood, of the Asserted Claims as advanced in Plaintiffs' Infringement Contentions. However, nothing stated in this document or accompanying claim charts should be treated as an admission or suggestion that Plaintiffs' apparent claim constructions are correct, or that any claim terms of the Asserted Claims are not invalid under 35 U.S.C. § 112 for being indefinite, failing to satisfy the written description requirement, or failing to satisfy the enablement requirement.

Depending on the Court's construction of the Asserted Claims of the Asserted Patents, and/or positions that Plaintiffs or their expert witness(es) may take concerning claim interpretation, infringement, and/or invalidity issues, the asserted prior art references may be of greater or lesser relevance. Given this uncertainty, the charts may reflect alternative applications of the prior art against the Asserted Claims. Thus, no chart or position taken by Defendants should be construed as an admission or a waiver of any particular construction of any claim term. Defendants also reserve the right to challenge any of the claim terms under 35 U.S.C. § 112, including by arguing that they are indefinite, not supported by the written description, and/or not enabled, notwithstanding positions taken in the attached charts.

D. The Intrinsic Record

Defendants further reserve the right to rely upon applicable information and prior art cited in the file histories of the Asserted Patents and any related U.S. and foreign patent applications as invalidating references or to show the state of the art. Defendants further reserve

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the right to rely on the patent applicants' admissions concerning the scope of the prior art relevant to the Asserted Patents found in, *inter alia*: the Asserted Patents, the prosecution histories for the Asserted Patents and any related patents and/or patent applications or reexaminations; any deposition testimony of the named inventor of the Asserted Patents; and the papers filed and any evidence submitted by Plaintiffs in connection with this litigation.

E. Rebuttal Evidence

Prior art not included in these Invalidity Contentions, whether known or not known to Defendants, may become relevant. In particular, Defendants are currently unaware of the extent, if any, to which Plaintiffs will contend that limitations of the Asserted Claims of the Asserted Patents are not disclosed in the prior art identified herein. To the extent that such an issue arises, Defendants reserve the right to identify other references that would show or render obvious the allegedly missing limitation(s) or the disclosed device or method.

F. Contextual Evidence

Defendants' claim charts cite particular teachings and disclosures of the prior art as applied to the limitation or element of each of the Asserted Claims. However, persons having ordinary skill in the art generally may view an item of prior art in the context of his or her experience and training, other publications, literature, products, and understanding. As such, the cited portions are only examples, and Defendants reserve the right to rely on uncited portions of the prior art references and on other publications and expert testimony as aids in understanding and interpreting the cited portions, as providing context thereto, and as additional evidence that the prior art discloses a claim limitation or the claimed subject matter as a whole. Defendants further reserve the right to rely on uncited portions of the prior art references, other publications, and testimony, including expert testimony, to establish bases for combinations of certain cited references that render the Asserted Claims obvious. The references discussed in the claim charts may disclose the elements of the Asserted Claims explicitly and/or inherently, and/or they may be relied upon to show the state of the art in the relevant time frame. The suggested obviousness combinations are provided in the alternative to anticipation contentions and are not to be construed to suggest that any reference included in the combinations is not by itself anticipatory.

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G. No Patentable Weight

Defendants reserve the right to argue that various portions of the Asserted Claims, such as an intended use or result, non-functional descriptive material, and certain preamble language, are entitled to no patentable weight. Mapping of a portion of an Asserted Claim to a prior art reference does not represent or admit that such portion of the claim is entitled to patentable weight when comparing the claimed subject matter to the prior art. Nor do references herein to claim language as a "limitation" or "element" admit that the claim language has patentable weight.

DATED this 12th day of November, 2024.

JONES DAY

By: */s/ Jennifer D. Bennett*
JENNIFER D. BENNETT
(*Pro Hac Vice)*
HAROLD K. GORDON, ESQ.
(*Pro Hac Vice*)
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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November, 2024, I caused a true and correct copy of the foregoing **Defendants' LPR 1-8 Disclosure of Invalidity Contentions and Accompanying LPR 1-9 Document Production** to be served via e-mail on all parties or persons requiring notice.

/s/ *Jennifer D. Bennett*
JONES DAY

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