JONES DAY
HAROLD K. GORDON, ESQ.
(Admitted *Pro Hac Vice*)
hkgordon@jonesday.com
250 Vesey Street
New York, New York 10281
Telephone: (212) 326-3939

JONES DAY
RYAN K. WALSH
(Admitted *Pro Hac Vice*)
rkwalsh@jonesday.com
1221 Peachtree Street N.E., Suite 400
Atlanta, Georgia 30361
Telephone: (404) 521-3939

JONES DAY
JENNIFER D. BENNETT, ESQ.
(Admitted *Pro Hac Vice*)
jenniferbennett@jonesday.com
555 California Street, 26th Floor
San Francisco, California 94104
Telephone: (415) 626-3939

JONES DAY
RANDALL E. KAY, ESQ.
(Admitted *Pro Hac Vice*)
rekay@jonesday.com
4655 Executive Drive, Suite 1500
San Diego, California 92121
Telephone: (858) 314-1139

CAMPBELL & WILLIAMS
PHILIP R. ERWIN, ESQ. (11563)
pre@cwlawlv.com
710 South Seventh Street, Suite A
Las Vegas, Nevada 89101
Telephone: (702) 382-5222

Attorneys for Defendants
Light & Wonder, Inc. and LNW Gaming, Inc.

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

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' MOTION TO DISMISS

TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. BACKGROUND 1

A. The Asserted Patents 1

B. The Alleged Trade Secrets 3

III. THE ASSERTED PATENTS ARE INVALID UNDER 35 U.S.C. § 101 4

A. Legal Standard 4

B. Alice Step One – The Abstract Idea of Playing Roulette 5

1. The Federal Circuit Has Consistently Found That Claims Directed to Wagering Games Are Abstract Ideas 5

2. The Asserted Patents' Wagering Games Are Not Patent Eligible 7

C. Alice Step Two – The Asserted Patents Claim Well-Known Gambling Concepts, None of Which Are Inventive Alone Or In Combination 8

D. The Dependent Claims Recite Only Conventional, Non-Inventive Elements In Furtherance Of The Abstract Idea 11

E. Claim 1 of the '014 Patent Is Representative 13

F. Compliance with Local Patent Rule 1-4(c) 14

IV. EVOLUTION'S TRADE SECRET CLAIMS ARE SUBJECT TO ARBITRATION 14

A. Arbitrability of the Trade Secret Claims Should Be Decided by an Arbitrator 15

B. Alternatively, Evolution's Trade Secret Claims Are Arbitrable and Must Be Stayed and Referred to Arbitration 17

V. ALTERNATIVELY, THE TRADE SECRET CLAIMS AND '024 AND '014 PATENT CLAIMS ARE TIME-BARRED 19

VI. CONCLUSION 22

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

TABLE OF AUTHORITIES

Page

CASES

Alice Corp. Pty. v. CLS Bank Int'l,
573 U.S. 208 (2014) ..... passim

Ass'n of Molecular Pathology v. Myriad Genetics, Inc.,
569 U.S. 576 (2013) 4

AT&T Techs., Inc. v. Commc'n Workers,
475 U.S. 643 (1986) 18

Bally Gaming, Inc. v. New Vision Gaming & Dev., Inc.,
No. CBM2018-00006 (P.T.A.B. June 19, 2019) 6

Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC,
827 F.3d 1341 (Fed. Cir. 2016) 9

Beteiro, LLC v. DraftKings Inc.,
104 F. 4th 1350 (Fed. Cir. 2024) 6, 9

Bilski v. Kappos,
561 U.S. 593 (2010) 5

Boom! Payments, Inc. v. Stripe, Inc.,
839 F. App'x 528 (Fed. Cir. 2021) 10

BSG Tech LLC v. Buyseasons, Inc.,
899 F.3d 1281 (Fed. Cir. 2018) 11

Clark Cnty. Pub. Emps. Ass'n v. Pearson,
798 P.2d 136 (Nev. 1990) 17, 18, 19

Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n,
776 F.3d 1343 (Fed. Cir. 2014) 13

Elec. Power Grp., LLC v. Alstom S.A.,
830 F.3d 1350 (Fed. Cir. 2016) 9, 10

Enfish, LLC v. Microsoft Corp.,
822 F.3d 1327 (Fed. Cir. 2016)), *appeal dismissed*, No. 2023-1197, 2023 WL 2525057 (Fed. Cir. Mar. 15, 2023) 4, 7

First Options of Chi., Inc. v. Kaplan,
514 U.S. 938 (1995) 15

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

TABLE OF AUTHORITIES
(continued)

Page

Game Play Network, Inc., v. Potent Sys., Inc.,
C.A. No. CV 23-323, 2024 WL 3226214 (D. Del. June 28, 2024) 6

Han v. Mobil Oil Corp.,
73 F.3d 872 (9th Cir. 1995) 20

Hatkoff v. Portland Adventist Med. Ctr.,
287 P.3d 1113 (Or. App. Ct. 2012).....20

Henry Schein, Inc. v. Archer& White Sales, Inc.,
586 U.S. 63 (2019).....15, 17

Holcomb Condo. Homeowners' Ass'n, Inc. v. Stewart Venture, LLC,
300 P.3d 124 (Nev. 2013).....20

In re Marco Guldenaar Holding B.V.,
911 F.3d 1157 (Fed. Cir. 2018) (Mayer, J., concurring)..... passim

In re Packaged Seafood Prods. Antitr. Litig.,
242 F. Supp. 3d 1033 (S.D. Cal. 2017).....21

In re Smith,
815 F.3d 816 (Fed. Cir. 2016).....5, 6, 7, 8

Int'l Ass'n of Firefighters, Loc. 1285 v. City of Las Vegas,
764 P.2d 478 (Nev. 1988).....19

Int'l Ass'n of Firefighters, Loc. 1285 v. City of Las Vegas,
929 P.2d 954 (Nev. 1996).....17, 18

Intell. Ventures I LLC v. Symantec Corp.,
838 F.3d 1307 (Fed. Cir. 2016).....5

Knievel v. ESPN,
393 F.3d. 1068 (9th Cir. 2005) 3

Konami Gaming, Inc. v. High 5 Games, LLC,
No. 14-cv-01483, 2018 WL 1020120 (D. Nev. Feb. 22, 2018), *aff'd* 756 F. App'x 994 (Fed. Cir. 2019). 6

Mayo Collaborative Servs. v. Prometheus Lab'ys, Inc.,
566 U.S. 66 (2012).....4

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

TABLE OF AUTHORITIES
(continued)

Page

Miller Mendel, Inc. v. City of Anna,
No. 2022-1753, 2024 WL 3448673 (Fed. Cir. July 18, 2024).....9

New Vision Gaming & Dev., Inc. v. LNW Gaming, Inc.,
No. 20-01400 (Fed. Cir. Jan. 16, 2024), ECF No. 98.....7

NEXRF Corp. v. Playtika Ltd.,
547 F. Supp. 3d 977 (D. Nev. 2021), *aff'd*, No. 2021-2147, 2022 WL 1513310
(Fed. Cir. May 13, 2022).....5, 6, 8, 9

Petersen v. Bruen,
792 P.2d 18 (Nev. Sup. Ct. 1990).....21

Planet Bingo, LLC v. VKGS LLC,
576 F. App'x 1005 (Fed. Cir. 2014).....6, 8, 14

Portland Gen. Elec. Co. v. Liberty Mut. Ins. Co.,
862 F.3d 981 (9th Cir. 2017).....16

Portland Gen. Elec. Co. v. Liberty Mut. Ins. Co,
No. 16-cv-00495, 2016 WL 4059658 (D. Or. July 27, 2016).....16

RUAG Ammotec GmbH v. Archon Firearms, Inc.,
538 P.3d 428 (Nev. 2023).....15, 16, 17

SAP Am., Inc. v. InvestPic, LLC,
898 F.3d 1161 (Fed. Cir. 2018).....11

Savvy Dog Sys., LLC v. Pa. Coin, LLC,
No. 2023-1073, 2024 WL 1208980 (Fed. Cir. Mar. 21, 2024).....11

Scibetta v. Slingo, Inc.,
No. CV 16-8175, 2018 WL 466224 (D.N.J. Jan. 17, 2018).....5, 6, 8

Seagate Tech. LLC v. Dalian China Express Int'l Corp.,
169 F. Supp. 2d 1146 (N.D. Cal. 2001).....20

Simio, LLC v. FlexSim Software Prods., Inc.,
983 F.3d 1353 (Fed. Cir. 2020).....11

SR Constr., Inc. v. Peek Bros. Constr., Inc.,
510 P.3d 794 (Nev. 2022).....17

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

TABLE OF AUTHORITIES
(continued)

Page

Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.,
559 U.S. 662 (2010) 17

Teliax Tech. LLC v. Affinity Network, Inc.,
636 F. Supp. 3d 1199 (D. Nev. 2022) (Silva, J.) ..... passim

Trading Techs. Int'l, Inc. v. IBG LLC,
921 F.3d 1084 (Fed. Cir. 2019) 10, 11

Trinity Info Media, LLC v. Covalent, Inc.,
72 F. 4th 1355 (Fed. Cir. 2023) 8

TS Pats. LLC v. Yahoo! Inc.,
279 F. Supp. 3d 968 (N.D. Cal. 2017), *aff'd*, 731 F. App'x 978 (Fed. Cir. 2018) 11

Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC,
874 F.3d 1329 (Fed. Cir. 2017) 10

Uber Techs., Inc. v. Royz,
517 P.3d 905 (Nev. 2022) 16

United States ex rel. Welch v. My Left Foot Children's Therapy, LLC,
871 F.3d 791 (9th Cir. 2017) 21

STATUTES

35 U.S.C. § 101 ..... passim

Defend Trade Secrets Act of 2016, Pub. L. 114-153, 130 Stat. 376 1

Nevada Trade Secrets Uniform Act, Nev. Rev. Stat. § 660A ..... passim

OTHER AUTHORITIES

Fed. R. Civ. P. 12(b)(6) 1, 11, 22

Loc. Pat. R. 1-4(c) 14

Rules of Arb. of Int'l Chamber of Com., Article 6(3) 16

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

I. INTRODUCTION

Plaintiff Evolution accuses Light & Wonder ("L&W") of infringing three patents ("Patent Claims") and misappropriating trade secrets under the Defend Trade Secrets Act and Nevada Trade Secrets Uniform Act ("Trade Secret Claims"). ECF No. 1. L&W hereby moves (i) to dismiss the Patent Claims (Counts I, II, and III) pursuant to Federal Rule of Civil Procedure 12(b)(6) because Evolution's patents do not claim patent eligible subject matter, and Counts I and II are time-barred under the parties' agreement; and (ii) to stay and compel arbitration of the Trade Secret Claims (Counts IV and V) because they are subject to the parties' arbitration agreement; or, alternatively, dismiss the Trade Secret Claims because they are each time-barred under the parties' agreement.

II. BACKGROUND

A. The Asserted Patents

Evolution accuses L&W of infringing U.S. Patent Nos. 10,629,024 (the "'024 patent"), 11,011,014 (the "'014 patent"), and 11,756,371 (the "'371 patent") (collectively, the "Asserted Patents"). The '024 patent was filed February 5, 2019 and claims priority to a provisional application filed February 5, 2018. The '014 patent is a continuation of the '024 patent, and the '371 patent is a continuation of the '014 patent. Each patent is titled "Systems, Methods, and Media for Implementing Internet-Based Wagering" and shares a common specification.

The Asserted Patents purportedly disclose "[s]ystems, methods, and media for implementing internet-based wager[ing]." '014 patent[1] at 1:31–32. Specifically, the Asserted Patents are directed to wagering on the century-old game of roulette, and all of the described embodiments use three core components—a roulette wheel, a ball, and a hardware processor.

To play roulette, a dealer spins the wheel one direction and directs the ball to spin around the wheel in the opposite direction. *Id.* at 3:3–6. The ball eventually falls into a position on the wheel associated with a number. *Id.* at 3:6–8. If the player has placed a bet on that number, he or she is paid a sum. If not, the bet amount belongs to the house.

[1] All cites to the specification are with respect to the '014 patent, attached as Exhibit 3 to the Complaint.

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

In the purported invention of the Asserted Patents, the wheel and ball perform their respective conventional roles while the hardware processor—which may be "any suitable" processor for "controlling . . . a general-purpose computer," (*id.* at 6:32–48)—acts as the dealer. That is, the processor accepts player bets associated with a specific number (or numbers) on the roulette wheel (*id.* at 8:19–28), determines whether the ball and wheel have been spun (*id.* at 8:29–30), determines whether the ball has landed on the number selected by the player(s) (*id.* at 8:40–41), and, if so, determines the payout amount (*id.* at 8:36–39) and indicates that the player is to be paid (*id.* at 8:42–43). In short, the claimed processor applies the rules of roulette.

The Asserted Patents also require that the same generic processor randomly identify a number on the roulette wheel before the ball falls into position on the wheel. *Id.* at 8:31–35. If this randomly identified number matches the number on which a player has placed a bet, and if the ball lands on that number on the roulette wheel, the player receives an increased payout. *Id.* at 5:15–32. This randomly identified number is essentially a "multiplier" and is no different from countless others known by 2018 that increase a player's payout. Evolution contends that the random number selection and increased payout based thereon are "innovations of the [Asserted Patents that] significantly improved existing technology for electronic wagering in a roulette game." *See* ECF No. 1 ¶¶ 44–45, 69–70, 96–97.

Claim 1 of the '014 patent below is representative of all claims.

> A system for wagering, comprising:
> a roulette wheel;
> a ball configured to be used in the roulette wheel;
> at least one hardware processor collectively configured to:
> generate a first graphical user interface for presentation on a first player device of a first player;
> generate a second graphical user interface for presentation on a second player device of a second player;
> 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;
> *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*

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

> *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 at 8:11–43 (emphases added indicating the purported innovation).

As shown above, the claims use generic components (wheel, ball, processor) to perform steps specified in broad, results-oriented language, including at the alleged point of novelty (e.g., "*determine a first payout*"). No new hardware or software for implementing the functional claim language is described in the Asserted Patents (much less required by their claims). And the only alleged "innovation" is randomly identifying certain numbers on the roulette wheel and making them eligible for bonus payouts in the middle of a spin. While this tweak to the typical rules of roulette may be exciting for wagerers, it is not a technical innovation worthy of patent protection.

B. The Alleged Trade Secrets

Evolution identifies as its alleged trade secrets the Lightning Roulette math files. ECF No. 1 ¶¶ 28, 120, 135. Evolution alleges that its math files lay out the math for "the frequency with which each multiplier is selected, the frequency with which the roulette numbers are selected as 'Lucky Numbers,' and the frequency with which the ball lands on a roulette number" which, according to Evolution, allow its Lightning Roulette game to remain profitable. *Id.* ¶¶ 17, 122.

On March 29, 2021, Evolution and L&W entered into a Lightning Roulette License Agreement ("License Agreement") providing L&W an exclusive license to the Asserted Patents so that L&W could develop and manufacture a physical Lightning Roulette game table. *See id.* ¶ 19; *see also* License Agreement attached as Ex. 1, at D. *See Knievel v. ESPN,* 393 F.3d. 1068, 1076 (9th Cir. 2005) ("[T]he 'incorporation by reference' doctrine, . . . permits us to take into account documents 'whose contents are alleged in a complaint . . . , but which are not physically attached to the [plaintiff's] pleading.'") (citation omitted). The License Agreement also provided L&W's obligations with respect to the "math files." ECF No. 1 ¶ 20. The parties agreed in the License Agreement to resolve "[a]ny claim . . . which arises out of or in connection with this

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Agreement, . . . under the Rules of Arbitration of the International Chamber of Commerce [("ICC")]." Ex. 1 § 15(c).

III. THE ASSERTED PATENTS ARE INVALID UNDER 35 U.S.C. § 101

The claims of the Asserted Patents recite steps for playing roulette using its well-known, conventional components—a ball and wheel. The Federal Circuit has made clear that claims to such wagering games are directed to abstract ideas. The Asserted Patents' claims also recite the use of a processor, but "any suitable" processor for a "general-purpose" computer will do, and the processor need only perform basic computer tasks, all of which are specified at a functional, results-oriented level (*e.g.*, "determine a payout" without specifying how that determination is made). *See* '014 patent at 6:32-48. Federal Circuit authority dictates that using a generic processor to perform an abstract idea is not an inventive concept. The claims fail the *Alice* test and warrant dismissal.

A. Legal Standard

35 U.S.C. § 101 defines patent eligible subject matter as "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof." "Laws of nature, natural phenomena, and abstract ideas" are not patentable. *Alice Corp. Pty. v. CLS Bank Int'l*, 573 U.S. 208, 216 (2014) (citing *Ass'n of Molecular Pathology v. Myriad Genetics, Inc.*, 569 U.S. 576, 589 (2013)).

Under the Supreme Court's two-step framework governing the eligibility inquiry, a court must first determine whether the invention is directed to an abstract idea. *Id.* at 218. If so, the court then determines whether the claim elements recite an "inventive concept" sufficient to transform the abstract idea into patent-eligible subject matter. *Id.* at 217–18 (quoting *Mayo Collaborative Servs. v. Prometheus Lab'ys, Inc.*, 566 U.S. 66, 72–73 (2012)). Comparing the claims at issue to claims previously found to be ineligible under § 101 is a common and Federal Circuit-approved approach. *Teliax Tech. LLC v. Affinity Network, Inc.*, 636 F. Supp. 3d 1199, 1207 (D. Nev. 2022) (Silva, J.) (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1334 (Fed. Cir. 2016)), *appeal dismissed*, No. 2023-1197, 2023 WL 2525057, at *1 (Fed. Cir. Mar. 15, 2023).

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

"Whether a patent is eligible under § 101 is a question of law that may be determined at the dismissal stage." *NEXRF Corp. v. Playtika Ltd.*, 547 F. Supp. 3d 977, 986 (D. Nev. 2021), *aff'd*, No. 2021-2147, 2022 WL 1513310, at *1 (Fed. Cir. May 13, 2022); *Teliax Tech.*, 636 F. Supp. 3d at 1206; *Scibetta v. Slingo, Inc.*, No. CV 16-8175, 2018 WL 466224, at *8 (D.N.J. Jan. 17, 2018) (collecting cases). Early resolution conserves judicial and party resources and "protects the public by expeditiously removing the barriers to innovation created by vague and overbroad patents." *In re Marco Guldenaar Holding B.V.*, 911 F.3d 1157, 1165 (Fed. Cir. 2018) (Mayer, J., concurring).

B. *Alice* Step One – The Abstract Idea of Playing Roulette

1. The Federal Circuit Has Consistently Found That Claims Directed to Wagering Games Are Abstract Ideas

At *Alice* step one, the court assesses whether the claims are directed to an abstract idea such as "fundamental economic practice[s] long prevalent in our system of commerce" or "longstanding commercial practice[s]." *Alice*, 573 U.S. at 219, 220 (quoting *Bilski v. Kappos*, 561 U.S. 593, 611 (2010)); *Intell. Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1313 (Fed. Cir. 2016). The Federal Circuit and courts in this District have routinely held that claims to wagering games like roulette meet this definition of an abstract idea.

The Federal Circuit's *In re Smith* decision is instructive. There, the applicant sought to patent a "wagering game utilizing real or virtual standard playing cards." 815 F.3d 816, 817 (Fed. Cir. 2016). The representative claim recited "[a] method of conducting a wagering game" comprising the steps of a dealer shuffling cards, accepting a wager from a player, dealing cards, and assessing the value of the cards. *Id.* at 817–18. But the United States Patent and Trademark Office ("USPTO") rejected the claims as unpatentable subject matter and the Federal Circuit affirmed. *Id.* at 820. At *Alice* step one, the Federal Circuit found the claims were abstract because they were "directed to rules for conducting a wagering game," which was a "'fundamental economic practice[]' found abstract by the Supreme Court." *Id.* at 818 (citing *Alice*, 573 U.S. at 219). The claims in *In re Smith* were "effectively, a method of exchanging and resolving financial

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

obligations based on probabilities," which the Supreme Court has classified as an abstract idea. *Id.* at 818–19.

The same conclusion was reached in *In re Marco Guldenaar*. The representative claim recited "a method of playing a dice game" comprising the steps of providing a set of dice with various die markings, placing a wager that one of the die markings would appear face up, rolling the dice, and paying out if the selected die marking appeared face up. 911 F.3d at 1159. Analogizing the claims to those in *In re Smith*, the Federal Circuit held that they were "directed to a method of conducting a wagering game, with the probabilities based on dice rather than on cards" which was abstract under *Alice*. *Id.* at 1160.

Similarly, in *Planet Bingo, LLC v. VKGS LLC*, 576 F. App'x 1005 (Fed. Cir. 2014), the Federal Circuit affirmed a district court's finding that claims for "managing a game of Bingo" were abstract because they were "similar to the kind of 'organizing human activity' at issue in *Alice*." *Id.* at 1008. And, the Federal Circuit held last month that claims for "exchanging information concerning a bet and allowing or disallowing the bet based on where the user is located" were abstract. *Beteiro, LLC v. DraftKings Inc.*, 104 F. 4th 1350, 1354 (Fed. Cir. 2024).

Courts in this District have followed the Federal Circuit's lead on this issue. In *NEXRF Corp.*, Chief Judge Du held that claims directed to "remotely playing a slot machine on a server" were directed to an abstract idea and not patentable. 547 F. Supp. 3d at 987. And, in *Konami Gaming, Inc. v. High 5 Games, LLC*, Judge Boulware held that claims for the "rules of a game, i.e., slot machine game rules" were directed to an abstract idea. No. 14–cv–01483, 2018 WL 1020120, at *19 (D. Nev. Feb. 22, 2018), *aff'd*, 756 F. App'x 994 (Fed. Cir. 2019).

Other courts and the USPTO's Patent and Trial Appeal Board have likewise recognized that wagering games are unpatentable abstract ideas. *See Scibetta*, 2018 WL 466224, at *10 ("patents directed towards a wagering game using at least one standard deck of cards" are directed to an ineligible abstract idea); *Game Play Network, Inc., v. Potent Sys., Inc.*, C.A. No. CV 23-323, 2024 WL 3226214, at *7 (D. Del. June 28, 2024) (invalidating "gambling patents" because they were "directed to the rules of a wagering game, which is itself abstract."); Final Written Dec. at 27–28, *Bally Gaming, Inc. v. New Vision Gaming & Dev., Inc.*, No. CBM2018-00006 (P.T.A.B.

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

June 19, 2019), Paper No. 47 (claims reciting rules for playing a wagering game were abstract and invalid under § 101), *aff'd*, Judgment at 2, *New Vision Gaming & Dev., Inc. v. LNW Gaming, Inc.*, No. 20-01400 (Fed. Cir. Jan. 16, 2024), ECF No. 98.

2. The Asserted Patents' Wagering Games Are Not Patent Eligible

The claims here are indistinguishable from those already held to be directed to abstract ideas. They are directed to playing the wagering game roulette—an abstract idea under Federal Circuit precedent. *Teliax Tech.*, 636 F. Supp. 3d at 1207 ("[C]ourts generally begin 'by compar[ing] claims at issue to those claims already found to be directed to an abstract idea in previous cases.'") (quoting *Enfish*, 822 F.3d at 1334). Specifically, the claims recite a roulette wheel, ball, and a hardware processor for implementing "system[s] for *wagering*" ('024 claims 1–7, '014 claims 1–8, '371 claims 1–10), "method[s] for *wagering*" ('024 claims 8–14, '014 claims 9–16, '371 claims 11–20), and "computer-readable medi[a] containing computer executable instructions . . . to perform . . . method[s] for *wagering*" ('024 claims 15–20, '014 claims 17–24, '371 claims 21–30) (emphases added). *In re Smith*, *In re Marco Guldenaar*, and the other authorities above dictate that claims on "wagering" are directed to abstract ideas—"method[s] of exchanging and resolving financial obligations based on probabilities." *See In re Smith*, 815 F.3d at 818–19; *In re Marco Guldenaar*, 911 F.3d at 1160; *see also Alice*, 573 U.S. at 219 ("method of exchanging financial obligations" directed to an abstract idea).

In claim 1 of the '014 patent, which is representative of the Asserted Patents' claims, *see* Section III.E below, the processor performs the following functions: generate a first and second graphical user interface ("GUI") which is presented to the player ('014 patent at 8:15–18); receive bets from players corresponding to numbers on the roulette wheel (*id.* at 8:19–28); determine that the roulette wheel and the ball have been spun (*id.* at 8:29–30); randomly identify a number on the roulette wheel (*id.* at 8:31–35); determine the increased payout for the player when the player's bet matches the randomly identified number (*id.* at 8:36–39); determine whether the ball landed in the number selected by the player associated with his or her bet (*id.* at 8:40–41); and, if so, pay the player (*id.* at 8:42–43). These functions constitute the basic steps of playing the wagering game roulette, an abstract idea. Using a computer or processor to perform them does not make it any

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

less abstract. *See Trinity Info Media, LLC v. Covalent, Inc.*, 72 F. 4th 1355, 1362 (Fed. Cir. 2023) ("Nor are we persuaded that . . . —further requiring processors configured to perform operations with web servers, a database, and a match aggregator—changes the focus of the asserted claims.").

Claims directed to playing roulette are no different than those directed to playing blackjack (*In re Smith*), rolling dice (*In re Marco Guldenaar*), playing bingo (*Planet Bingo*), card games (*Scibetta*), or slots (*NEXRF Corp.*). They are all wagering games, *i.e.*, "fundamental economic practice[s] long prevalent in our system of commerce." *Alice*, 573 U.S. at 219. They are all abstract.

C. *Alice* Step Two – The Asserted Patents Claim Well-Known Gambling Concepts, None of Which Are Inventive Alone Or In Combination

Abstract ideas may still be patentable where the claims disclose an inventive concept that transforms the abstract idea into something more. *In re Marco Guldenaar*, 911 F.3d at 1161. But merely appending conventional features to an abstract idea is "not enough" for patent eligibility, nor is using a generic computer operating in conventional ways. *Id.; Alice*, 573 U.S. at 225.

The claimed ball and roulette wheel have been well-known and conventional elements of roulette for over a century. They cannot supply an inventive concept. *See In re Smith*, 815 F.3d at 819 (use of "standard deck" of "physical playing cards" is purely conventional and not inventive).

That leaves the claimed hardware processor, but it fares no better. *First*, the hardware processor performs generic, well-known steps for playing roulette, all of which are claimed in a functional, results-oriented manner. *See* '014 patent at 8:19 ("receive first bet information for a first bet"); *id.* at 8:23 ("receive second bet information for a second bet"); *id.* at 8:29–30 ("determine that the roulette wheel and the ball have been spun"); *id.* at 8:31–32 ("randomly select a first selected position on the roulette wheel"); *id.* at 8:36–37 ("determine a first payout for the first single position and a second payout for the single second position"); *id.* at 8:40–41 ("determine that the ball has fallen in the single first position"); *id.* at 8:42 ("indicate that the first player is to be paid"). These are routine tasks performed by a generic, off-the-shelf processor. No new or improved hardware or software is involved. *See id.* at 6:43–48 ("Hardware processor 602

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

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*. . . .") (italics added).

Century-old roulette rules applied by "any suitable" processor of a "general purpose" computer do not supply inventive concepts. *See In re Marco Guldenaar*, 911 F.3d at 1161 ("For example, a claim calling for a generic computer operating in conventional ways to perform an abstract idea lacks an inventive concept."); *Beteiro*, 104 F. 4th at 1357 ("The district court thus concluded that 'claim 2 simply describes a conventional business practice . . . executed . . . by generic computer components' which 'cannot survive [*Alice*] Step 2.' We agree.") (internal citation omitted); *NEXRF Corp.*, 547 F. Supp. 3d at 992 ("[C]laims that do not 'require[] anything other than off-the-shelf, conventional computer, network, and display technology for gathering, sending, and presenting the desired information' are unpatentable.") (quoting *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016)). Indeed, the specification makes clear that nearly all the generic and conventional features described in the Asserted Patents—*e.g.*, wheel, ball, display, processor, random number selection—can use "any suitable" replacement. *See* '014 patent at 2:58 ("Roulette wheel 102 can be any suitable roulette wheel."); *id.* at 3:18 ("Dealer computer 106 can be any suitable computer . . . ."); *id.* at 3:25–26 ("Core application computer 108 can be any suitable computer . . . ."); *id.* at 4:28–29 ("Game display 136 can be any suitable display for presenting visual effects . . . ."). Generic, off-the-shelf hardware coupled with generic, functionally-claimed steps (*e.g.*, "determine a payout") is a far cry from an inventive concept. *Elec. Power Grp.*, 830 F.3d at 1355 (lacking an inventive concept where claims called for use of "a set of generic computer components") (quoting *Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1349–52 (Fed. Cir. 2016)); *Miller Mendel, Inc. v. City of Anna*, No. 2022-1753, 2024 WL 3448673, at *5 (Fed. Cir. July 18, 2024) (noting that "any type" of system memory and "[a]ny such computer storage media" confirm a lack of inventive concept) (alteration in original).

Second, to the extent Evolution suggests that the processor generating first and second GUIs constitutes an inventive concept (*see* '014 patent at 8:15–18), that too has been rejected by

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

the Federal Circuit. *Trading Techs. Int'l, Inc. v. IBG LLC*, 921 F.3d 1084, 1093 (Fed. Cir. 2019) (displaying information using a GUI "is [a] well-understood, routine, conventional activity that does not add something significantly more to the abstract idea.").

And third, all the functions referenced above are claimed in terms of what the processor is "*configured to*" do. A "hardware processor collectively configured to:" (1) generate a first and second graphical user interface, (2) receive first and second bet information, (3) determine that the roulette wheel and ball have been spun, (4) randomly select a first selected position on the roulette wheel, (5) determine a first payout, (6) determine that the ball has fallen in the first position, and (7) indicate that the player is to be paid. '014 patent at 8:14–43. But nowhere does the patent explain *how* the processor is to do any of these things. Purely functional claim language, without an explanation of how a desired result is achieved, cannot show an inventive concept. *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017); *Elec. Power Grp.*, 830 F.3d at 1356 ("Indeed, the essentially result-focused, functional character of claim language has been a frequent feature of claims held ineligible under § 101, especially in the area of using generic computer and network technology to carry out economic transactions.").

Evolution apparently agrees, as it makes no attempt to argue that the ball, wheel, or processor is inventive. *See* ECF No. 1. Rather, Evolution points to the "pseudo-random number generator, to randomly select one or more of the roulette wheel numbers, and determine the increased payouts for those randomly selected numbers," as "[t]he innovations of the [Asserted Patents that] significantly improved existing technology for electronic wagering in a roulette game." *See id.* ¶¶ 44, 69, 96. This is, Evolution contends, a "significant advancement over the prior art," which "neither taught nor suggested the claimed methods and system for wagering in a roulette game." *Id.* ¶¶ 45, 70, 97. "These advancements were neither well-known, routine, nor conventional." *Id*. Evolution's conclusory statements—the entirety of which are captured in the preceding quotes—are conspicuously unsupported by *any* analysis, reasoning, or evidence. *See id.* ¶¶ 44–45, 69–70, 96–97.

Evolution's transparent attempts to prop up the purported eligibility of the Asserted Patents warrant no consideration. *See Boom! Payments, Inc. v. Stripe, Inc.*, 839 F. App'x 528, 533 (Fed.

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Cir. 2021) ("But while we are required to accept the plaintiff's allegations as true in reviewing the grant of a motion to dismiss, '[w]e disregard conclusory statements when evaluating a complaint under Rule 12(b)(6).'") (quoting *Simio, LLC v. FlexSim Software Prods., Inc.*, 983 F.3d 1353, 1365 (Fed. Cir. 2020)). The Asserted Patents used well-known components (wheel, ball, processor) to carry out roulette. No technology was improved—*e.g.*, the generic processor runs no faster than it did before; the wheel and ball do what they've always done. Evolution's conclusory assertions are not plausible and cannot save the claims. *See id.*

In any case, the idea to "randomly select a first selected position on the roulette wheel," '014 patent at 8:31–32, or "randomly select a second selected position on the roulette wheel," *id.* at 8:58–59, and determine an increased payout is just the application of the abstract idea itself, meaning it cannot be the inventive concept. *See BSG Tech LLC v. Buyseasons, Inc.*, 899 F.3d 1281, 1290–91 (Fed. Cir. 2018) ("If a claim's only 'inventive concept' is the application of an abstract idea using conventional and well-understood techniques, the claim has not been transformed into a patent-eligible application of an abstract idea."); *Teliax Tech.*, 636 F. Supp. 3d at 1214–15 (quoting *BSG Tech LLC*); *Savvy Dog Sys., LLC v. Pa. Coin, LLC*, No. 2023-1073, 2024 WL 1208980, at *3 (Fed. Cir. Mar. 21, 2024) (same); *Trading Techs.*, 921 F.3d at 1093 ("The abstract idea itself cannot supply the inventive concept, 'no matter how groundbreaking the advance.'") (quoting *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1171 (Fed. Cir. 2018)).

Adding together conventional components operating in conventional ways to perform conventional tasks does not an inventive concept make. The Asserted Patents fail *Alice* step two.

D. The Dependent Claims Recite Only Conventional, Non-Inventive Elements In Furtherance Of The Abstract Idea

The dependent claims of the Asserted Patents relate to the same abstract idea—using a ball, roulette wheel, and processor to play roulette. To the extent they add anything to the independent claims, they do so by relying on the same or similar conventional elements, or the same generic processor to execute the abstract idea. They do not save the Asserted Patents. *TS Pats. LLC v. Yahoo! Inc.*, 279 F. Supp. 3d 968, 983 (N.D. Cal. 2017) ("[T]he dependent claims introduce minor variations that do not shift the *Alice* analysis."), *aff'd*, 731 Fed. App'x 978, 979 (Fed. Cir. 2018).

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

The below table groups together the various dependent claims across the Asserted Patents based on similarity of the claims. In every instance, as shown in the far-right column below, the dependent claim fails to satisfy the patentability requirement because it claims conventional components, a generic processor, or both, to perform an abstract idea.

Patent and Claim No.	Dependent Claim Language	Deficiency
’024 patent claims 2, 9, 16	Wheel sensor coupled to the hardware processor that enables the hardware processor to determine when the roulette wheel has been spun	Conventional component coupled to generic processor executing the abstract idea
’024 patent claims 3, 10	Hardware processor configured to close bets when the roulette wheel and ball have been spun	Generic processor executing the abstract idea
’014 patent claims 2, 10, 18 ’024 patent claims 4, 11, 17 ’371 patent claims 2, 12, 22	Display adjacent to the roulette wheel that indicates the first selected position	Conventional component executing the abstract idea
’014 patent claims 3, 11, 19 ’024 patent claims 5, 12, 18	Hardware processor configured to cause a visual lightning effect indicating the first selected position	Generic processor executing the abstract idea
’014 patent claims 4, 12, 20 ’024 patent claims 6, 13, 19 ’371 patent claims 3, 13, 23	Camera having the roulette wheel and display in its field of view wherein the hardware processor is configured to display images from the camera on a player’s device	Conventional component coupled to generic processor executing the abstract idea
’014 patent claims 5, 13, 21 ’024 patent claims 7, 14, 20 ’371 patent claims 4, 14, 24	Hardware processor configured to select a second selected position with a different payout Hardware processor randomly selects a second selected position having a second increased payout that is different from a first increased payout	Generic processor executing the abstract idea
’014 patent claims 6, 14, 22, ’371 patent claims 5, 15, 25	Hardware processor configured to automatically spin the ball and roulette wheel	Generic processor executing the abstract idea

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

Patent and Claim No.	Dependent Claim Language	Deficiency
’014 patent claims 7, 15, 23 ’371 patent claims 6, 16, 26	Hardware processor configured to cause a GUI to be presented wherein the GUI includes a roulette board highlighting the first selected position	Generic processor executing the abstract idea
’014 patent claims 8, 16, 24 ’371 patent claims 7, 17, 27	Hardware processor configured to indicate “500x” on the first selected position on the GUI	Generic processor executing the abstract idea
’371 patent claims 8, 9, 18, 20, 28, 29	The increased payout is 49:1 The increased payout is 29:1 The non-selected payout is 29:1	Abstract idea
’371 patent claims 10, 19, 30	The first bet is a bet on a single position on the roulette board	Abstract idea

Not one dependent claim “contains an ‘inventive concept’ that transforms the corresponding claim into a patent-eligible application of the otherwise ineligible abstract idea.” *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat. Ass’n*, 776 F.3d 1343, 1349 (Fed. Cir. 2014).

E. Claim 1 of the ’014 Patent Is Representative

Where all asserted claims are “substantially similar in that they recite little more than the same abstract idea,” analysis of a representative claim is appropriate. *Id.* at 1348. Claim 1 of the ’014 patent is a system claim reciting a ball, roulette wheel, and processor. Claim 9 is a method claim reciting the same components. Claim 17 references a non-transitory computer-readable medium, but recites the same method as claim 9. The independent claims of the ’024 and ’371 patents follow the same pattern. *See* ’024 patent at 8:9–36 (system claim 1); *id.* at 8:62–9:24 (method claim 8); *id.* at 9:46–10:24 (non-transitory medium claim 15); ’371 patent at 8:15–36 (system claim 1); *id.* at 9:11–31 (method claim 11); *id.* at 10:1–18 (non-transitory medium claim 21). All independent claims across the Asserted Patents claim the same three components—a ball, a roulette wheel, and a processor—directed to a system, method, or medium “for wagering.”

Further, there is no meaningful distinction between the system claims (independent claim 1 of each asserted patent); the method claims (claim 9 of the ’014 patent, claim 8 of the ’024 patent, and claim 11 of the ’371 patent); and the “non-transitory computer-readable medium” claims

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

(claim 17 of the '014 patent, claim 15 of the '024 patent, and claim 21 of the '371 patent). Each recites the same generic components—a ball, a roulette wheel, and a hardware processor. There is thus no need to independently assess each claim's fitness for patentability under § 101. *See Planet Bingo*, 576 F. App'x at 1007 ("[W]e agree with the district court that there is no meaningful distinction between the method and system claims or between the independent and dependent claims. The system claims recite the same basic process as the method claims, and the dependent claims recite only slight variations of the independent claims.") (internal citation omitted).

F. Compliance with Local Patent Rule 1-4(c)

"A party moving to dismiss one or more claims as patent-ineligible under § 101 must demonstrate in its motion, if appropriate, that there is no factual issue, claim construction or otherwise, that the court need determine before deciding dismissal under 35 U.S.C. § 101." LPR 1-4(c). The three pillars of the Asserted Patents—the ball, roulette wheel, and processor—are well-known, conventional components with readily understandable meanings. The claimed functions specified at the results-oriented level are likewise readily discernable (accept a bet, select a first position, determine a payout). The facts relating to the Asserted Patents are spelled out in the specification and are not in dispute. Dismissal on § 101 is appropriate at this stage and will conserve Court and party resources. *See In re Marco Guldenaar*, 911 F.3d at 1165 (Mayer, J., concurring); *see also Teliax Tech.*, 636 F. Supp. 3d at 1206.

* * *

The Asserted Patents claim the abstract idea of playing the wagering game roulette. They rely on well-known, routine computer components to further that idea. They are not patentable subject matter under 35 U.S.C. § 101. They should be dismissed.

IV. EVOLUTION'S TRADE SECRET CLAIMS ARE SUBJECT TO ARBITRATION

Evolution and L&W contractually agreed in their License Agreement to limit both the forum and timeframe in which disputes related to the agreement would be resolved. Specifically, they agreed to resolve "[a]ny claim . . . which arises out of or in connection with this Agreement . . . under the Rules of Arbitration of the [ICC]." Ex. 1 § 15(c). Further, they agreed "they shall bring any claim arising under or relating to this Agreement within twelve (12) Months from the

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

date of the claim arising" and that "failure to do so shall result in any such claim automatically and irrevocably expiring." *Id.* § 8(g).

Given these two binding contractual provisions, there are only three potential paths forward for the Trade Secret Claims. *First*, because the parties expressly incorporated into their arbitration agreement the ICC's Rules—which expressly delegate questions regarding the arbitrability of claims to the arbitrator—the Court must stay Evolution's Trade Secret Claims and compel the parties to arbitrate any dispute regarding the arbitrability of the Trade Secret Claims in accordance with the ICC's Rules. *Second*, alternatively, if the Court concludes that it has the authority to determine arbitrability, the Court should find that Evolution's Trade Secret Claims fall under the parties' arbitration agreement, stay those claims, and compel arbitration. And *third*, alternatively, if the Court concludes that it has jurisdiction over the Trade Secret Claims, it should find that those claims are time-barred under the parties' bargained-for one-year limitations period.

A. Arbitrability of the Trade Secret Claims Should Be Decided by an Arbitrator

"Just as the arbitrability of the merits of a dispute depends upon whether the parties agreed to arbitrate that dispute, so the question who has the primary power to decide arbitrability turns upon what the parties agreed about *that* matter." *First Options of Chi., Inc. v. Kaplan*, 514 U.S. 938, 943 (1995). "Just as a court may not decide a merits question that the parties have delegated to an arbitrator, a court may not decide an arbitrability question that the parties have delegated to an arbitrator." *Henry Schein, Inc. v. Archer& White Sales, Inc.*, 586 U.S. 63, 69 (2019). In keeping with that principle, the United States and Nevada Supreme Courts have held that where the parties have delegated arbitrability questions to an arbitrator, a court is bound to refer such questions to the arbitrator regardless of the Court's views on the merits of the question: "When the parties' contract delegates the arbitrability question to an arbitrator, a court may not override the contract. In those circumstances, a court possesses no power to decide the arbitrability issue. That is true even if the court thinks that the argument that the arbitration agreement applies to a particular dispute is wholly groundless." *Id.* at 68; *accord RUAG Ammotec GmbH v. Archon Firearms, Inc.*, 538 P.3d 428, 433 (Nev. 2023) ("Where threshold questions of arbitrability are delegated to an

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

arbitrator, a court possesses no power to decide the arbitrability issue.") (internal quotation marks omitted).

Here, the parties have clearly and unmistakably delegated questions of arbitrability to the arbitrator. As explained above, the parties' arbitration agreement provides that "[a]ny claim . . . which arises out of or in connection with this Agreement" would be "finally settled . . . under the Rules of Arbitration of the [ICC]." Ex. 1 § 15(c). In turn, Article 6(3) of the ICC's Rules provides:

> [I]f any party raises one or more pleas concerning the existence, validity or scope of the arbitration agreement or concerning whether all of the claims made in the arbitration may be determined together in a single arbitration, the arbitration shall proceed and any question of jurisdiction . . . shall be decided directly by the arbitral tribunal.

The Ninth Circuit and Nevada Supreme Court have explicitly held that "the incorporation of the rules of the ICC into an arbitration agreement . . . constitutes clear and unmistakable evidence of a delegation of gateway issues to the arbitrator." *Portland Gen. Elec. Co. v. Liberty Mut. Ins. Co.*, 862 F.3d 981, 985 (9th Cir. 2017); *RUAG*, 538 P.3d at 433 (following *Portland Gen. Elec.* and holding "the incorporation of the ICC Rules is clear evidence that the parties delegated questions of arbitrability to the arbitrator").

Nor is there any question that the parties have adequately incorporated the ICC's Rules into their agreement. Ex. 1 § 15(c). Section 15(c) is materially indistinguishable from the provision in *Portland Gen. Elec.* that the Ninth Circuit found sufficient to incorporate the ICC's Rules. *Portland Gen. Elec.*, 862 F.3d at 984, 985 (finding incorporation where the arbitration agreement provided that "the arbitration is to be conducted by the International Chamber of Commerce under its procedural rules"); *see Portland Gen. Elec. Co. v. Liberty Mut. Ins. Co*, No. 16-cv-00495, 2016 WL 4059658, at *2 (D. Or. July 27, 2016) (district court decision containing the arbitration agreement language). And, the Nevada Supreme Court has found that nearly identical language was sufficient to incorporate the American Arbitration Association's Rules into an arbitration agreement. *Uber Techs., Inc. v. Royz*, 517 P.3d 905, 910 (Nev. 2022).

By incorporating the ICC Rules into their arbitration agreement, the parties delegated all arbitrability questions to the arbitrator. Accordingly, this Court has "no power to decide the

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

arbitrability issue" and is bound by United States and Nevada Supreme Court precedent to refer arbitrability disputes to the arbitrator. *Henry Schein*, 586 U.S. at 68; *RUAG*, 538 P.3d at 433.

B. Alternatively, Evolution's Trade Secret Claims Are Arbitrable and Must Be Stayed and Referred to Arbitration

Even if the Court decides that the arbitrability question was not delegated to the arbitrator, the Trade Secret Claims are arbitrable under the License Agreement, and the Court should refer them to arbitration and stay them. "[T]he interpretation of an arbitration agreement is generally a matter of state law." *Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.*, 559 U.S. 662, 681 (2010). And the arbitration agreement provides that "[t]his arbitration agreement shall be construed in accordance with and governed by the laws of the State of Nevada." Ex. 1 § 15(c).

To compel arbitration under Nevada law, L&W must establish that: (1) "there is an enforceable agreement to arbitrate" and (2) "that the dispute fits within the scope of the arbitration agreement." *SR Constr., Inc. v. Peek Bros. Constr., Inc.*, 510 P.3d 794, 798 (Nev. 2022). Here, there can be no dispute that there is an enforceable arbitration agreement between the parties. As already discussed, in the License Agreement the parties agreed to resolve "[a]ny claim . . . which arises out of or in connection with this Agreement" under the ICC Rules. Ex. 1 § 15(c).

In light of that agreement to arbitrate, the only question remaining is whether Evolution's Trade Secrets Claims are covered by that agreement. Nevada law recognizes "a strong presumption in favor of arbitrating a dispute where a valid and enforceable arbitration agreement exists between the parties." *SR Constr., Inc.*, 510 P.3d at 798. And that presumption only grows stronger where the arbitration agreement uses broad language, as is the case here: "Under a broad arbitration provision—i.e., one that encompasses all disputes related to or arising out of an agreement—a presumption of arbitrability applies and '*only the most forceful evidence of a purpose to exclude the claim from arbitration* can prevail.'" *SR Constr, Inc.*, 510 P.3d at 798 (emphasis added) (quoting *Clark Cnty. Pub. Emps. Ass'n v. Pearson*, 798 P.2d 136, 138 (Nev. 1990)). In other words, the court "should order arbitration of particular grievances 'unless it may be said with positive assurance that the arbitration clause is not susceptible of an interpretation that covers the asserted dispute.'" *Int'l Ass'n of Firefighters, Loc. 1285 v. City of Las Vegas*, 929 P.2d

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

954, 957 (Nev. 1996) (quoting *AT&T Techs., Inc. v. Commc'n Workers*, 475 U.S. 643, 650 (1986)). In applying this standard, "Nevada courts resolve all doubts concerning the arbitrability of the subject matter of a dispute in favor of arbitration." *Id.*

Here, the Trade Secret Claims fall within the scope of the parties' broad arbitration agreement, particularly given the strong presumption in favor of arbitration. *Pearson*, 798 P.2d at 138. The Trade Secret Claims as pled clearly "aris[e] out of or [are] in connection with this Agreement" (Ex. 1 § 15(c)), as Evolution itself alleges, "[t]he [License] Agreement reiterated LNW Gaming's obligations to maintain the confidentiality and proprietary information, which includes the Lightning Roulette math files." ECF No. 1 ¶ 20. The Court, therefore, must refer the matter to arbitration unless it can say beyond doubt that the parties intended to exclude Trade Secret Claims from arbitration.

The second paragraph of § 15(c) does include a carve out, stating that the arbitration agreement shall "not in any way limit Licensor's freedom to enforce its rights under this Agreement . . . in relation to the Licensed Property." *See* Ex. 1. Section 1 defines "Licensed Property" as "including but not limited to the IP rights set out in Schedule 2, the trademark 'Lightning Roulette,' the trade dress and copyrights in the table layout and appearance, Know-How, and any Derivative Works to the IP rights created hereafter." Nowhere are trade secrets specifically defined as Licensed Property. *See id.*, "Definitions," Sec. 1 at 3, and Sched. 2. And the math files alleged here are not Licensed Property. Section 7(c) provides that: "[T]he disclosure of any confidential or proprietary information by one party to the other hereunder shall [not] be construed as granting to the recipient of such information, by implication or otherwise, any right in, *or license to*, any present or future proprietary information." *Id.*, § 7(c) (emphasis added). A straight-forward reading of this language indicates that any disclosure of the math files by Evolution to L&W was not meant to create any actual license for L&W to use those math files. In other words, because there was no license for L&W to use the math files, they were never "Licensed Property" as that term is used in Sections 1 and 15(c) of the License Agreement, meaning that Evolution's allegations in the Complaint regarding misappropriation of the math files

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

falls outside the scope of the limited exception for claims "in relation to the Licensed Property" from the extremely broad arbitration clause in Section 15(c).

Tellingly, in its Complaint, Evolution only specifically identifies the Asserted Patents as "Licensed Property" under the License Agreement. *See* ECF No. 1 ¶ 19. Thus, to the extent that Evolution now argues that the alleged trade secrets were "Licensed Property," Evolution's argument would not be the only reasonable interpretation of the License Agreement's language, particularly in light of the broader context of the agreement and its own allegations. In accord, reasonable minds could differ about whether the math files described in the Complaint fall under the definition of "Licensed Property" in Section 15(c). And, as the United States and Nevada Supreme Court have repeatedly held, that reasonable ambiguity is fatal to any argument Evolution could make about the Trade Secret Claims being exempted from the parties' broad arbitration agreement: "[C]ourts should order arbitration of particular grievances 'unless it may be said with *positive assurance* that the arbitration clause is not susceptible of *an* interpretation that covers the asserted dispute.'" *Pearson*, 798 P.2d at 138 (quoting *Int'l Ass'n of Firefighters, Loc. 1285 v. City of Las Vegas*, 764 P.2d 478, 481 (Nev. 1988).

Simply put, to avoid arbitration, Evolution must show that there is no reasonable reading of the License Agreement that would require their Trade Secret Claims to be arbitrated. But, as explained above, such a reasonable reading exists when the "Licensed Property" carve-out is read in the broader context of the License Agreement, including the fact that the License Agreement did not "license" the math files to L&W at all. Nor does Evolution allege that it did. ECF No. 1 ¶ 19. Because Evolution cannot show that its reading of the contract is the only reasonable one, the strong presumption in favor of arbitration requires this Court to submit Evolution's Trade Secret Claims to arbitration.

V. ALTERNATIVELY, THE TRADE SECRET CLAIMS AND '024 AND '014 PATENT CLAIMS ARE TIME-BARRED

Even if the Court concludes that it has jurisdiction to resolve Evolution's Trade Secret Claims or denies L&W's Motion to Dismiss under § 101, it should dismiss the Trade Secret Claims and also the '014 and '024 patent claims as time-barred under Section 8(g) of the License

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Agreement. That section unequivocally provides that the parties "shall bring any claim *arising under or relating to this Agreement* within twelve (12) Months from the date of the claim arising" and that "failure to do so shall result in any such claim automatically and irrevocably expiring." Ex. 1 § 8(g) (emphasis added). The Nevada Supreme Court has held that "a party may contractually agree to a limitations period shorter than that provided by statute as long as . . . the shortened period is reasonable, and subject to normal defenses including unconscionability and violation of public policy." *Holcomb Condo. Homeowners' Ass'n, Inc. v. Stewart Venture, LLC*, 300 P.3d 124, 128 (Nev. 2013). Likewise, the Ninth Circuit has held that "contracting parties [may] agree upon a shorter limitations period for bringing an action than that prescribed by statute, so long as the time allowed is reasonable." *Han v. Mobil Oil Corp.*, 73 F.3d 872, 877 (9th Cir. 1995).

Section 8(g)'s one-year limitations period is neither unreasonable nor unconscionable. Evolution and L&W are sophisticated entities represented by counsel who engaged in extensive negotiations prior to entering into the License Agreement. *See* ECF No. 1 at ¶¶ 2–3, 14, 16, 19. Under similar circumstances, the Ninth Circuit has held that "[a] contractual limitation period requiring a plaintiff to commence an action within 12 months following the event giving rise to a claim is a reasonable limitation which generally manifests no undue advantage and no unfairness." *Han*, 73 F.3d at 877; *accord Seagate Tech. LLC v. Dalian China Express Int'l Corp.*, 169 F. Supp. 2d 1146, 1159 (N.D. Cal. 2001) (holding that a nine-month contractual limitations period was reasonable and stating that "[w]ithout evidence that Seagate was somehow prejudiced by the nine-month provision, in that it was unable to gather facts or present its case, the court will not find the clause to be unreasonable."). Nevada's "unreasonableness" standard in this context is similarly strict, requiring that "the reduced limitations period effectively deprives a party of the reasonable opportunity to vindicate his or her rights." *Holcomb*, 300 P.3d at 129 (quoting *Hatkoff v. Portland Adventist Med. Ctr.*, 287 P.3d 1113, 1121 (Or. App. Ct. 2012). Because Evolution can make no such showing here, Section 8(g)'s agreed-upon limitations period must be enforced.

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Because Section 8(g) applies, Evolution's Trade Secret Claims and '014 and '024 patent claims are time-barred.[2] Under Nevada law, a claim arises "when the wrong occurs and a party sustains injuries for which relief could be sought." *Petersen v. Bruen*, 792 P.2d 18, 20 (Nev. Sup. Ct. 1990). The federal rule is similar, providing that the limitations period begins when "all the elements of such claim are satisfied; i.e., until a plaintiff may validly sue under a particular cause of action." *In re Packaged Seafood Prods. Antitr. Litig.*, 242 F. Supp. 3d 1033, 1099 (S.D. Cal. 2017).

Applying these well-settled legal principles, Evolution's Trade Secret Claims clearly arose more than one year before it filed this lawsuit. As alleged in the Complaint, "Evolution first discovered that L&W had misappropriated Evolution's trade secrets when L&W unilaterally sought to terminate the parties' [License] Agreement *in August 2021*." ECF No. 1 ¶ 142 (emphasis added). Yet, Evolution did not sue until May 28, 2024, nearly three years later.

Similarly, with the respect to the '014 and '024 patent Claims, as alleged in the Complaint, "by letters dated *February 28, 2022* and April 24, 2024, Evolution . . . put L&W on notice that RouletteX infringes the '024 patent [and '014 patent]." *Id.* at ¶¶ 61, 88 (emphasis added). Yet, Evolution did not sue until May 28, 2024, over two years later.

Further, Evolution's allegations that L&W misappropriated trade secrets that were disclosed to L&W pursuant to the License Agreement and infringed patents that were licensed to L&W pursuant to the License Agreement "aris[e] under or relat[e] to th[e] Agreement." Ex. 1 § 8(g), Sched. 2; *United States ex rel. Welch v. My Left Foot Children's Therapy, LLC*, 871 F.3d 791, 798 (9th Cir. 2017) ("[T]he phrases, 'arising out of' and 'related to,' mark a boundary by indicating some direct relationship."). There is undeniably "some direct relationship" between the License Agreement and both the Trade Secret Claims and patent claims. Indeed, based on the allegations in the Complaint, there is a "direct relationship" between the License Agreement and L&W's alleged misappropriation of the trade secrets. ECF No 1 ¶ 20 ("The Agreement reiterated LNW Gaming's obligations to maintain the confidentiality of Evolution's confidential and

[2] The '371 Patent did not issue until September 12, 2023, which is within twelve months of filing this lawsuit. *See* ECF No. 1 ¶ 95.

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

proprietary information, which includes the Lightning Roulette math files.") And, there is also a "direct relationship" between the License Agreement and the alleged willful infringement of the '024 and '014 patents. *Id.* ¶ 19 (the Agreement "granted LNW Gaming an exclusive license to certain of Evolution's intellectual property, including the Asserted Patents.") and ¶ 59 ("The '024 patent is also specifically identified in the parties' March 29, 2021 [License] Agreement.") and ¶ 86 ("The '014] patent application . . . . specifically identified in the parties' March 29, 2021 [License] Agreement.")

Accordingly, even if the Court finds that it has jurisdiction to hear Evolution's Trade Secret Claims, and denies L&W's § 101 motion on the '024 and '014 patents, the Court must nevertheless dismiss those claims as time-barred under Section 8(g)'s one-year limitations period. Ex. 1.

VI. CONCLUSION

For the foregoing reasons, the Asserted Patents recite patent-ineligible subject matter under 35 U.S.C. § 101, and this Court should dismiss the Patent Claims (Counts I, II, and III) pursuant to Federal Rule of Civil Procedure 12(b)(6) with prejudice. Additionally, the Court should stay and compel arbitration of Evolution's Trade Secret Claims (Counts IV and V) because they are subject to the parties' binding arbitration agreement including on the arbitrability question. Alternatively, Counts I, II, IV, and V should be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6), as they are each time-barred pursuant to the parties' agreement.

. . . . .

. . . . .

. . . . .

. . . . .

. . . . .

. . . . .

. . . . .

. . . . .

. . . . .

. . . . .

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

Respectfully submitted,

DATED this 24th day of July, 2024.

CAMPBELL & WILLIAMS

By: */s/ Philip R. Erwin*

PHILIP R. ERWIN, ESQ. (11563)
710 South Seventh Street
Las Vegas, Nevada 89101

JONES DAY

HAROLD K. GORDON, ESQ.
(*Pro Hac Vice*)
RYAN K. WALSH, ESQ.
(*Pro Hac Vice*)
JENNIFER D. BENNETT, ESQ.
(*Pro Hac Vice*)
RANDALL E. KAY, ESQ.
(*Pro Hac Vice*)

Attorneys for Defendants Light & Wonder, Inc and LNW Gaming, Inc.

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of July, 2024, I caused a true and correct copy of the foregoing **Defendants' Motion to Dismiss** to be served via the United States District Court CM/ECF system on all parties or persons requiring notice.

/s/ *Philip R. Erwin*
An employee of Campbell & Williams

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078

INDEX OF EXHIBITS

EXHIBIT NO.	DOCUMENT	PAGE NOS.
-	Declaration of Jennifer D. Bennett In Support of Defendants' Motion to Dismiss	-
1	License Agreement – Lightning Roulette between Evolution Malta Limited and SG Gaming, Inc. dated 03/29/2021 ***(Filed Under Seal)***	3 – 29

CAMPBELL & WILLIAMS
ATTORNEYS AT LAW
710 SOUTH SEVENTH STREET, SUITE A, LAS VEGAS, NEVADA 89101
Phone: 702.382.5222 • Fax: 702.382.0540
www.campbellandwilliams.com

Light & Wonder Exhibit 1062
Light & Wonder v. Evolution
IPR2025-01078