

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IMPULSE TECHNOLOGY LTD.,)
)
 Plaintiff,)
)
 v.)
)
 NINTENDO OF AMERICA INC.;)
 ELECTRONIC ARTS, INC.; UBISOFT,)
 INC.; THQ INC.; KONAMI DIGITAL)
 ENTERTAINMENT, INC.; MAJESCO)
 ENTERTAINMENT COMPANY;)
 NAMCO BANDAI GAMES AMERICA)
 INC.,)
)
 Defendants.)
)
)

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Impulse Technology Ltd. (“Impulse”) files this Complaint for patent infringement against Nintendo of America Inc. (“Nintendo”), Electronic Arts, Inc. (“EA”), Ubisoft, Inc. (“Ubisoft”), THQ Inc. (“THQ”), Konami Digital Entertainment, Inc. (“Konami”), Majesco Entertainment Company (“Majesco”), and Namco Bandai Games America Inc. (“Namco Bandai”) (collectively “Defendants”) and alleges as follows:

I. PARTIES

1. Plaintiff Impulse Technology Ltd. (“Impulse”) is a corporation incorporated under the laws of Ohio and has its principle place of business at 30612 Salem Dr., Bay Village, OH 44140.

2. Upon information and belief, Defendant Nintendo of America Inc. (“Nintendo”) is a corporation organized and existing under the laws of Washington with its principle place of business at 4600 150th Avenue, NE, Redmond, Washington 98052. Nintendo manufactures for sale and/or sells video consoles and video games to consumers in the United States and, more particularly, in the Northern District of Ohio.

3. Upon information and belief, Defendant Electronic Arts, Inc. (“EA”) is a corporation organized and existing under the laws of Delaware with its principle place of business at 209 Redwood Shores Parkway, Redwood City, California 94065. EA manufactures for sale and/or sells video games to consumers in the United States and, more particularly, in the Northern District of Ohio.

4. Upon information and belief, Defendant Ubisoft, Inc. (“Ubisoft”) is a corporation organized and existing under the laws of California with its principle place of business at 625 Third Street, 3rd Floor, San Francisco, California 94017. Ubisoft manufactures for sale and/or sells video games to consumers in the United States and, more particularly, in the Northern District of Ohio.

5. Upon information and belief, Defendant THQ Inc. (“THQ”) is a corporation organized and existing under the laws of Delaware with its principle place of business at 29903 Agoura Road, Agoura Hills, California 91301. THQ manufactures for sale and/or sells video games to consumers in the United States and, more particularly, in the Northern District of Ohio.

6. Upon information and belief, Defendant Konami Digital Entertainment, Inc. (“Konami”) is a corporation organized and existing under the laws of Illinois with its principle place of business at 2381 Rosecrans Avenue, Suite 200, El Segundo, California 90245. Konami manufactures for sale and/or sells video games to consumers in the United States and, more particularly, in the Northern District of Ohio.

7. Upon information and belief, Defendant Majesco Entertainment Company (“Majesco”) is a corporation organized and existing under the laws of Delaware with its principle place of business at 160 Raritan Center Parkway, Edison, New Jersey 08837. Majesco manufactures for sale and/or sells video games to consumers in the United States and, more particularly, in the Northern District of Ohio.

8. Upon information and belief, Defendant Namco Bandai Games America Inc. (“Namco Bandai”) is a corporation organized and existing under the laws of Delaware having its principle place of business at 4555 Great America Pkwy #201, Santa Clara, CA 95054. Namco Bandai manufactures for sale and/or sells video games to consumers in the United States and, more particularly, in the Northern District of Ohio.

II. SUBJECT MATTER JURISDICTION AND VENUE

9. This action is one for patent infringement arising under 35 U.S.C. § 271.

10. The Court has jurisdiction under 28 U.S.C. § 1338(a).

11. Venue lies in this district under 28 U.S.C. §§ 1391(b), (c), (d), and 1400 (b).

III. JOINDER

12. Joinder is proper under 35 U.S.C. § 299. The allegations of infringement contained herein arise out of the same transaction, occurrence, or series of transactions or

occurrences relating to the sale and use of the same accused products or processes, including but not limited to, the Wii console, and the Wii Remote and/or the Wii Balance Board. The combinations of each of Defendants' products with a Wii console, a Wii Remote and/or Wii Balance Board, and a display, form a system that infringes at least one claim of U.S. Patent No. 5,524,637.

13. Questions of fact relating to the operation of the Wii console, Wii Remote, and the Wii Balance Board are common to all Defendants and will arise in this action.

IV. THE PATENT-IN-SUIT

14. U.S. Patent No. 5,524,637 ("the '637 patent") entitled "Interactive System For Measuring Physiological Exertion" was lawfully and duly issued on June 11, 1996. Impulse is the owner of all right, title, and interest in the '637 patent, including the right to sue, recover damages for infringement and obtain a preliminary or permanent injunction. A true and correct copy of the '637 patent is attached hereto as Exhibit A.

V. DEFENDANTS' ACTIVITIES

15. Upon information and belief, Nintendo has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating technology for measuring physiological exertion including at least the Wii game console ("the Wii"), the Wii Remote, the Wii Balance Board, and Wii Fit Plus. The Defendants' accused video games, including Nintendo's Wii Fit Plus, are intended to be used with a Wii, a Wii Remote and/or Wii Balance Board, and a display. The combination of each of Defendants' accused video games, a Wii, a Wii Remote and/or Wii Balance Board, and a display, forms a system that is covered by at least one claim of the '637 patent.

16. Upon information and belief, EA has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating technology for measuring physiological exertion for use with the Wii including at least EA Sports Active Personal Trainer, EA Sports Active More Workouts, EA Sports Active 2.0, EA Sports Active NFL Training Camp, and EA Sports Grand Slam Tennis. EA's accused video games are intended to be used with a Wii, a Wii Remote and/or Wii Balance Board, and a display. The combination of each EA accused video game, a Wii, a Wii Remote and/or Wii Balance Board, and a display, forms a system that is covered by at least one claim of the '637 patent.

17. Upon information and belief, Ubisoft has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating technology for measuring physiological exertion for use with the Wii including at least Gold's Gym Cardio Workout and Gold's Gym Dance Workout. Ubisoft's accused video games are intended to be used with a Wii, a Wii Remote and/or Wii Balance Board, and a display. The combination of each Ubisoft accused video game, a Wii, a Wii Remote and/or Wii Balance Board, and a display, forms a system that is covered by at least one claim of the '637 patent.

18. Upon information and belief, THQ has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating technology for measuring physiological exertion for use with the Wii including at least The Biggest Loser, The Biggest Loser Challenge, and UFC Personal Trainer: The Ultimate Fitness System. THQ's accused video games are intended to be used with a Wii, a Wii Remote and/or Wii Balance Board, and a display. The combination of each THQ accused video game, a Wii, a

Wii Remote and/or Wii Balance Board, and a display, forms a system that is covered by at least one claim of the '637 patent.

19. Upon information and belief, Konami has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating technology for measuring physiological exertion for use with the Wii including at least Dance Dance Revolution Hottest Party 3 and Walk It Out!. Konami's accused video games are intended to be used with a Wii, a Wii Remote and/or Wii Balance Board, and a display. The combination of each Konami accused video game, a Wii, a Wii Remote and/or Wii Balance Board, and a display, forms a system that is covered by at least one claim of the '637 patent.

20. Upon information and belief, Majesco has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating technology for measuring physiological exertion for use with the Wii including at least Jillian Michaels Fitness Workout 2009 and Zumba Fitness 2. Majesco's accused video games are intended to be used with a Wii, a Wii Remote and/or Wii Balance Board, and a display. The combination of each Majesco accused video game, a Wii, a Wii Remote and/or Wii Balance Board, and a display, forms a system that is covered by at least one claim of the '637 patent.

21. Upon information and belief, Namco Bandai has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating technology for measuring physiological exertion for use with the Wii including at least ExerBeat. Namco's accused video games are intended to be used with a Wii, a Wii Remote and/or Wii Balance Board, and a display. The combination of each Namco accused video game, a Wii, a Wii Remote and/or Wii Balance Board, and a display, forms a system that is covered by at least one claim of the '637 patent.

VI. FIRST CLAIM FOR RELIEF (NINTENDO)

22. Impulse realleges and reincorporates the allegations set forth in Paragraphs 1 through 21.

23. Nintendo infringes one or more claims of the '637 patent under 35 U.S.C. § 271 (a), (b), and/or (c).

24. Nintendo has had actual notice of the '637 patent or constructive notice of the '637 patent before the filing of the Complaint.

25. At least as early as September 3, 2010, Nintendo was notified by letter of the existence of the '637 patent. Nintendo was informed that Impulse's patents, which include the '637 patent, covered many video games on the market. Specifically, Impulse described its patents as covering "certain exercise games where the motion of the player is tracked to effect movement of a virtual avatar, and the exertion of the user is monitored."

26. Nintendo is liable for direct infringement of one or more claims of the '637 patent by making, using, offering to sell, and/or selling, and/or importing into the United States, infringing systems that include video games, such as Wii Fit Plus, and one or more of the Wii game console ("the Wii"), the Wii Remote, and the Wii Balance Board.

27. Nintendo is liable for inducing infringement as it has actively induced end user customers to use its products, including at least the Wii, the Wii Remote, the Wii Balance Board, and Wii Fit Plus, intending that the end users will use its products in a manner that infringes one or more claims of the '637 patent. Despite knowledge of the '637 patent, Nintendo has actively sold its products and shown end user customers how to use its products, including at least the Wii, the Wii Remote, the Wii Balance Board, and Wii Fit Plus, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '637 patent.

28. Nintendo is also liable for contributory infringement as it had knowledge that its products, including at least the Wii, the Wii Remote, the Wii Balance Board, and Wii Fit Plus, are components especially made or adapted for use in infringement of one or more claims of the '637 patent. Nintendo's products are material components of a combination, where the combination is the video game along with a Wii, a Wii Remote and/or Wii Balance Board, and a display, for use in practicing one or more claims of the '637 patent. Nintendo's accused products are specifically made for use with each other and with a display and are not staple articles of commerce suitable for substantial non-infringing use.

29. Upon information and belief, Nintendo's infringement of the '637 patent has been, and continues to be, willful, deliberate, and intentional by continuing its acts of infringement after being placed on notice of its infringement thus acting in reckless disregard of Impulse's patent rights.

30. As a consequence of Nintendo's infringement of the '637 patent, Impulse has suffered and will continue to suffer harm and injury, including monetary damages in an amount to be determined.

31. Upon information and belief, unless enjoined, Nintendo and/or others acting on behalf of Nintendo, will continue their infringing acts, thereby causing additional irreparable injury to Impulse for which there is no adequate remedy at law.

VII. SECOND CLAIM FOR RELIEF (EA)

32. Impulse realleges and reincorporates the allegations set forth in Paragraphs 1 through 31.

33. EA infringes one or more claims of the '637 patent under 35 U.S.C. § 271 (a), (b), and/or (c).

34. EA has had actual notice of the '637 patent or constructive notice of the '637 patent before the filing of the Complaint. At least as early as April 9, 2009, EA was notified by email of the existence of the '637 patent.

35. EA was again notified of the existence of the '637 patent on September 3, 2010, by letter. EA was informed that Impulse's patents, which include the '637 patent, covered many video games on the market. Specifically, Impulse described its patents as covering "certain exercise games where the motion of the player is tracked to effect movement of a virtual avatar, and the exertion of the user is monitored."

36. EA is liable for direct infringement of one or more claims of the '637 patent by making, using, offering to sell, and/or selling, and/or importing into the United States, infringing systems that include products for the Wii, including at least EA Sports Active Personal Trainer, EA Sports Active More Workouts, EA Sports Active 2.0, EA Sports Active NFL Training Camp, and EA Sports Grand Slam Tennis.

37. EA is liable for inducing infringement as it has actively induced end user customers to use its products, including at least EA Sports Active Personal Trainer, EA Sports Active More Workouts, EA Sports Active 2.0, EA Sports Active NFL Training Camp, and EA Sports Grand Slam Tennis, with a Wii, a Wii Remote and/or Wii Balance Board, and a display, intending that the end users will use its products in a manner that infringes one or more claims of the '637 patent. Despite knowledge of the '637 patent, EA has actively sold its accused products and shown end user customers how to use its products with a Wii, a Wii Remote and/or Wii Balance Board, and a display, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '637 patent.

38. EA is also liable for contributory infringement as it had knowledge that its products, including at least EA Sports Active Personal Trainer, EA Sports Active More Workouts, EA Sports Active 2.0, EA Sports Active NFL Training Camp, and EA Sports Grand Slam Tennis, are components especially made or especially adapted for use in infringement of one or more claims of the '637 patent. EA's accused products are material components of a combination, where the combination is the video game along with a Wii, a Wii Remote and/or Wii Balance Board, and a display, for use in practicing one or more claims of the '637 patent. EA's accused products are specifically made for use with a Wii, a Wii Remote and/or Wii Balance Board, and with a display, and are not staple articles of commerce suitable for substantial non-infringing use.

39. Upon information and belief, EA's infringement of the '637 patent has been, and continues to be, willful, deliberate, and intentional by continuing its acts of infringement after being placed on notice of its infringement thus acting in reckless disregard of Impulse's patent rights.

40. As a consequence of EA's infringement of the '637 patent, Impulse has suffered and will continue to suffer harm and injury, including monetary damages in an amount to be determined.

41. Upon information and belief, unless enjoined, EA and/or others acting on behalf of EA, will continue their infringing acts, thereby causing additional irreparable injury to Impulse for which there is no adequate remedy at law.

VIII. THIRD CLAIM FOR RELIEF (UBISOFT)

42. Impulse realleges and reincorporates the allegations set forth in Paragraphs 1 through 41.

43. Ubisoft infringes one or more claims of the '637 patent under 35 U.S.C. § 271 (a), (b), and/or (c).

44. Ubisoft has had actual notice of the '637 patent or constructive notice of the '637 patent before the filing of the Complaint.

45. At least as early as December 20, 2010, Ubisoft was notified by letter of the existence of the '637 patent. Ubisoft was informed that Impulse's patents, which include the '637 patent, covered many video games on the market. Specifically, Impulse described its patents as covering "certain exercise games where the motion of the player is tracked to effect movement of a virtual avatar, and the exertion of the user is monitored."

46. Ubisoft is liable for direct infringement of one or more claims of the '637 patent by making, using, offering to sell, and/or selling, and/or importing into the United States, infringing systems that include products for the Wii, including at least Gold's Gym Cardio Workout and Gold's Gym Dance Workout.

47. Ubisoft is liable for inducing infringement as it has actively induced end user customers to use its products, including at least Gold's Gym Cardio Workout and Gold's Gym Dance Workout, with a Wii, a Wii Remote and/or Wii Balance Board, and a display, intending that the end users will use its products in a manner that infringes one or more claims of the '637 patent. Despite knowledge of the '637 patent, Ubisoft has actively sold its accused products and shown end user customers how to use its products with a Wii, a Wii Remote and/or Wii Balance Board, and a display, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '637 patent.

48. Ubisoft is also liable for contributory infringement as it had knowledge that its products, including at least Gold's Gym Cardio Workout and Gold's Gym Dance Workout, are

components especially made or especially adapted for use in infringement of one or more claims of the '637 patent. Ubisoft's accused products are material components of a combination, where the combination is the video game along with a Wii, a Wii Remote and/or Wii Balance Board, and a display, for use in practicing one or more claims of the '637 patent. Ubisoft's accused products are specifically made for use with a Wii, a Wii Remote and/or Wii Balance Board, and with a display, and are not staple articles of commerce suitable for substantial non-infringing use.

49. Upon information and belief, Ubisoft's infringement of the '637 patent has been, and continues to be, willful, deliberate, and intentional by continuing its acts of infringement after being placed on notice of its infringement thus acting in reckless disregard of Impulse's patent rights.

50. As a consequence of Ubisoft's infringement of the '637 patent, Impulse has suffered and will continue to suffer harm and injury, including monetary damages in an amount to be determined.

51. Upon information and belief, unless enjoined, Ubisoft and/or others acting on behalf of Ubisoft, will continue their infringing acts, thereby causing additional irreparable injury to Impulse for which there is no adequate remedy at law.

IX. FOURTH CLAIM FOR RELIEF (THQ)

52. Impulse realleges and reincorporates the allegations set forth in Paragraphs 1 through 51.

53. THQ infringes one or more claims of the '637 patent under 35 U.S.C. § 271 (a), (b), and/or (c).

54. THQ has had actual notice of the '637 patent or constructive notice of the '637 patent before the filing of the Complaint.

55. At least as early as December 20, 2010, THQ was notified by letter of the existence of the '637 patent. THQ was informed that Impulse's patents, which include the '637 patent, covered many video games on the market. Specifically, Impulse described its patents as covering "certain exercise games where the motion of the player is tracked to effect movement of a virtual avatar, and the exertion of the user is monitored."

56. Upon information and belief, THQ is liable for direct infringement of one or more claims of the '637 patent by making, using, offering to sell, and/or selling, and/or importing into the United States, infringing systems that include products for the Wii, including at least The Biggest Loser, The Biggest Loser Challenge, and UFC Personal Trainer: The Ultimate Fitness System.

57. THQ is liable for inducing infringement as it has actively induced end user customers to use its products, including at least The Biggest Loser, The Biggest Loser Challenge, and UFC Personal Trainer: The Ultimate Fitness System, with a Wii, a Wii Remote and/or Wii Balance Board, and a display, intending that the end users will use its products in a manner that infringes one or more claims of the '637 patent. Despite knowledge of the '637 patent, THQ has actively sold its accused products and shown end user customers how to use its products with a Wii, a Wii Remote and/or Wii Balance Board, and a display, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '637 patent.

58. THQ is also liable for contributory infringement as it had knowledge that its products, including at least The Biggest Loser, The Biggest Loser Challenge, and UFC Personal Trainer: The Ultimate Fitness System, are components especially made or especially adapted for use in infringement of one or more claims of the '637 patent. THQ's accused products are material components of a combination, where the combination is the video game along with a

Wii, a Wii Remote and/or Wii Balance Board, and a display, for use in practicing one or more claims of the '637 patent. THQ's accused products are specifically made for use with a Wii, a Wii Remote and/or Wii Balance Board, and with a display, and are not staple articles of commerce suitable for substantial non-infringing use.

59. Upon information and belief, THQ's infringement of the '637 patent has been, and continues to be, willful, deliberate, and intentional by continuing its acts of infringement after being placed on notice of its infringement thus acting in reckless disregard of Impulse's patent rights.

60. As a consequence of THQ's infringement of the '637 patent, Impulse has suffered and will continue to suffer harm and injury, including monetary damages in an amount to be determined.

61. Upon information and belief, unless enjoined, THQ and/or others acting on behalf of THQ, will continue their infringing acts, thereby causing additional irreparable injury to Impulse for which there is no adequate remedy at law.

X. FIFTH CLAIM FOR RELIEF (KONAMI)

62. Impulse realleges and reincorporates the allegations set forth in Paragraphs 1 through 61.

63. Konami infringes one or more claims of the '637 patent under 35 U.S.C. § 271 (a), (b), and/or (c).

64. Konami has had actual notice of the '637 patent or constructive notice of the '637 patent before the filing of the Complaint. At least as early as March 15, 2006, Konami was notified by letter of the existence of the '637 patent.

65. Konami was again informed of the existence of the '637 patent on December 20, 2010, by letter. Konami was informed that Impulse's patents, which include the '637 patent, covered many video games on the market. Specifically, Impulse described its patents as covering "certain exercise games where the motion of the player is tracked to effect movement of a virtual avatar, and the exertion of the user is monitored."

66. Konami is liable for direct infringement of one or more claims of the '637 patent by making, using, offering to sell, and/or selling, and/or importing into the United States, infringing systems that include products for the Wii, including at least Dance Dance Revolution Hottest Party 3 and Walk It Out!.

67. Konami is liable for inducing infringement as it has actively induced end user customers to use its products, including at least Dance Dance Revolution Hottest Party 3 and Walk It Out!, with a Wii, a Wii Remote and/or Wii Balance Board, and a display, intending that the end users will use its products in a manner that infringes one or more claims of the '637 patent. Despite knowledge of the '637 patent, Konami has actively sold its accused products and shown end user customers how to use its products with a Wii, a Wii Remote and/or Wii Balance Board, and a display, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '637 patent.

68. Konami is also liable for contributory infringement as it had knowledge that its products, including at least Dance Dance Revolution Hottest Party 3 and Walk It Out!, are components especially made or especially adapted for use in infringement of one or more claims of the '637 patent. Konami's accused products are material components of a combination, where the combination is the video game along with a Wii, a Wii Remote and/or Wii Balance Board, and a display, for use in practicing one or more claims of the '637 patent. Konami's accused

products are specifically made for use with a Wii, a Wii Remote and/or Wii Balance Board, and with a display, and are not staple articles of commerce suitable for substantial non-infringing use.

69. Upon information and belief, Konami's infringement of the '637 patent has been, and continues to be, willful, deliberate, and intentional by continuing its acts of infringement after being placed on notice of its infringement thus acting in reckless disregard of Impulse's patent rights.

70. As a consequence of Konami's infringement of the '637 patent, Impulse has suffered and will continue to suffer harm and injury, including monetary damages in an amount to be determined.

71. Upon information and belief, unless enjoined, Konami and/or others acting on behalf of Konami, will continue their infringing acts, thereby causing additional irreparable injury to Impulse for which there is no adequate remedy at law.

XI. SIXTH CLAIM FOR RELIEF (MAJESCO)

72. Impulse realleges and reincorporates the allegations set forth in Paragraphs 1 through 71.

73. Majesco infringes one or more claims of the '637 patent under 35 U.S.C. § 271 (a), (b), and/or (c).

74. Majesco has had actual notice of the '637 patent or constructive notice of the '637 patent before the filing of the Complaint.

75. At least as early as December 20, 2010, Majesco was notified by letter of the existence of the '637 patent. Majesco was informed that Impulse's patents, which include the '637 patent, covered many video games on the market. Specifically, Impulse described its

patents as covering “certain exercise games where the motion of the player is tracked to effect movement of a virtual avatar, and the exertion of the user is monitored.”

76. Upon information and belief, Majesco is liable for direct infringement of one or more claims of the ‘637 patent by making, using, offering to sell, and/or selling, and/or importing into the United States, infringing systems that include products for the Wii, including at least Jillian Michaels Fitness Workout 2009 and Zumba Fitness 2.

77. Majesco is liable for inducing infringement as it has actively induced end user customers to use its products, including at least Jillian Michaels Fitness Workout 2009 and Zumba Fitness 2, with a Wii, a Wii Remote and/or Wii Balance Board, and a display, intending that the end users will use its products in a manner that infringes one or more claims of the ‘637 patent. Despite knowledge of the ‘637 patent, Majesco has actively sold its accused product and shown end user customers how to use its product with a Wii, a Wii Remote and/or Wii Balance Board, and a display, through online and hardcopy resources and literature in a manner that infringes one or more claims of the ‘637 patent.

78. Majesco is also liable for contributory infringement as it had knowledge that its products, including at least Jillian Michaels Fitness Workout 2009 and Zumba Fitness 2, are components especially made or especially adapted for use in infringement of one or more claims of the ‘637 patent. Majesco’s accused product is a material component of a combination, where the combination is the video game along with a Wii, a Wii Remote and/or Wii Balance Board, and a display, for use in practicing one or more claims of the ‘637 patent. Majesco’s accused product is specifically made for use with a Wii, a Wii Remote and/or Wii Balance Board, and with a display, and are not staple articles of commerce suitable for substantial non-infringing use.

79. Upon information and belief, Majesco's infringement of the '637 patent has been, and continues to be, willful, deliberate, and intentional by continuing its acts of infringement after being placed on notice of its infringement thus acting in reckless disregard of Impulse's patent rights.

80. As a consequence of Majesco's infringement of the '637 patent, Impulse has suffered and will continue to suffer harm and injury, including monetary damages in an amount to be determined.

81. Upon information and belief, unless enjoined, Majesco and/or others acting on behalf of Majesco, will continue their infringing acts, thereby causing additional irreparable injury to Impulse for which there is no adequate remedy at law.

XII. SEVENTH CLAIM FOR RELIEF (NAMCO BANDAI)

82. Impulse realleges and reincorporates the allegations set forth in Paragraphs 1 through 81.

83. Namco Bandai infringes one or more claims of the '637 patent under 35 U.S.C. § 271 (a), (b), and/or (c).

84. Namco Bandai has had actual notice of the '637 patent or constructive notice of the '637 patent before the filing of the Complaint.

85. At least as early as June 24, 2011, Namco Bandai was notified by letter of the existence of the '637 patent. Namco was informed that Impulse's patents, which include the '637 patent, covered many video games on the market. Specifically, Impulse described its patents as covering "certain exercise games where the motion of the player is tracked to effect movement of a virtual avatar, and the exertion of the user is monitored."

86. Upon information and belief, Namco Bandai is liable for direct infringement of one or more claims of the '637 patent by making, using, offering to sell, and/or selling, and/or importing into the United States, infringing systems that include products for the Wii, including at least ExerBeat.

87. Namco Bandai is liable for inducing infringement as it has actively induced end user customers to use its products, including at least ExerBeat, with a Wii, a Wii Remote and/or Wii Balance Board, and a display, intending that the end users will use its products in a manner that infringes one or more claims of the '637 patent. Despite knowledge of the '637 patent, Namco has actively sold its accused product and shown end user customers how to use its product with a Wii, a Wii Remote and/or Wii Balance Board, and a display, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '637 patent.

88. Namco Bandai is also liable for contributory infringement as it had knowledge that its products, including at least ExerBeat, are components especially made or especially adapted for use in infringement of one or more claims of the '637 patent. Namco's accused product is a material component of a combination, where the combination is the video game along with a Wii, a Wii Remote and/or Wii Balance Board, and a display, for use in practicing one or more claims of the '637 patent. Namco's accused product is specifically made for use with a Wii, a Wii Remote and/or Wii Balance Board, and with a display, and are not staple articles of commerce suitable for substantial non-infringing use.

89. Upon information and belief, Namco Bandai's infringement of the '637 patent has been, and continues to be, willful, deliberate, and intentional by continuing its acts of

infringement after being placed on notice of its infringement thus acting in reckless disregard of Impulse's patent rights.

90. As a consequence of Namco Bandai's infringement of the '637 patent, Impulse has suffered and will continue to suffer harm and injury, including monetary damages in an amount to be determined.

91. Upon information and belief, unless enjoined, Namco Bandai and/or others acting on behalf of Namco Bandai, will continue their infringing acts, thereby causing additional irreparable injury to Impulse for which there is no adequate remedy at law.

PRAYER FOR JUDGMENT AND RELIEF

WHEREFORE, Impulse prays for the following relief:

A. enter judgment that Defendants, their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them, infringe and have infringed the patents asserted against each Defendant above;

B. award Impulse a permanent injunction restraining Defendants, their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them, from further infringement of the patents asserted against each Defendant above;

C. award Impulse damages from Defendants adequate to compensate for Defendants' infringement, including interest and costs;

D. award Impulse treble damages as a result of Defendants' willful infringement of the '637 patent;

E. declare this case to be exceptional and award Impulse its reasonable attorneys fees and costs;

F. grant Impulse such other relief as this Court deems just and proper.

JURY DEMAND

Impulse requests a jury trial for those issues so triable herein.

Respectfully submitted,

OF COUNSEL:

By: *s/Nicholas J. Gingo*

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Dated: November 18, 2011

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Impulse Technology Ltd.*