

1 Simon Franzini (Cal. Bar No. 287631)
2 simon@dovel.com
3 Gregory S. Dovel (Cal. Bar No. 135387)
4 greg@dovel.com
5 DOVEL & LUNER, LLP
6 201 Santa Monica Blvd., Suite 600
7 Santa Monica, California 90401
8 Telephone: (310) 656-7066
9 Facsimile: (310) 656-7069

10 *Attorneys for Plaintiff Michael Owens and the putative Class*

11
12 **UNITED STATES DISTRICT COURT**
13
14 **NORTHERN DISTRICT OF CALIFORNIA**
15
16 **SAN FRANCISCO DIVISION**

17 MICHAEL OWENS, individually and on
18 behalf of all others similarly situated,
19 *Plaintiff,*

20 v.

21 ZYNGA INC., a Delaware Corporation,
22
23 *Defendant.*

Case No. 3:21-cv-1427

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Table of Contents

1		
2	Introduction.....	1
3	Parties	2
4	Jurisdiction and Venue.....	2
5	Common Allegations	2
6	A. Zynga unlawfully develops, owns, and operates the Zynga Social Slots	
7	Games in violation of California Penal Code Section 330b.	3
8	B. Zynga makes hundreds of millions of dollars by developing, owning, and	
9	operating the Zynga Social Slots Games.	11
10	C. Zynga’s developing, owning, operating, marketing, and profiting from the	
11	Zynga Social Slots Games constitute unlawful, unfair and fraudulent	
12	business acts and practices that violate California’s Unfair Competition	
13	Law.	19
14	1. Zynga intentionally and unfairly gets users hooked the Zynga	
15	Social Slots Games by marketing them as “free to play” and by	
16	giving initial allotments of “free” coins.....	19
17	2. Zynga intentionally and unfairly profits by offering slot machine	
18	games, which are the most addictive form of casino gambling.....	20
19	3. Zynga intentionally and unfairly uses the virtual platform of its	
20	social slots games to maximize the time its users spend playing the	
21	Zynga Social Slots Games.	29
22	4. Zynga intentionally and unfairly targets individuals with addictive	
23	tendencies.....	36
24	5. Zynga intentionally and unfairly uses microtransactions and virtual	
25	coins to mask the fact that the user is paying money to play.....	43
26	6. Zynga fraudulently markets the Zynga Social Slots Games as legal	
27	video games and does not disclose that they are in fact illegal slot	
28	machines.	46
	D. Zynga’s business acts in developing, owning, operating, marketing, and	
	profiting from the Zynga Social Slots Games violate California’s Unfair	
	Competition Law regardless of where the users are located.....	52
	Plaintiff’s Allegations	53
	Class Action Allegations.....	55
	A. The proposed class.....	55
	B. The proposed class satisfies the numerosity requirement.	55
	C. The proposed class satisfies the commonality requirement.....	56
	D. Plaintiff’s claims are typical of those of the proposed class.	56

1	E. Plaintiff is an adequate class representative.....	57
2	F. Final injunctive relief is appropriate respecting the class as a whole.	57
3	G. Common questions of law and fact predominate, and a class action is a superior method for the adjudication of this litigation.....	57
4	H. The proposed class is ascertainable.	58
5	Claims	58
6	Prayer for Relief.....	63
7	Jury Demand	63

...

Introduction

1
2 1. Defendant Zynga Inc. is a California-based company that develops video games
3 that can be played online or on apps downloaded on mobile platforms. In the early 2010s, Zynga
4 was under a great deal of financial stress. As of October 2012, Zynga had lost more than three-
5 quarters of its market value in that year alone.¹ As one analyst put it, “while Zynga [had] added
6 more and more overall users, it [was] struggling to make money off of them.”²

7 2. In a move to turn the company’s financials around, Zynga’s leadership decided
8 that the company should move in the direction of online gambling. For example, in October of
9 2012, Zynga announced a partnership with a British company that would allow Zynga to operate
10 real-money online gambling through online poker, slots, and roulette games in the UK.³
11 Zynga’s then-CFO Dave Whener stated on behalf of the company: “We view this as a first step
12 into real money gaming. ... We believe it's a good first step, but only a first step towards what
13 we think is a big opportunity for Zynga.”⁴

14 3. After Zynga recognized the profitability of modeling its online games after the
15 gambling industry, Zynga began developing and offering “social slots” games. Zynga
16 intentionally modeled its “social slots” games precisely after Vegas-style slot machines. Users
17 make “bets” on “spins” using in-game currency. Users are given an initial allotment of free in-
18 game currency. But when users exhaust their supplies of free in-game currency, they must
19 purchase more to keep playing—and must do so with real money.

20 4. Zynga’s “social slots” games are unlawful slot machines under California law.
21 Moreover, these games utilize the same psychological tricks that casinos and physical slot
22 machines use to cause users to become addicted. This keeps users playing—and spending. And
23

24 ¹ Laurie Segall, *Zynga Surges on Higher Sales, Casino Gaming Plans*, CNN Business
25 (Oct. 25, 2012), <https://money.cnn.com/2012/10/24/technology/zynga-earnings/>.

26 ² Cyrus Farivar, *Zynga’s Financial Troubles Worsen, Company Falling Faster than*
27 *Before*, Ars Technica (Oct. 4, 2012), [https://arstechnica.com/information-
28 technology/2012/10/zyngas-financial-troubles-worsen-company-falling-faster-than-before/](https://arstechnica.com/information-technology/2012/10/zyngas-financial-troubles-worsen-company-falling-faster-than-before/).

³ Segall, *supra*.

⁴ *Id.*

1 the virtual platform only increases the opportunities to capitalize on the addictive tendencies of
2 users.

3 5. Zynga has unlawfully, unfairly, and fraudulently made hundreds of millions of
4 dollars from its “social slots” games. Plaintiff brings this case on behalf of himself and other
5 users, seeking to end Zynga’s unlawful, unfair, and fraudulent practices in relation to its “social
6 slots” games.

7 **Parties**

8 6. Plaintiff Michael Owens is a citizen of Florida (domiciled in Lantana, Florida).
9 Plaintiff has lost over \$8,000 playing Defendant’s “social slots” games.

10 7. Defendant Zynga Inc. is a Delaware Corporation with its principal place of
11 business in California. Zynga’s headquarters are located at 699 Eighth Street, San Francisco, CA
12 94103. Zynga develops, owns, markets, and operates games that are played on mobile platforms,
13 such as Apple’s iOS and Google’s Android, and social networking platforms, such as Facebook
14 and Snapchat.

15 **Jurisdiction and Venue**

16 8. The Court has subject matter jurisdiction under 28 U.S.C. § 1332(d)(2). The
17 matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs,
18 and is a class action in which one or more members of the proposed class are citizens of a state
19 different from any one of the Defendants.

20 9. Venue is proper under 28 U.S.C. § 1391(b)(1) & (2), because Defendant resides
21 in this district. In addition, a substantial part of the Defendant’s conduct giving rise to the claims
22 occurred in this district.

23 **Common Allegations**

24 10. Zynga develops and operates “social slots” games. “Social slots” games are
25 virtual slot machines that allow users to make bets using virtual “coins.” Zynga’s current social
26 slots games include:

- 27 • Hit it Rich!
- 28 • Black Diamond Casino

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.