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15
16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

18 SKILLZ PLATFORM INC., a
19 Delaware corporation,

20 Plaintiff,

21 v.

22 AVIAGAMES INC., a Delaware
23 corporation,

24 Defendant.

Case No.: _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

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27
28

1 Plaintiff Skillz Platform Inc. (“Skillz” or “Plaintiff”) hereby asserts the
2 following claims for patent infringement against Defendant AviaGames Inc.
3 (“AviaGames” or “Defendant”), and alleges as follows:

4 **INTRODUCTION**

5 1. Most patent infringement cases involve someone who inadvertently
6 trespassed on someone else’s invention, followed by a dispute about who got there
7 first. This is not one of those cases. Instead, it is a case where Defendant
8 AviaGames set out, seemingly from the get-go, to steal Skillz’s highly valuable
9 intellectual property in the form of copyrights and patents. This lawsuit focuses on
10 two of Skillz’s foundational patents that AviaGames has indisputably infringed.

11 2. Skillz is a pioneer in competitive mobile gaming, founded on the
12 simple belief that people love to compete. In 2012, Skillz developed innovative
13 technologies to invent a new kind of mobile gaming platform (the “Skillz
14 Platform”). The Skillz Platform facilitates two important things. First, it connects
15 millions of players across the country in meaningful, fun, and—most importantly—
16 fair competition. Second, it enables thousands of independent mobile game
17 developers to transform new and existing games into skill-based competitions that
18 have proven extremely profitable for game developers and players alike.
19 Leveraging its patented technology and collaborative business model, Skillz now
20 hosts *billions* of casual eSports tournaments for *millions* of mobile players
21 worldwide, offering *\$100 million* in prizes each month.

22 3. To help game developers enable social competition in their games and
23 take advantage of the Skillz Platform, Skillz provides a free Software Development
24 Kit (“SDK”) through a portal on its website (the “Developer Portal”). The Skillz
25 SDK includes, among other things, built-in, patented functionality that provides
26 pseudo-random number generation that developers are required to use when they
27 need a random number seed for their game. This feature ensures that players in
28

1 head-to-head competition are playing under identical, yet random, conditions and is
2 critical to the fairness of every game played on the Skillz Platform.

3 4. In 2016, AviaGames met with Skillz and said it was interested in
4 building a game for the Skillz Platform. It signed up to become a Skillz customer
5 and began receiving additional tools, creative support, market data, and technical
6 know-how beyond what Skillz offers free of charge through its Developer Portal.
7 Through this supposed “collaboration,” AviaGames gained intimate knowledge of
8 the Skillz Platform.

9 5. AviaGames then created a copycat platform called Pocket7Games and
10 used it to launch knockoff versions of some of the most popular games on the Skillz
11 Platform. AviaGames even began promoting the Pocket7Games app using
12 marketing assets that Skillz provided after AviaGames asked for help promoting the
13 only game it did create for the Skillz Platform. That game, which flopped, appears
14 to have been a mere decoy designed to facilitate AviaGames’s access to valuable
15 information about Skillz’s technology and business.

16 6. AviaGames then went on to create and release standalone games
17 independent of its Pocket7Games app, including games titled “Bingo Clash”,
18 “Solitaire Clash”, “21 Gold”, “Explodocube”, and “Tile Blitz”.

19 7. Through these standalone games and the Pocket7Games platform,
20 AviaGames now competes directly with Skillz, as well as the independent
21 developers whose games AviaGames has slavishly copied.

22 8. It may turn out that AviaGames’s infringement was less deliberate than
23 it appears—that AviaGames simply absorbed the keys to Skillz’s success and then
24 used those keys to its advantage without even knowing it.

25 9. But something more sinister may have happened. Discovery in this
26 case may establish that AviaGames planned from the get-go to merely “pose” as a
27 mobile developer interested in launching a game on the Skillz platform, bait Skillz
28 into divulging the ins and outs of its technology and business, and use this valuable

1 information to deliberately infringe Skillz’s intellectual property and profit from
2 Skillz’s innovation and drive.

3 10. AviaGames’s internal documents and the depositions of its key
4 personnel will tell whether its infringement was innocent or not. AviaGames may
5 have intended to deceive Skillz from the moment the parties first met in 2016.
6 Under the patent laws of the United States, however, it makes no difference. What
7 matters is that AviaGames is profiting from Skillz’s patented technology. And that
8 it must stop.

9 11. Skillz welcomes fair competition. But Skillz cannot—and will not—
10 tolerate theft. Skillz brings this action to protect its innovative technology, and to
11 hold AviaGames accountable for its infringement of the patents that teach it.

12 THE PARTIES

13 12. Skillz is a Delaware corporation with its principal place of business at
14 321 NW Glisan Street, Suite 510, Portland, Oregon 97209. Skillz is the owner of
15 the intellectual property rights at issue in this action. Skillz’s innovative technology
16 has enabled thousands of independent video game developers to create thriving
17 businesses developing skill-based video games that provide millions of gamers with
18 access to fair, fun, and meaningful competition. Because of Skillz, video gamers
19 can now compete and profit from their skill and dedication.

20 13. On information and belief, AviaGames is a Delaware corporation with
21 a principal place of business at 2586 Wyandotte Street, Unit 2B, Mountain View,
22 California 94043. On information and belief, AviaGames markets, offers, and
23 distributes applications and services such as the Pocket7Games application and
24 standalone game applications throughout the United States, including in this
25 District.

26 14. Upon information and belief, AviaGames directly and/or indirectly
27 develops, designs, manufactures, distributes, markets, offers to sell and/or sells
28 infringing products and services in the United States, including in this District, and

1 otherwise purposefully directs infringing activities to this District in connection with
2 the Pocket7Games application and standalone game applications.

3 **JURISDICTION & VENUE**

4 15. This is a civil action for patent infringement arising under the patent
5 laws of the United States, 35 U.S.C. § 1 *et seq.*

6 16. This Court has subject-matter jurisdiction over the matters asserted
7 herein under 28 U.S.C. §§ 1331 and 1338(a) and 35 U.S.C. §§ 271 *et seq.*

8 17. This Court has personal jurisdiction over AviaGames, in part because
9 AviaGames does continuous and systematic business in this District, including by
10 providing infringing products and services to the residents of this District that it
11 knew would be used within this District, and by soliciting business from the
12 residents of this District. For example, AviaGames is subject to personal
13 jurisdiction in this Court because, among other reasons, upon information and belief,
14 it has a regular and established place of business at its offices in this District,
15 including its office in Mountain View, and directly and through agents regularly
16 does, solicits and transacts business in the Northern District of California and
17 elsewhere in the State of California, including through its website at
18 www.pocket7games.com, as well as its Pocket7Games application and standalone
19 game applications, all of which are marketed, offered, distributed to, and utilized by
20 users of mobile devices in this District and throughout the State of California.

21 18. In particular, AviaGames has committed and continues to commit acts
22 of infringement in violation of 35 U.S.C. § 271, and has made, used, marketed,
23 distributed, offered for sale, sold, and/or imported infringing products and services
24 in the State of California, including in this District, and engaged in infringing
25 conduct within and directed at or from this District. For example, AviaGames has
26 purposefully and voluntarily placed the Pocket7Games application and standalone
27 game applications into the stream of commerce with the expectation that its
28 infringing products and services will be used in this District. The infringing

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