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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CG TECHNOLOGY DEVELOPMENT, LLC,
INTERACTIVE GAMES LIMITED, and
INTERACTIVE GAMES LLC

Plaintiff,

v.

888 HOLDINGS, PLC,

Defendant.

Case No. 2:16-cv-00856-RCJ-EJY

Member Case No. 2:16-cv-00871-RCJ-EJY

ORDER

Plaintiffs brought this matter alleging Defendant 888 Holdings, PLC (“888 Holdings”) infringed several of Plaintiffs’ patents relating to online gambling. Pending before the Court is Defendant 888 Holdings’ Motion for Summary Judgment. (ECF No. 191). Plaintiffs have responded. (ECF No. 198).

Plaintiffs do not contest that 888 Holdings is entitled to summary judgment with respect to its claims related to the RE39,818; 9,355,518; and 9,306,952 patents. Accordingly, the only cause of action remaining against 888 Holdings is Plaintiff Interactive Games, LLC’s (“IG”) claim that the 888 Casino and 888 Poker applications infringe Claim 17 of the 8,814,664 (‘664) patent. Having considered the pleadings, the undisputed facts presented in the record, and the written and oral arguments of the parties, the Court will grant 888 Holdings’ motion.

1 **I. PROCEDURAL HISTORY**

2 Plaintiff CG Technology Development, LLC (“CG Tech”) is a wholly owned subsidiary of
3 non-party CG Technology, L.P. (“CG Technology”), which provides technology solutions for
4 lottery, gaming, racing, and sports wagering. (Am. Compl. ¶ 2, ECF No. 19). “[CG Technology]
5 specializes in providing secure, scalable, mobile technology and risk management solutions to
6 integrated resorts, gaming partners, race and sports books, and lottery industries.” (*Id.*). CG
7 Technology and CG Tech produce mobile phone applications for real-money and social casino
8 gaming, as well as account-based wagering systems. (*Id.*).

9 CG Tech is the assignee of U.S. Patent No. RE39,818. Plaintiff Interactive Games Limited
10 (“IG Ltd”) is the assignee of U.S. Patent Nos. 6,966,832; 6,899,628; 6,979,267; 7,029,394;
11 8,342,924; and 9,111,417. Plaintiff Interactive Games LLC (“IG”) is the assignee U.S. Patent Nos.
12 7,534,169; 8,771,058; 8,814,664; 9,306,952; and 9,355,518. Plaintiffs have sued 888 Holdings in
13 this Court for direct and willful infringement via operation of 888 Holdings’ various online casino
14 games.

15 The Court has previously determined that the ‘832, ‘628, ‘267, ‘394, ‘924, ‘417, and ‘169
16 Patents are patent-ineligible under 35 U.S.C. § 101 and *Alice Corp. Pty. v. CLS Bank Int’l*, 134 S.
17 Ct. 2347 (2014). (ECF No. 54).

18 The claims of four of the other patents-in-suit asserted against 888 Holdings (RE39,818,
19 ‘058, ‘952, and ‘518) were found invalid as a result of IPR proceedings initiated by parties other
20 than 888 Holdings. Those rulings are now final. *See* Joint Status Report, ECF No. 69 filed in Case
21 No. 2:16-cv-00871. 888 Holdings is, accordingly, asking that the Court enter summary judgment
22 regarding these patents. Plaintiffs have indicated they do not oppose this request. Accordingly, the
23 Court will grant summary judgment in favor of 888 Holdings for Plaintiffs’ claims arising from the
24 RE39,818; ‘058; ‘952; and ‘518 patents.

1 The only remaining claim against 888 Holdings is that its 888 Poker and 888 Casino online
 2 games infringe Claim 17 of U.S. Patent No. 8,814,664 (the ‘664 Patent) assigned to IG. (ECF No.
 3 19, Am. Complaint, ¶¶ 117-132). Defendant argues that it is entitled to summary judgment because
 4 neither 888 Casino nor 888 Poker infringe Claim 17 under its common and ordinary meaning.

5 **II. BACKGROUND¹**

6 Beginning in 2013, Defendant has operated state-licensed online and mobile casino real
 7 money gambling (RMG) platforms in New Jersey, Nevada, Delaware and Pennsylvania.²
 8 Registered and verified players using a mobile device that is physically located in an RMG location³
 9 can access Defendant’s RMG platform through the Defendant’s 888 Casino and 888 Poker
 10 applications. The process for determining the mobile device’s location, generally referred to as
 11 “geolocation,” uses services and methods that are well-known in the industry.⁴ A geolocation is
 12 performed when a player launches either the 888 Casino or 888 Poker application on a mobile device.

13 In both applications, players can purchase virtual chips with real money. If the mobile device
 14 is in an RMG location, players can access and play an RMG game, and place wagers allowing them
 15 to win virtual chips. The players can then redeem their virtual chips for real money.

16 The 888 Casino and 888 Poker applications also offer free-to-play (“FTP”) simulated gaming
 17 to registered and verified players.⁵ Players can access and play the FTP games on these applications

18
 19 ¹ The following summary is of those facts which are either undisputed or, if disputed, are construed in favor of Plaintiffs as the non-moving party.

20 ² For brevity and consistency with the language used in patent claim, the Court will generally refer to these states as RMG locations.

21
 22 ³ Under its licenses, Defendant is required to verify that a mobile device accessing its RMG platform is physically located within the respective RMG jurisdiction.

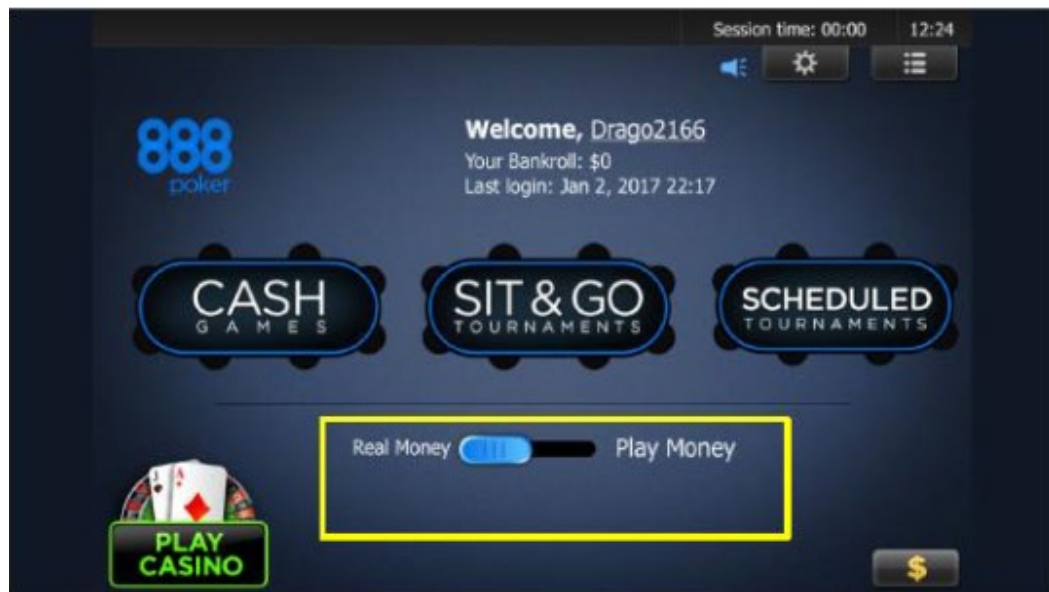
23 ⁴ Defendant contracts with a third party for this service.

24 ⁵ 888 Holdings has represented to the Court, and IG has not disputed, that it discontinued FTP

1 from anywhere in the United States; that is, both within and outside of RMG locations. When
 2 playing an FTP game, players can only win FTP chips. Players cannot redeem the FTP chips for
 3 real money or any other prize and cannot transfer their FTP chips to any third party.

4 **A. Application Behavior in an RMG location.**

5 When the applications are launched on a mobile device that is determined to be in an RMG
 6 jurisdiction, the Defendant's applications present the player with a lobby screen, similar to the
 7 following:



17 From this lobby screen, with the toggle switch set to Real Money, a player can select one of several
 18 available RMG games. After the player starts an RMG game, the player can place wagers for real
 19 money.

20 A player can also make the initial selection necessary to access and play an FTP game by
 21 sliding the toggle bar to "Play Money." After a player moves to the FTP gaming lobby, the player
 22 can select one of several available FTP games. After the player starts an FTP game, the player can

23 _____
 24 the Court will discuss the claim against 888 Holdings' applications as if they both applications
 continued to offer FTP gaming.

1 place wagers for FTP chips. Other than the initial geolocation performed when the applications are
2 launched, the applications do not perform a geolocation when the player accesses the FTP lobby or
3 an FTP game.

4 **B. Application Behavior in an FTP-only Location**

5 When the applications are launched on a mobile device that is determined to be in a location
6 that does not allow real money wagers, the applications present the player with the same “lobby.”
7 The record does not indicate whether, outside of a real money gaming jurisdiction, the toggle switch
8 is set to “Play Money” (as shown in the following screen) or whether it remains set to “Real Money.”



19 Regardless of the default position of the toggle switch when the applications are launched, the
20 applications allow a player to make the necessary selections to access and play an FTP game, and
21 then allow the player to place wagers for FTP chips. Other than the initial geolocation performed
22 when the applications are launched, the applications do not perform a geolocation when the player
23 accesses the FTP lobby or an FTP game.

24

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