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INTERNATIONAL GAME TECHNOLOGY and IGT

14 **UNITED STATES DISTRICT COURT**

15 **NORTHERN DISTRICT OF CALIFORNIA**

16 **SAN JOSE DIVISION**

17 ARISTOCRAT TECHNOLOGIES

18 AUSTRALIA PTY LIMITED and

19 ARISTOCRAT TECHNOLOGIES, INC.,

Plaintiffs,

20 v.

21 INTERNATIONAL GAME TECHNOLOGY and
22 IGT,

Defendants.

Case No.: C-06-3717-RMW (RS)

**DECLARATION OF RICHARD
MICHAELSON IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT OF NON-
INFRINGEMENT BECAUSE THE
"INDICATING" STEP IS NEVER
PERFORMED DURING PLAY OF THE
ACCUSED GAMING MACHINES**

27 MICHAELSON DEC. ISO IGT'S MOTION
FOR SUMMARY JUDGMENT BECAUSE

Case No.: C-06-3717-RMW (RS)

DECLARATION OF RICHARD MICHAELSON

I, Richard Michaelson, declare as follows:

1. I am employed by IGT, a defendant in the above-captioned action. I have been employed by IGT since 2000. I have worked in the gaming industry for over three decades, and am very familiar with the operation and play of slot machines. On May 28, 2009, I testified on behalf of defendants in a Rule 30(b)(6) deposition noticed by the Aristocrat plaintiffs, on topics that included operation of the gaming machines programmed with the Ft. Knox, Party Time!, Jackpot Hunter, and Wheelionaire bonuses that are accused of being used to sometimes infringe method claims in the patents at issue in this case. In preparation for that deposition, I operated gaming machines programmed with each of those four bonus rounds until each bonus was triggered. The following statements are based upon my personal knowledge of the operation of those games and, if called as a witness, I could competently testify thereto. I was prepared to testify thereto at my May 28, 2009 deposition and did testify to their operation to the extent I was asked about it.

2. Exhibit 1 hereto is a true copy of a video and audio recording showing me operating an IGT gaming machine programmed with both the original (GK000560) and current (GK001723) release of IGT's Cleopatra multiline five reel base game with the Ft. Knox multilevel progressive bonus. The recording was made on May 19, 2009, at IGT's offices, under my direct supervision, while I operated the gaming machine. The recording is of me merely simulating game play. No wager was made and no prize was awarded. Credits were added to the machine by inserting money into it, but no wager was made and no gambling took place because I then opened the machine and removed the money, and nobody paid or was obligated to pay me any winnings based on credits added to the win and credit meters.

3. The Exhibit 1 recording accurately shows the operation of the Cleopatra base game and Ft. Knox bonus round as they appear, display and play during gambling by casino patrons on IGT gaming machines programmed with the Ft. Knox bonus.

4. The Exhibit 1 recording shows examples of base game play both with and without a

1 Ft. Knox bonus win, and both with and without base game line wins. Specifically:

- 2 a. Starting at time 0:00, Exhibit 1 shows three game plays on original game release
3 version GK000560: first with no wins; second with a Ft. Knox bonus but no base
4 game line win; and third with base game line wins but no Ft. Knox bonus.
- 5 b. Starting at time 1:15, Exhibit 1 shows three more game plays on original game
6 release version GK000560: first with base game line wins but no Ft. Knox bonus;
7 second with a Ft. Knox bonus and base game line wins; and third with no wins.
- 8 c. Starting at time 2:42, Exhibit 1 shows two game plays on current game release
9 version GK001723: first with a Ft. Knox bonus and no base game line wins; and
10 second with base game line wins and no Ft. Knox bonus.
- 11 d. Starting at time 4:20, Exhibit 1 shows three more game plays on current game
12 release version GK001723: first with no wins; second with a Ft. Knox bonus and
13 base game line wins; and third with a base game scatter win, no line wins and no
14 Ft. Knox bonus.

15 5. Each game with a Ft. Knox, Party Time, Jackpot Hunter or Wheelionaire bonus
16 distributed by IGT operates similarly to the Ft. Knox game play described above and shown in the
17 Exhibit 1 recording, in that the first indication to the player that a bonus round of any of those four
18 kinds will appear is when the bonus round does appear and is displayed. There is no prior "alert" of
19 any kind, visible or audible. When the bonus round does appear, the display and play of the bonus
20 continues uninterrupted until its completion.

21 6. As shown in Exhibit 1's video and audio recording, after the base game reels spin and
22 stop, if a Ft. Knox bonus is won, the Ft. Knox bonus round immediately appears with a large vault
23 door screen and accompanying sounds. The bonus round continues with the display of smaller vault
24 doors, from which some are selected by the player to determine which of the bonus prizes is to be
25 awarded. After all credits awarded in the bonus round have been added to the win and credit meters,
26 the screen returns to the base game reels, any winning base game lines or other wins (such as

1 scatters) are identified to the player, and credits from those base game wins are added to the win and
2 credit meters one credit at a time. After all credits won are awarded to both meters, the screen says
3 “game over” to indicate that the game is now complete. The screen also summarizes the line and
4 bonus wins from the prior game.

5 7. As shown in Exhibit 1, prior to the appearance of the Ft. Knox vault doors and
6 accompanying sounds, there is no alert to the player, visible or audible or of any other kind, that
7 informs the player that a bonus round will appear after the base game is complete. There is no
8 further completion of the base game between the vault doors’ appearance and the continued display,
9 play and completion of the bonus round. The bonus round continues uninterrupted from the vault
10 doors’ first appearance through the player selection of safes, the identification of the progressive
11 prize won, and the crediting of the player’s win and credit meters with the progressive prize.

12 8. In some current base game release versions distributed after January 2007, in the rare
13 situation where a player in a single play has three wins, a base game line win, a progressive bonus,
14 and a non-progressive bonus or feature (such as certain free spins), the totaling of base game line
15 wins precedes the Ft. Knox bonus. Specifically, with that rare triple win: first the base game line
16 wins are credited; second the non-progressive bonus or feature is played and any wins credited; third
17 the progressive bonus appears, is displayed and played, and the win is credited to the win and credit
18 meters; and fourth the screen returns to the base game reels and says “game over.” Because this
19 triple win is so rare, taking on average thousands of game plays to trigger, I did not trigger it in my
20 play of the current Cleopatra and Ft. Knox game release shown in Exhibit 1 (which is the same
21 program used in casinos), nor in my play of the current release version of Lion Dance and Ft. Knox.
22 But I did view this triple win and the sequence in which each win is then displayed and credited to
23 the win and credit meters on a PC computer running IGT emulator software for a current release of
24 the Lion Dance base game and Ft. Knox bonus. That computer software simulates game play but
25 allows all three wins (base game line wins, free spin feature and Ft. Knox bonus) to be quickly
26 triggered in one game play. Using that emulator software I verified that the base game line wins are

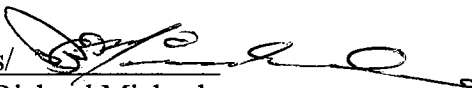
1 credited to the win and credit meters before the free spin feature is played, and wins in the free spin
2 feature are credited to the win and credit meters before the Ft. Knox bonus is played.

3 9. I have reviewed Figures 1-12 and the accompanying text in Defendants' Motion For
4 Summary Judgment Of Non-infringement Because The "Indicating Step Is Never Performed During
5 Play Of The Accused Games. They accurately illustrate and describe the operation of the accused
6 gaming machines with the Ft. Knox bonus.

7 10. The other accused games with multi-level progressive bonuses operate similarly to
8 the game with the Ft. Knox bonus shown in the Exhibit 1 recording attached hereto, with respect to
9 the sequence in which the game portions appear and are displayed and played. In Party Time! and
10 Jackpot Hunter the bonus rounds consist of multiple free spins of five reels with different symbols
11 than the base game, where non-progressive awards can be won based on, for example, winning line
12 combinations (as in the base game) in addition to the progressive prize award. In the Wheelionaire
13 bonus round, the player selects positions on a wheel which reveal gemstones, and when three gems
14 of the same kind are revealed, the prize associated with that gem is awarded. The top "diamond"
15 prize is a non-progressive fixed amount. Either it or one of several smaller progressive prizes is
16 awarded.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 forgoing is true and accurate.

19 Executed this 29th day of May, 2009, at Reno, Nevada.

20
21 
22 S/
Richard Michaelson

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