

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ADRIENNE BENSON AND MARY
SIMONSON, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

DOUBLE DOWN INTERACTIVE, LLC, a
Washington limited liability company, and
INTERNATIONAL GAME TECHNOLOGY,
a Nevada corporation, and IGT, a Nevada
corporation.

Defendants.

Case No. 2:18-cv-00525-RSL

**SECOND AMENDED CLASS ACTION
COMPLAINT**

JURY DEMAND

Plaintiffs Adrienne Benson and Mary Simonson (“Plaintiffs”) bring this case, individually and on behalf of all others similarly situated, against Double Down Interactive, LLC (“Double Down”) as well as International Game Technology and its subsidiary IGT (together “IGT”) (altogether, collectively, “Defendants”) to enjoin Defendants’ operation of illegal online casino games. Plaintiffs allege as follows upon personal knowledge as to themselves and their own acts and experiences, and upon information and belief, including investigation conducted by their attorneys, as to all other matters.

NATURE OF THE ACTION

1
2 1. Defendants own and operate video game development companies in the so-called
3 “casual games” industry—that is, computer games designed to appeal to a mass audience of
4 casual gamers. Defendants (at all relevant times) owned and operated a popular online casino
5 under the name Double Down Casino.

6 2. Double Down Casino is available to play on Android, and Apple iOS devices, and
7 on Facebook.

8 3. Defendants provide a bundle of free “chips” to first-time visitors of Double Down
9 Casino that can be used to wager on games within Double Down Casino. After consumers
10 inevitably lose their initial allotment of chips, Defendants attempt to sell them additional chips
11 for real money. Without chips, consumers cannot play the gambling game.

12 4. Freshly topped off with additional chips, consumers wager to win more chips. The
13 chips won by consumers playing Defendants’ games of chance are identical to the chips that
14 Defendants sell. Thus, by wagering chips that have been purchased for real money, consumers
15 have the chance to win additional chips that they would otherwise have to purchase.

16 5. By operating the Double Down Casino, Defendants have violated Washington
17 law and illegally profited from tens of thousands of consumers. Accordingly, Plaintiffs, on behalf
18 of themselves and a Class of similarly situated individuals, bring this lawsuit to recover their
19 losses, as well as costs and attorneys’ fees.

PARTIES

20
21 6. Plaintiff Adrienne Benson is a natural person and a citizen of the state of
22 Washington.

23 7. Plaintiff Mary Simonson is a natural person and a citizen of the state of
24 Washington.

25 8. Defendant Double Down Interactive, LLC is a limited liability company
26 organized and existing under the laws of the State of Washington with its principal place of
27 business at 605 Fifth Avenue South, Suite 300, Seattle, Washington 98104. Double Down

1 conducts business throughout this District, Washington State, and the United States.

2 9. Defendant International Game Technology is a corporation existing and organized
3 under the laws of the State of Nevada with its principal place of business at 6355 South Buffalo
4 Drive, Las Vegas, Nevada 89113. International Game Technology conducts business throughout
5 this District, Washington State, and the United States.

6 10. Defendant IGT, a subsidiary of International Game Technology, is a corporation
7 existing and organized under the laws of the State of Nevada with its principal place of business
8 at 6355 South Buffalo Drive, Las Vegas, Nevada 89113. IGT conducts business throughout this
9 District, Washington State, and the United States. IGT conducts business throughout this
10 District, Washington State, and the United States.

11 **JURISDICTION AND VENUE**

12 11. Federal subject-matter jurisdiction exists under 28 U.S.C. § 1332(d)(2) because
13 (a) at least one member of the class is a citizen of a state different from any Defendants, (b) the
14 amount in controversy exceeds \$5,000,000, exclusive of interests and costs, and (c) none of the
15 exceptions under that subsection apply to this action.

16 12. The Court has personal jurisdiction over Defendants because Defendants conduct
17 significant business transactions in this District, and because the wrongful conduct occurred in
18 and emanated from this District.

19 13. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial
20 part of the events giving rise to Plaintiffs' claims occurred in and emanated from this District.

21 **FACTUAL ALLEGATIONS**

22 **I. Free-to-Play and the New Era of Online Gambling**

23 14. The proliferation of internet-connected mobile devices has led to the growth of
24 what are known in the industry as "free-to-play" videogames. The term is a misnomer. It refers
25 to a model by which the initial download of the game is free, but companies reap huge profits by
26 selling thousands of "in-game" items that start at \$0.99 (purchases known as "micro-
27 transactions" or "in-app purchases").

15. The in-app purchase model has become particularly attractive to developers of games of chance (*e.g.*, poker, blackjack, and slot machine mobile videogames, amongst others), because it allows them to generate huge profits. In 2017, free-to-play games of chance generated over \$3.8 billion in worldwide revenue, and they are expected to grow by ten percent annually.¹ Even “large land-based casino operators are looking at this new space” for “a healthy growth potential.”²

16. With games of chance that employ the in-game purchase strategy, developers have begun exploiting the same psychological triggers as casino operators. As one respected videogame publication put it:

“If you hand someone a closed box full of promised goodies, many will happily pay you for the crowbar to crack it open. The tremendous power of small random packs of goodies has long been known to the creators of physical collectible card games and companies that made football stickers a decade ago. For some ... the allure of a closed box full of goodies is too powerful to resist. Whatever the worth of the randomised [sic] prizes inside, the offer of a free chest and the option to buy a key will make a small fortune out of these personalities. For those that like to gamble, these crates often offer a small chance of an ultra-rare item.”³

17. Another stated:

“Games may influence ‘feelings of pleasure and reward,’ but this is an addiction to the games themselves; micro-transactions play to a different kind of addiction that has existed long before video games existed, more specifically, an addiction similar to that which you could develop in casinos and betting shops.”⁴

18. The comparison to casinos doesn’t end there. Just as with casino operators, mobile game developers rely on a small portion of their players to provide the majority of their profits. These “whales,” as they’re known in casino parlance, account for just “0.15% of players” but provide “over 50% of mobile game revenue.”⁵

¹ GGRAsia – Social casino games 2017 revenue to rise 7pct plus says report, <http://www.ggrasia.com/social-casino-games-2017-revenue-to-rise-7pct-plus-says-report/> (last visited Jul 23, 18)

² *Report confirms that social casino games have hit the jackpot with \$1.6B in revenue* | GamesBeat, <https://venturebeat.com/2012/09/11/report-confirms-that-social-casino-games-have-hit-the-jackpot-with-1-6b-in-revenue/> (last visited Jul. 23, 18)

³ PC Gamer, *Microtransactions: the good, the bad and the ugly*, <http://www.pcgamer.com/microtransactions-the-good-the-bad-and-the-ugly/> (last visited Apr. 5, 2018).

⁴ The Badger, *Are micro-transactions ruining video games?* | The Badger, <http://thebadgeronline.com/2014/11/micro-transactions-ruining-video-games/> (last visited Apr. 5, 2018).

⁵ *Id.* (emphasis added).

1 19. Game Informer, another respected videogame magazine, reported on the rise (and
2 danger) of micro-transactions in mobile games and concluded:

3 “[M]any new mobile and social titles target small, susceptible populations for
4 large percentages of their revenue. If ninety-five people all play a [free-to-play]
5 game without spending money, but five people each pour \$100 or more in to
6 obtain virtual currency, the designer can break even. These five individuals are
7 what the industry calls whales, and we tend not to be too concerned with how
8 they’re being used in the equation. While the scale and potential financial ruin is
9 of a different magnitude, a similar profitability model governs casino gambling.”⁶

10 20. Academics have also studied the socioeconomic effect games that rely on in-app
11 purchases have on consumers. In one study, the authors compiled several sources analyzing so-
12 called free-to-play games of chance (called “casino” games below) and stated that:

13 “[Researchers] found that [free-to-play] casino gamers share many similar
14 sociodemographic characteristics (e.g., employment, education, income) with
15 online gamblers. Given these similarities, it is perhaps not surprising that a strong
16 predictor of online gambling is engagement in [free-to-play] casino games. Putting
17 a dark line under these findings, over half (58.3%) of disordered gamblers who
18 were seeking treatment stated that social casino games were their first experiences
19 with gambling.”

20 ...

21 “According to [another study], the purchase of virtual credits or virtual items
22 makes the activity of [free-to-play] casino gaming more similar to gambling.
23 Thus, micro-transactions may be a crucial predictor in the migration to online
24 gambling, as these players have now crossed a line by paying to engage in these
25 activities. Although, [sic] only 1–5% of [free-to-play] casino gamers make micro-
26 transactions, those who purchase virtual credits spend an average of \$78. Despite
27 the limited numbers of social casino gamers purchasing virtual credits, revenues
from micro-transactions account for 60 % of all [free-to-play] casino gaming
revenue. Thus, a significant amount of revenue is based on players’ desire to
purchase virtual credits above and beyond what is provided to the player in seed
credits.”⁷

21 21. The same authors looked at the link between playing free-to-play games of chance
22 and gambling in casinos. They stated that “prior research indicated that winning large sums of
23 virtual credits on social casino gaming sites was a key reason for [consumers’] migration to

24 ⁶ Game Informer, *How Microtransactions Are Bad For Gaming - Features* - www.GameInformer.com,
25 [http://www.gameinformer.com/b/features/archive/2012/09/12/how-microtransactions-are-bad-for-](http://www.gameinformer.com/b/features/archive/2012/09/12/how-microtransactions-are-bad-for-gaming.aspx?CommentPosted=true&PageIndex=3)
gaming.aspx?CommentPosted=true&PageIndex=3 (last visited Apr. 5, 2018)

26 ⁷ Hyoun S. Kim, Michael J. A. Wohl, *et al.*, *Do Social Casino Gamers Migrate to Online Gambling? An*
27 *Assessment of Migration Rate and Potential Predictors*, Journal of gambling studies / co-sponsored by the National
Council on Problem Gambling and Institute for the Study of Gambling and Commercial Gaming (Nov. 14, 2014),
available at <http://link.springer.com/content/pdf/10.1007%2Fs10899-014-9511-0.pdf> (citations omitted).



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