

The Honorable Robert S. Lasnik

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**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,
et al.,

Defendants.

Case No. 18-cv-00525-RSL

**IGT DEFENDANTS’ OPPOSITION
TO PLAINTIFFS’ MOTION FOR A
TEMPORARY RESTRAINING ORDER**

International Game Technology and IGT (“IGT Defendants”) respectfully request leave to submit this opposition to plaintiffs’ motion for temporary restraining order in order to emphasize two points: (1) plaintiffs cite no jurisdictional basis to enjoin Double Down Interactive Co. Ltd. (“DDI Co. Ltd.”) or any other corporate affiliates of Double Down Interactive, LLC (“DDI”); and (2) any substantive ruling by this Court in the near term is likely to setback the significant progress the parties have made in recent weeks to resolve this case. Because there is no jurisdictional basis to impose injunctive relief on DDI Co. Ltd. or other corporate affiliates of DDI, and because any substantive ruling by the Court at this point in time would irreparably compromise the parties’ productive settlement discussions, the IGT Defendants respectfully request that this Court deny plaintiffs’ motion.

1 **A. Plaintiffs Cannot Enjoin A Non-Party.**

2 Throughout this litigation, plaintiffs have ignored the fact that DDI, International Game
3 Technology, and IGT are separate legal entities when it comes to their substantive claims. Given
4 that this issue is the subject of pending motions involving the IGT Defendants, *e.g.*, Dkts. 289 &
5 330, the IGT Defendants have an interest in opposing any argument in which plaintiffs ask the
6 Court to disregard the corporate form, as they have in their request for injunctive relief with respect
7 to DDI and its corporate affiliates.

8 Plaintiffs claim Rule 65(d)(2)(C) permits the far-ranging relief requested in their motion.
9 Dkt. 482 at 3. But Rule 65 does not “authoriz[e] injunctive relief against non-parties,” as plaintiffs
10 assert. *See* 11A Charles A. Wright, Arthur R. Miller & Mary Kay Kane, *Fed. Prac. & Proc. Civ.*
11 § 2956 (3d ed.) (“A court ordinarily does not have power to issue an order against a person who is
12 not a party and over whom it has not acquired in personam jurisdiction.”); *Fregia v. Miranda*, No.
13 1:21-cv-01068-AWI-BAM (PC), 2021 WL 2948650, at *2 (E.D. Cal. July 14, 2021) (“The Court’s
14 jurisdiction is limited to the parties in this action and to the viable legal claims upon which this
15 action is proceeding.”).

16 Instead, Rule 65(d)’s effect of binding persons “in active concert or participation with” an
17 enjoined party only prevents a party from evading an order by acting through or with another entity
18 – the Rule does not authorize a court to enjoin a non-party over which it does not have jurisdiction.
19 *See Regal Knitwear Co. v. N.L.R.B.*, 324 U.S. 9, 14 (1945); *Zenith Radio Corp. v. Hazeltine Rsch.,*
20 *Inc.*, 395 U.S. 100, 112 (1969); *Lake Shore Asset Mgmt. Ltd. v. CFTC*, 511 F.3d 762, 766–67
21 (7th Cir. 2007) (“The only defendant in the CFTC’s suit is Lake Shore Asset Management, which
22 must be the sole addressee of the injunction. The injunction may direct Lake Shore to do things
23 within its power—such as turning over its books and records—but may not impose obligations
24 directly on other members of the corporate group.”).

25 Plaintiffs’ motion effectively inverts the Rule by seeking to prevent DDI’s affiliates from
26 taking actions of their own. Plaintiffs’ requested relief – “to employ all available measures and
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1 powers to ensure that no DoubleDown entity makes any extraordinary expenditures of cash” –
2 plainly seeks to enjoin DDI Co. Ltd. and other DDI affiliates as if they can and should be deemed
3 no different than DDI. Dkt. 482-1 ¶2. But because the Court does not have jurisdiction to grant
4 relief against DDI’s corporate affiliates, plaintiffs’ motion must be denied.¹

5 **B. Plaintiffs’ Motion Has Disrupted The Mediation Process.**

6 In formal proceedings with Phillips ADR and separate direct negotiations, the parties have
7 made significant progress towards the resolution of this litigation in recent weeks. And although
8 the IGT Defendants are not inclined to waive mediation privilege, they can represent that they
9 have had good discussions with DDI, plaintiffs, and Phillips ADR as the parties work hard to find
10 common ground. Further, the IGT Defendants are committed to continuing these efforts with a
11 second, in-person, mediation session before Judge Phillips (ret.) scheduled for August 26, 2022.

12 Plaintiffs’ motion has significantly disrupted this process. Shortly after the Court ordered
13 Joe Sigrist to appear in person, plaintiffs suddenly withdrew their settlement offers. Given the
14 chilling effect plaintiffs’ motion has had on settlement negotiations, the IGT Defendants are
15 concerned that any substantive ruling will irreparably compromise the parties’ ability to resolve
16 this litigation anytime soon. Therefore, in addition to denying plaintiffs’ motion for the reason
17 above, the IGT Defendants respectfully request that the Court continue to refrain from ruling on
18 any substantive motion until the parties have completed settlement negotiations, through and
19 including the in-person mediation with Judge Phillips (ret.) on August 26, 2022.

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27 ¹ To the extent plaintiffs seek injunctive relief with respect to DDI itself, they have made no
showing of exigent circumstances that requires injunctive relief with respect to DDI at this time.

1 Dated: August 16, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

DATED August 16, 2022.

/s/ DeAnne Adams _____
DeAnne Adams
Legal Assistant

