



place of business in Fort Myers, Florida. Lexos develops software solutions to facilitate cursor-based advertising and is a leader in this technology field.

3. Defendant, ZYNGA, INC., is a Delaware corporation with its principal place of business in San Francisco, California. Zynga makes, markets, sells and/or offers for sale games throughout the United States, including in the Middle District of Florida, that include cursor-based advertising and the sale of virtual goods, including through cursor modification. Zynga derives the majority of its revenue from these activities.

4. Zynga is designing, marketing, making, using, making available for use, selling, importing, and/or offering for sale online games including but not limited to Zynga's CastleVille, Café World, CityVille, Empires & Allies, FarmVille, FishVille, Hidden Chronicles, Indiana Jones Adventure World, Mafia Wars 2, The Pioneer Trail (f/k/a FrontierVille), The Ville, Treasure Isle, and YoVille products ("Zynga's cursor modification games"), and selling and offering for sale virtual goods online within those games, including the sale of virtual goods through cursor modification. Zynga's cursor modification games infringe claims from the patents-at-issue.

#### **JURISDICTION AND VENUE**

5. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-285. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in the Fort Myers Division of the Middle District of Florida pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400(b).

7. This Court has personal jurisdiction over Zynga as Zynga has conducted and continues to conduct business within the State of Florida. Zynga designs, makes, markets, uses, sells and/or offers for sale games, including Zynga's cursor modification games, in the Middle District of Florida, and sells and offers for sale virtual goods through its online games in the Middle District of Florida. Zynga has committed the tort of patent infringement within the State of Florida and, more particularly, within the Middle District of Florida.

#### **GENERAL ALLEGATIONS**

8. On November 30, 1999, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 5,995,102 ("the '102 Patent"), entitled "Server System and Method for Modifying a Cursor Image," to James Rosen, Thomas Schmitter, and Mark Hall. Lexos is the owner by assignment of the '102 Patent.

9. On May 16, 2000, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,065,057 ("the '057 Patent"), entitled "Method for Authenticating Modification of a Cursor Image" to James Rosen, Thomas Schmitter, and Mark Hall. Lexos is the owner by assignment of the '057 Patent.

10. On September 12, 2000, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,118,449 ("the '449 Patent"), entitled "Server System and Method for Modifying a Cursor Image" to James Rosen, Thomas Schmitter, and Mark Hall. Lexos is the owner by assignment of the '449 Patent.

11. On September 19, 2006, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 7,111,254 ("the '254 Patent"), entitled "System for

Replacing a Cursor Image in Connection with Displaying the Contents of a Web Page” to James Rosen, Thomas Schmitter, and Mark Hall. Lexos is the owner by assignment of the ’254 Patent.

12. On July 5, 2011, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 7,975,241 (“the ’241 Patent”), entitled “System for Replacing a Cursor Image in Connection with Displaying the Contents of a Web Page” to James Rosen, Thomas Schmitter, and Mark Hall. Lexos is the owner by assignment of the ’241 Patent.

13. Lexos is the owner of all rights, title, and interest in and to the ’102 Patent, ’057 Patent, ’499 Patent, ’254 Patent, and ’241 Patent. Lexos possesses all rights to sue and recover for past and future infringement.

14. On or about November 16, 2011, Lexos’s outside counsel sent a letter to Zynga’s general counsel notifying Zynga that Lexos is the owner of the patents-in-suit and that Zynga’s games that include cursor-based content may infringe the patents-in-suit.

15. Each of the patents-in-suit is valid and enforceable.

16. Zynga has infringed, and continues to infringe, directly, contributorily, and/or through the inducement of others, the claimed apparatuses and methods of the patents-in-suit through the cursor modification in the games Zynga makes, uses, sells, and/or offers for sale, including Zynga’s cursor modification games.

17. Lexos has been damaged as a result of Zynga’s infringing conduct. Zynga is, therefore, liable to Lexos in an amount that adequately compensates Lexos for

Zynga's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**COUNT I**  
**(Infringement of the '102 Patent)**

18. Lexos realleges and incorporates paragraphs 2 through 17 as though fully set forth herein.

19. Zynga has been and is now directly infringing the patents-in-suit by making, using, selling, and/or offering for sale Zynga game products, including Zynga's cursor modification games, that practice or embody one or more claims of each of the patents-in-suit. Zynga also has been and is now inducing others, such as end users of such Zynga games, to directly infringe one or more claims of each of the patents-in-suit.

20. Zynga indirectly infringes the patents-in-suit by inducement of infringement in accordance with 35 U.S.C. § 271(b). Zynga provides Zynga's cursor modification games to end-user customers in the United States who, in turn, load and use the Zynga cursor modification games. Accordingly, Zynga indirectly infringes because Zynga has been and is now actively inducing others, such as end users of Zynga's cursor modification games, to directly infringe one or more claims of each of the patents-in-suit.

21. Zynga's actions are in violation of one or more of the provisions of 35 U.S.C. § 271(a), (b), (c), (f), and/or (g).

22. Zynga's acts have caused, and unless restrained and enjoined, will continue to cause, irreparable injury and damage to Lexos for which there is no adequate remedy at law. Unless enjoined by this Court, Zynga will continue to infringe the patents-in-suit.

WHEREFORE, Plaintiff, LEXOS MEDIA, INC., demands judgment against ZYNGA, INC., as follows:

a) a judgment that Zynga, and its parents, affiliates, subsidiaries, officers, agents, servants, employees, attorneys, successors, and assigns, and all those persons in active concert or participation with them, or any of them, be enjoined from making, importing, using, offering for sale, selling, or causing to be sold any product or service falling within the scope of any claim of the patents-in-suit, or otherwise infringing or contributing to or inducing infringement of any claim of the patents-in-suit;

b) a judgment that Zynga has directly infringed, and/or indirectly infringed by way of inducement and/or contributory infringement, the patents-in-suit;

c) a judgment awarding Lexos its actual damages under 35 U.S.C. § 284, including supplemental damages for any continuing post-verdict infringement until Zynga is enjoined from further infringing activities;

d) a judgment that Lexos be awarded enhanced damages pursuant to 35 U.S.C. § 284;

e) a judgment requiring Zynga to pay Lexos pre-judgment and post-judgment interest on the damages awarded, including an award of pre-judgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the patents-in-suit by Zynga to the day a damages judgment is entered, and further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law;

- f) an Order for an accounting for damages through verdict and thereafter until Zynga is enjoined from further infringing activities;
- g) a judgment and Order finding this to be an exceptional case and requiring Zynga to pay the costs of this action (including all disbursements), and attorneys' fees as provided by 35 U.S.C. § 285;
- h) alternatively, that the Court award a compulsory ongoing royalty, in the event that an injunction does not issue; and
- i) such other and further relief in favor of Lexos as the Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Lexos demands a trial by jury on all issues triable of right by a jury.

Dated: July 23, 2012

Respectfully submitted,

COHEN & GRIGSBY, P.C.

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**ATTORNEYS FOR PLAINTIFF  
LEXOS MEDIA, INC.**

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