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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GAMEVICE, INC., a Delaware corporation,)

Plaintiff,)

v.)

NINTENDO CO., LTD., a Japanese corporation, and NINTENDO OF AMERICA, INC., a Washington corporation)

Defendants.)

CASE NO. 17-cv-5923

COMPLAINT FOR PATENT INFRINGEMENT

JURY TRIAL DEMANDED

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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Gamevice, Inc. (“Gamevice”) hereby asserts the following claims for patent infringement against Defendants Nintendo Co., Ltd. and Nintendo of America, Inc. (collectively, “Nintendo”), and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for patent infringement under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

2. Defendants have infringed and continue to infringe, and have induced and continue to induce infringement of, one or more claims of Gamevice’s U.S. Patent No. 9,126,119 (“the ’119 patent”) at least by importing, selling and offering to sell the Nintendo Switch gaming console.

3. Gamevice is the legal owner by assignment of the ’119 patent, which was duly and legally issued by the United States Patent and Trademark Office (“USPTO”). Gamevice seeks injunctive relief and monetary damages.

THE PARTIES

4. Gamevice, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 685 Cochran St., Suite 200, Simi Valley, CA 93065.

5. Upon information and belief, defendant Nintendo Co., Ltd. (“Nintendo Co.”) is a corporation organized and existing under the laws of Japan with its principal place of business at 11-1 Hokotate-cho, Kamitoba, Minami-ku, Kyoto, Japan 601-8501. Nintendo Co. is in the business of researching, designing, developing, manufacturing, and selling video game consoles, handheld videogame systems, video games, accessories, and components of those products and accessories, for importation into the United States and sales in the United States, including in this District.

6. Upon information and belief, defendant Nintendo of America, Inc. (“Nintendo of America”) is a corporation organized under the laws of Washington,

1 having a principal place of business at 4600 150th Avenue NE, Redmond,
2 Washington 98052. Nintendo of America is in the business of importing,
3 marketing, advertising, and selling video game consoles, handheld videogame
4 systems, video games, and accessories in the United States, including in this
5 District.

6 7. Nintendo of America is a wholly owned subsidiary of Nintendo Co.

7 8. Upon information and belief, each of the Defendants directly and/or
8 indirectly imports, develops, designs, manufactures, distributes, markets, offers to
9 sell and/or sells infringing products and services in the United States, including in
10 the Central District of California, and otherwise purposefully directs infringing
11 activities to this district in connection with the Nintendo Switch.

12 9. Upon information and belief and as further explained below,
13 Defendants have been and are acting in concert, and are otherwise liable jointly,
14 severally or otherwise for a right to relief related to or arising out of the same
15 transaction, occurrence or series of transactions or occurrences related to the
16 making, using, importing into the United States, offering for sale or selling the
17 Nintendo Switch in this District. In addition, this action involves questions of law
18 and fact that are common to all Defendants.

19 **JURISDICTION AND VENUE**

20 10. This is a civil action for patent infringement arising under the patent
21 laws of the United States, 35 U.S.C. § 1 *et seq.*

22 11. This Court has subject matter jurisdiction over the matters asserted
23 herein under 28 U.S.C. §§ 1331 and 1338(a).

24 12. Nintendo is subject to this Court's personal jurisdiction. Nintendo has
25 infringed the '119 patent in this District by, among other things, engaging in
26 infringing conduct within and directed at or from this District. For example,
27 Nintendo has purposefully and voluntarily placed the Nintendo Switch into the
28 stream of commerce with the expectation that these infringing products will be used

1 in this District. These infringing products have been and continue to be sold and
2 used in this District.

3 13. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391
4 and 1400(b) at least because Nintendo has committed acts of infringement in this
5 District and has a regular and established place of business in this District.

6 **GAMEVICE’S HISTORY AND PATENTED TECHNOLOGY**

7 14. Originally founded in 2008 (under the name Wikipad, Inc.), Gamevice
8 has long sought to develop and create innovative solutions for video game players.
9 Its first product, the Wikipad, was a full function, Android-based tablet computer
10 that included a detachable game controller. Because tablet or smartphone based
11 games typically required the user to control the screen action using touch-sensitive
12 controls that appeared directly on the screen (taking up valuable screen space),
13 Gamevice’s well-received Wikipad product included a detachable game controller
14 that both held the Wikipad while providing separate gaming controls, *e.g.*, joysticks,
15 buttons and triggers, so that avid video gamers could enjoy a full screen gaming
16 experience.



24 15. Recognizing the growing migration of popular video games to
25 handheld devices, Gamevice continued to innovate, and in 2015 it released its
26 namesake device, the Gamevice, a game controller that provides true gaming
27 controls for use with a smartphone or tablet. The Gamevice game controller is
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1 designed to work with both Apple and Samsung devices and includes a collection of
2 traditional gaming controls, allowing gamers to play hundreds of video games on
3 their smartphone and tablet devices.



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11 16. Gamevice has filed for patent protection on its innovations, and
12 currently holds over 41 patents in 10 countries related to a range of gaming devices,
13 controls and accessories. The '119 patent, granted by the United States Patent and
14 Trademark Office on September 8, 2015, is entitled "Combination Computing
15 Device and Game Controller with Flexible Bridge Section." Gamevice is the
16 current owner of the '119 patent. A true and correct copy of the '119 patent is
17 attached hereto as Exhibit A.

18 **ACTS GIVING RISE TO THIS ACTION**

19 17. On October 20, 2016, Nintendo unveiled a new home gaming console,
20 the Nintendo Switch. The Nintendo Switch console consists of a multi-touch
21 capacitive touch screen that includes a slot that accepts Nintendo Switch game
22 cards. Players can place the console into the Switch dock, connected to a television
23 monitor, and play games using one or more "Joy-Con" controllers. Alternatively,



1 when mobility is desired, users can remove the gaming console from its dock and
2 attach the two Joy Con controllers to rails on each side of the Switch console,
3 creating a mobile, handheld gaming device.

4 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 9,126,119**

5 18. Gamevice incorporates by reference and re-alleges all the foregoing
6 paragraphs of this Complaint as if fully set forth herein.

7 19. Defendants have directly infringed and are currently directly infringing
8 the '119 patent by making, using, selling, offering for sale, and/or importing into the
9 United States, without authority, products and equipment that embody one or more
10 claims of the '119 patent, including but not limited to the Nintendo Switch.

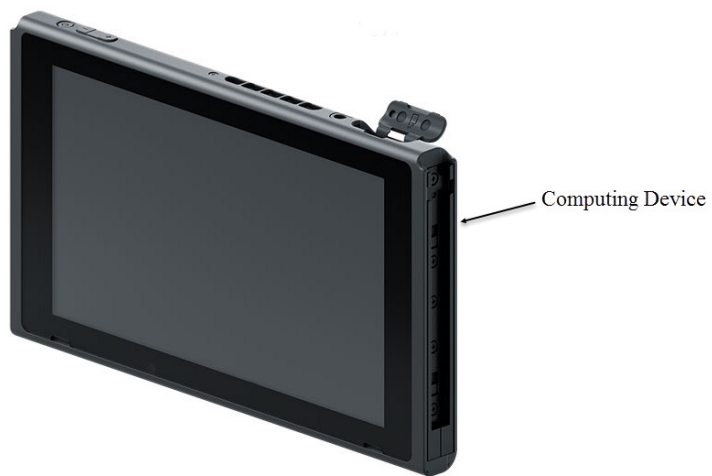
11 20. As just one non-limiting example, set forth below (with claim language
12 in italics) is a description of infringement of exemplary claim 1 of the '119 patent in
13 connection with the Nintendo Switch. This description is based on publicly
14 available information. Gamevice reserves the right to modify this description,
15 including, for example, on the basis of information about the Nintendo Switch that it
16 obtains during discovery.

17 1(a) *A combination comprising:* The Nintendo Switch is a combination of the
18 claimed elements, as described below.

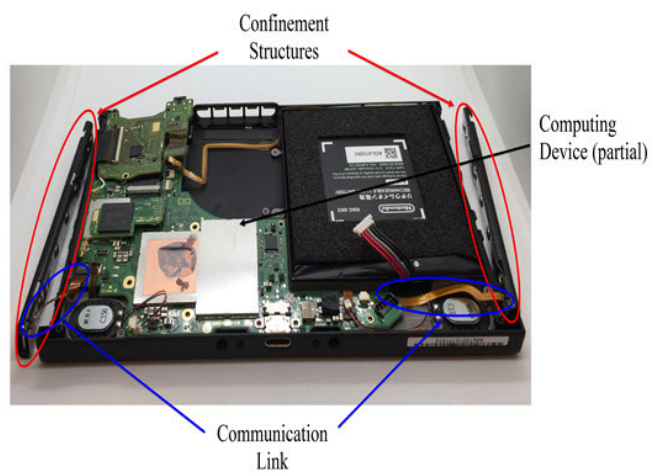
19 1(b) *a computing device, the computing device providing a plurality of sides,*
20 *each of the plurality of sides are disposed between an electronic display screen of*
21 *the computing device and a back of the computing device;* The Nintendo Switch
22 includes a computing device in the form of an electronic tablet having a plurality of
23 sides disposed between a screen and a back of the computing device.

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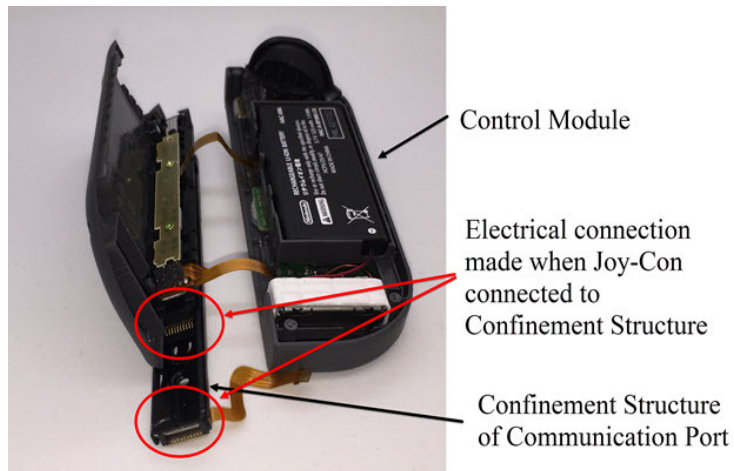
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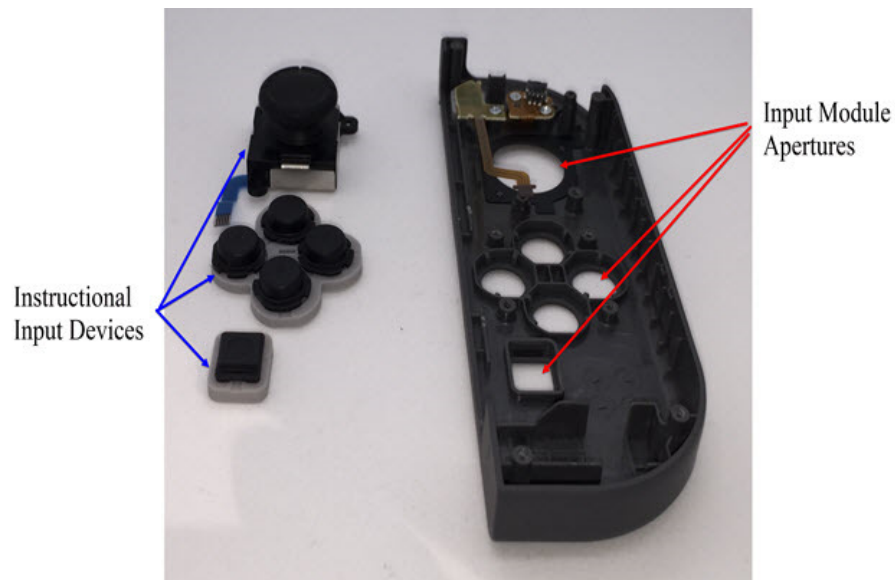
1(c) a communication port interacting with the computing device, the communication port providing a communication link and a pair of confinement structures, the pair of confinement structures adjacent to and confining the computing device on at least two opposing sides of the plurality of sides of the computing device; The Nintendo Switch includes a communications port providing a communication link and a pair of confinement structures as indicated below:



1 1(d)(i) *an input device attached to and in electronic communication with the*
2 *communication port,* The Nintendo Switch includes two Joy-Con control modules
3 that provide an input device to the computing device. The two Joy-Cons are in
4 electronic communication with the communication port through at least the
5 reciprocal connectors on the Joy-Cons and the confinement structures.

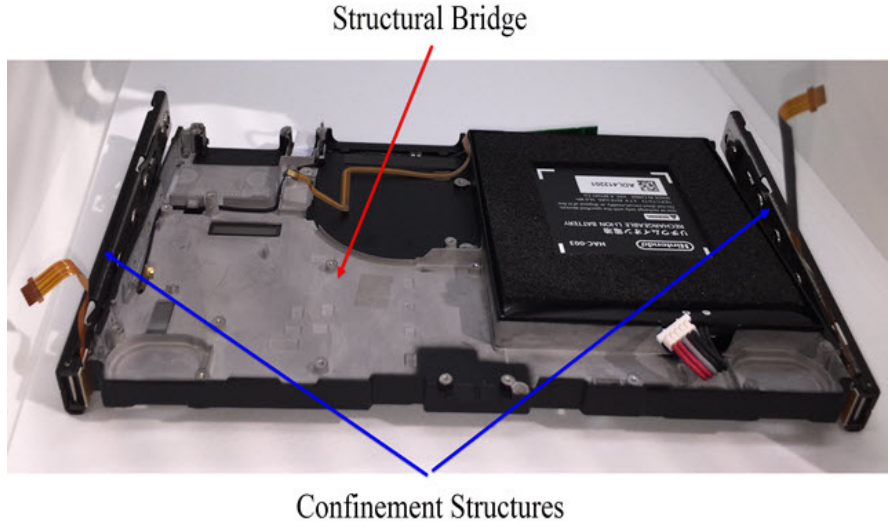


1 1(d)(ii) *the input device providing a pair of control modules, the pair of*
2 *control modules providing input module apertures, each input module aperture*
3 *secures an instructional input device, wherein said input module apertures are*
4 *adjacent each of the at least two opposing sides of the plurality of sides of the*
5 *computing device, and wherein the input device is a separate and distinct structure*
6 *from the communication port, forming no structural portion of the communication*
7 *port; and* The two Nintendo Switch Joy-Cons are a pair of control modules. Each
8 Joy-Con has apertures in which are secured instructional input devices, including
9 joy sticks and buttons. The Joy-Cons are separate and distinct from the other
10 components that make-up the communication port.

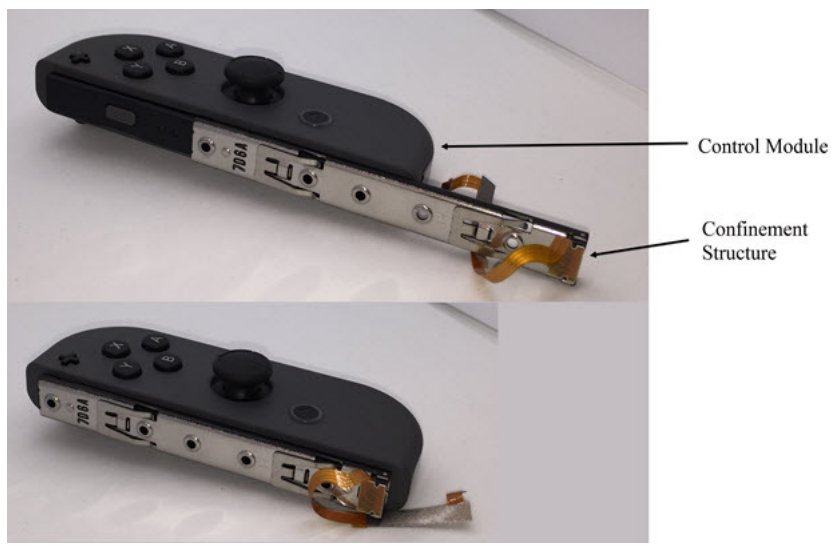


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1(e)(i) *a structural bridge securing the pair of confinement structures one to the other*, The Nintendo Switch includes a structural bridge to which the two confinement structures are connected.

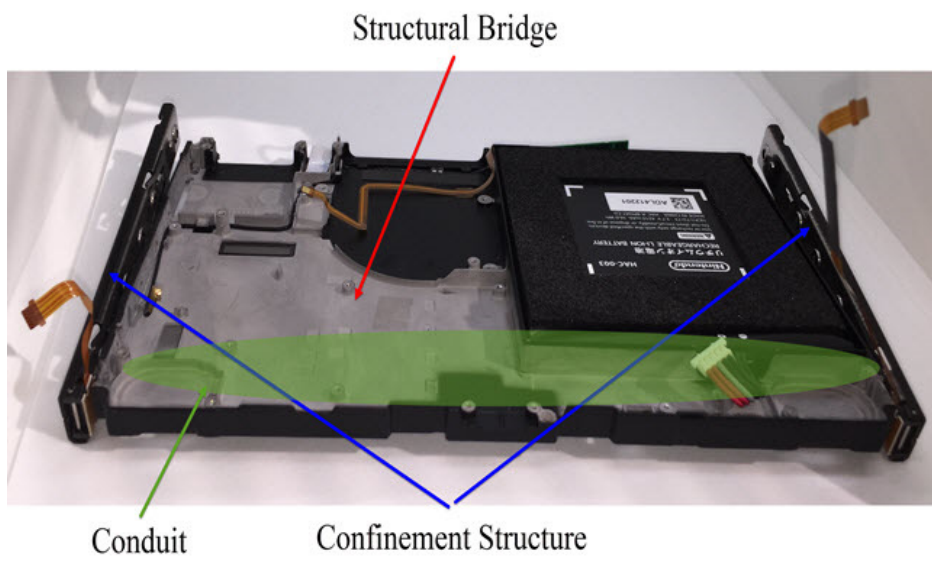


1(e)(ii) *in which each of the pair of control modules provide an attachment structure cooperating with the communication port, each attachment structure secures the input device to the communication port*, Each Joy-Con includes an attachment structure that cooperates with features on the confinement structures to secure the input device to the communication port, as shown below.

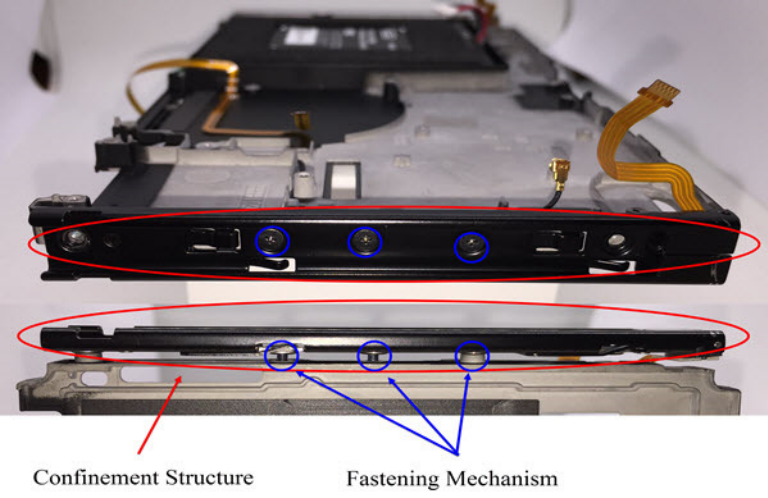


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1(f) (i) *and in which the structural bridge comprising: a conduit between the pair of control modules; The structural bridge in the Nintendo Switch comprises a pathway between the two Joy-Cons.*



1(f)(ii) *[the structural bridge comprising:] and a fastening mechanism cooperating with the pair of confinement structures, the fastening mechanism secures the pair of confinement structures one to the other. The confinement structures of the Nintendo Switch are secured to the structural bridge with screws, thereby securing the pair of confinement structures one to the other.*



1 21. At least as early as the filing and service of this Complaint, Nintendo is
2 also indirectly infringing the '119 patent.

3 22. Nintendo has actual knowledge of Gamevice's rights in the '119 patent
4 and details of Nintendo's infringement of the '119 patent based on at least the filing
5 and service of this Complaint.

6 23. Nintendo manufactures, uses, imports, offers for sale, and/or sells the
7 Nintendo Switch with knowledge of or willful blindness to the fact that its actions
8 will induce Nintendo's retail partners and end users to infringe the '119 patent by at
9 least using and/or selling the Nintendo Switch in violation of 35 U.S.C. § 271.

10 24. Nintendo's infringement has caused, and is continuing to cause,
11 damage and irreparable injury to Gamevice, and Gamevice will continue to suffer
12 damage and irreparable injury unless and until that infringement is enjoined by this
13 Court.

14 25. Gamevice is entitled to injunctive relief and damages in accordance
15 with 35 U.S.C. §§ 271, 281, 283, and 284.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Gamevice respectfully requests:

18 A. That Judgment be entered that Nintendo has infringed the '119 patent,
19 directly and indirectly, literally or under the doctrine of equivalents;

20 B. That, in accordance with 35 U.S.C. § 283, Nintendo and all affiliates,
21 employees, agents, officers, directors, attorneys, successors, and assigns and all
22 those acting on behalf of or in active concert or participation with any of them, be
23 preliminarily and permanently enjoined from (1) infringing the '119 patent and (2)
24 making, using, selling, and offering for sale the Nintendo Switch;

25 C. An award of damages sufficient to compensate Gamevice for
26 Nintendo's infringement under 35 U.S.C. ¶ 284;

27 D. That the case be found exceptional under 35 U.S.C. § 285 and that
28 Gamevice be awarded its attorneys' fees;

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- E. Costs and expenses in this action;
- F. An award of prejudgment and post-judgment interest; and
- G. Such other and further relief as the Court may deem just and proper.

DATED: August 9, 2017

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By/s/ Chris A. Mathews

John B. Quinn
Chris A. Mathews
Bruce R. Zisser
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Attorneys for Plaintiff Gamevice, Inc.

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Gamevice respectfully demands a trial by jury on all issues triable by jury.

DATED: August 9, 2017

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By/s/ Chris A. Mathews

John B. Quinn
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