

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

HASBRO, INC.

Plaintiff,

v.

INFOGRAMES ENTERTAINMENT S.A.

a/k/a ATARI, S.A.,

Defendant.

C.A. No.

CA09- 610ML

COMPLAINT

In and for its Complaint, plaintiff Hasbro, Inc. ("Hasbro") alleges as follows:

Nature of the Case

1. This action arises out of the disregard by Defendant, Infogrames Entertainment S.A. a/k/a Atari, S.A. ("Atari") for its contractual obligations to Hasbro, its misrepresentations of fact and refusal to provide information, all in an unsuccessful effort to cover its tracks.
2. As a result of Atari's sale of its European business operations in July 2009, Atari expressly or impliedly sublicensed a part of its exclusive rights to Hasbro's signature fantasy property, Dungeons & Dragons, without Hasbro's authorization to a major Hasbro competitor, Namco Bandai Partners ("Namco Bandai"), in a number of countries around the world.
3. Namco Bandai, which has been supporting Dungeons & Dragons through its marketing website and customer support functions in these countries, obtained Hasbro's confidential information about Dungeons & Dragons from Atari, and held itself out as a publisher of Dungeons & Dragons digital games previously published by Atari. Atari sold at least four of its subsidiaries actively engaged in Dungeons & Dragons licensed activities to

Namco Bandai. Yet Atari has steadfastly denied any relationship between itself and Namco Bandai with respect to Dungeons & Dragons.

4. Despite Hasbro's repeated questions about how its property was being managed in these countries, if Namco Bandai was not managing it, Atari has continuously refused to answer in any meaningful way.

5. Hasbro can no longer trust its brand in the hands of Atari, and brings this action to confirm its right to terminate Atari's license to Dungeons & Dragons.

The Parties

6. Hasbro is a Rhode Island corporation with a principal place of business in Pawtucket, Rhode Island.

7. Atari is a *societe anonyme* organized under the laws of France.

Jurisdiction

8. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§1332(a)(2) as the amount in controversy exceeds \$75,000, and as Hasbro is a citizens of the State of Rhode Island and Atari is a citizen of a foreign state, the parties are citizens of different states, and this Court also has jurisdiction pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201.

9. This Court has personal jurisdiction over Atari in that it has (a) a systematic and continuous presence in Rhode Island, (b) has purposely availed itself of the benefits and protections of Rhode Island law by valid and enforceable agreement with Plaintiff, (c) has specifically subjected itself to the jurisdiction of the Court of Rhode Island as part of an agreement with Hasbro; and (d) has taken intentional actions aimed at Hasbro and/or this state knowing those actions would cause harm here.

10. Venue is exclusive in this district pursuant to 28 U.S.C. § 1391 and pursuant to a choice of venue provision in an agreement between Hasbro and Atari.

Statement of Facts

A. Dungeons & Dragons

11. Created in 1974, Dungeons & Dragons (also known under the trademark D&D ("D&D")) is the world's first role-playing game and the worldwide market leader in the tabletop role-playing game category.

12. D&D rapidly evolved into a cultural and commercial phenomenon with millions of highly devoted players worldwide. More than 20 million people around the globe are estimated to have played D&D. Beyond its commercial success, D&D has had a broad cultural impact, influencing authors, filmmakers, and video game developers as a revered fantasy brand.

13. Wizards of the Coast LLC ("Wizards"), is a wholly-owned subsidiary of Hasbro. Wizards owns the trademark rights and copyrights in D&D around the world, and publishes the core D&D role-playing game products. Wizards' D&D products are translated and sold in at least fourteen languages. Wizards and Hasbro have collectively invested tens of millions of dollars to support the D&D brand. Wizards and Hasbro currently employ more than 100 people worldwide who support the brand.

B. Atari and the D&D Digital Game License

14. By intercompany agreement with Wizards, Hasbro holds the right to license D&D for entertainment and merchandise.

15. In 2000, Hasbro entered into a "License Agreement" with Atari through which Atari licensed the exclusive rights to make, market, distribute, provide customer support and

(with Hasbro's approval) sublicense digital game rights based on D&D ("D&D Digital Games") as well as other Hasbro properties.

16. On information and belief, to fulfill its obligations under the 2000 "License Agreement" Atari provided production, sales, marketing, and customer service support for D&D Digital Games ("Licensed Activities") through itself and a number of wholly-owned affiliate companies around the world.

17. In 2005, the 2000 "License Agreement" was explicitly superseded by an agreement titled the "Dungeons and Dragons License Agreement" (the "License") which limited Atari's exclusive license to D&D only. Hasbro and Atari terminated Atari's license to the other Hasbro properties.

18. On information and belief, until at least July 2009, Atari performed Licensed Activities through itself and a number of wholly-owned affiliate companies around the world, including Atari Italia S.p.A., Atari Deutschland GmbH, Atari United Kingdom Ltd, Atari France, and Atari Iberica S. XXI, S.A.(collectively, "Atari European Sublicensees"),.

19. The License contains a confidentiality provision that prohibits Atari from disclosing to a third party, among other things, non-public information about work in progress, product designs and concepts, and other artistic creations related to D&D Digital Games produced pursuant to the License ("Confidential Information").

20. The License contains a provision prohibiting Atari from harming or misusing the D&D intellectual property entrusted to Atari under the license, and prohibiting Atari from authorizing third parties to engage in licensed activities "with respect to any product or service bearing any artwork, other representation, name or mark that is confusingly similar to or disparages" the D&D intellectual property licensed to Atari.

21. The License contains a provision requiring Atari to provide customer support of a quality, accuracy, completeness and timeliness that meets then-prevailing industry standards.

22. The same provision of the License requires Atari to ensure the websites and technical infrastructure supporting the D&D Digital Games, and those of its sublicensees, meet these same industry standards.

23. The same provision of the License specifies that only Atari may provide customer support for D&D Digital Products. This support may not be provided by a third party.

24. The License also contains a provision requiring that Atari, among other things, market and support the D&D Digital Games in a “diligent manner, using commercially reasonable efforts to promote the [D&D Digital Games] and to serve potential and actual end users... so as to maintain the reputation” of the D&D brand.

25. The License states that as a statement of intention, Atari plans to exploit its rights to D&D itself, with only a limited number of sublicensees.

26. The License contains a provision requiring Atari to obtain Hasbro’s approval prior to sublicensing its rights under the License to a third party.

27. Upon information and belief, since 2005, Atari, through the Atari Europe Sublicensees and with Hasbro’s approval, entered into sublicensing agreements with third parties to engage in licensed activities with respect to D&D Digital Games.

28. In the past three years, Atari has changed Chief Executive Officers no fewer than four times, announcing its latest change on December 14, 2009. In the same time period, Atari’s producers responsible for Atari’s D&D license have undergone similarly frequent changes.

C. Sale of Atari Europe to Namco Bandai

29. On July 13, 2009, Wizards was informed that Atari had recently sold the European distribution rights to their products to Namco/Bandai. Wizards was further apprised that most of the top people at Atari had left.

30. On information and belief, Namco Bandai is a wholly-owned subsidiary of Namco Bandai Holdings, Inc., a Japanese corporation and the third largest toy and game company in the world behind Mattel, Inc. and Hasbro. Namco Bandai is a primary competitor of Hasbro in multiple product categories.

31. On July 14, 2009, Attorney Deborah Uluer from Hasbro's Legal Department wrote to Attorney Kristen Keller, General Counsel of Atari, asking for more information about Atari's sale of its business interests in Europe to Namco Bandai, and forwarding a press release about the sale. Specifically, Ms. Uluer sought information from Ms. Keller about whether or how such a sale might affect support of D&D Digital Games and whether it triggered the "Assignment, Sublicensing and Change of Control" provision of the License.

32. Ms. Keller wrote back on July 26, 2009, stating that she would respond substantively the week of August 3, 2009.

D. August 2009: Namco Bandai's Licensing Activities, Atari's Denials and Hasbro's Information Requests

33. On or about August 4, 2009, Sandrine Dubois, the Printed Materials Project Manager of Namco Bandai in Lyon, France, sent an e-mail to Peter Murphy of Hasbro seeking approval for the outer packaging label and the compact disc inlay for a new 3-title compilation of Italian-language D&D Digital Games. Both the packaging and the inlay clearly displayed the Atari, Wizards and Hasbro logos.

34. The packaging and inlay files, and approval request that the Namco Bandai employee sent was Hasbro's Confidential Information. Namco Bandai was not authorized by Hasbro to be in possession of its Confidential Information.

35. On August 7, 2009, Mark Blecher, General Manager of Digital Media and Gaming of Hasbro called Jim Wilson, President and CEO of Atari to notify him that Atari had received a submission of Confidential Information from Namco Bandai, and to reiterate Ms. Uluer's request for more information about the relationship between Atari and Namco Bandai. Mr. Wilson requested some time to provide Hasbro with evidence that Atari had not sublicensed D&D to Namco Bandai.

36. On August 11, 2009, Atari legal staff forwarded Hasbro legal staff a proposed sublicense for D&D Digital Games to be localized, manufactured, published, marketed and distributed in Italy. This sublicense was listed as being between "Namco Bandai Partners Italia (formerly Atari Italia)" as licensor and Sprea Italia as licensee.

37. Approximately six hours after the Atari legal department sent this sublicense to Hasbro for its approval, Ms. Keller, the General Counsel of Atari, responded to Ms. Uluer's July 26 information request, stating that only a wholesale relationship existed between Atari and Distribution Partners, a/k/a Namco Bandai, but that no sublicense or assignment of rights was made.

38. Given the contradiction between Namco Bandai's and Atari's actions, on the one hand, and Atari's denials, on the other hand, Mr. Blecher requested a telephone conference call with Mr. Wilson, Ms. Uluer, and Ms. Keller.

39. On August 14, 2009 Mssrs. Wilson and Blecher, Ms. Uluer, Ms. Keller, and Atari's outside counsel spoke by telephone. Mr. Blecher expressed his grave concerns about

Namco Bandai's involvement with D&D, including its receipt of Hasbro's Confidential Information about D&D Digital Games and its apparent licensing activities, because of Namco Bandai's competitive position to Hasbro.

40. Mr. Wilson denied that a sublicensing relationship existed between Atari and Namco Bandai, and stated that the submissions of packaging files and sublicenses by Namco Bandai were merely "transition issues". Mr. Blecher requested a copy of the agreement between Atari and Namco Bandai, redacted if necessary. Mr. Wilson refused to provide it, citing confidentiality concerns.

41. On August 19, 2009, Greg Leeds, President of Wizards, sent an email to the general manager of the global business planning office at Namco Bandai Holdings in Japan, a personal acquaintance. Mr. Leeds asked the general manager about the relationship announced in the press between Atari and Namco Bandai, and what responsibilities Namco Bandai had undertaken with respect to D&D.

42. The general manager at Namco Bandai Holdings responded to Mr. Leeds the same day, and would not or could not answer his questions.

E. September 2009: More Atari Denials, More Namco Bandai Licensing Activities, and More Hasbro Information Requests

43. On September 2, 2009, Mr. Blecher wrote to Mr. Wilson requesting further assurances that Atari had not sublicensed any rights in D&D to Namco Bandai. Mr. Blecher again requested a copy of the agreement between Atari and Namco Bandai, and again offered that Atari could redact sensitive parts of the agreement to address Mr. Wilson's confidentiality concerns.

44. On September 11, 2009, Mr. Wilson wrote back to Mr. Blecher and denied that Namco Bandai held any licensed rights in the D&D property. Mr. Wilson stated that, though

Namco Bandai had been acting as a wholesaler of the D&D Digital Games, Atari had terminated the relationship due to Hasbro's competitive concerns. Mr. Wilson did not provide a copy of the agreement between Atari and Namco Bandai.

45. Also on September 11, 2009, Sandrine Dubois of Namco Bandai sent to Peter Murphy of Hasbro another e-mail seeking approval for the outer packaging label for a new 2-title compilation of Italian-language D&D Digital Games. This packaging clearly displayed the Atari logo.

46. This packaging file and approval request sent by the Namco Bandai employee was Hasbro's Confidential Information. Namco Bandai was not authorized by Hasbro to be in possession of its Confidential Information.

47. Eleven days later, on September 22, 2009, Arnaud Staebler, Product Manager from Namco Bandai, sent an e-mail to Peter Murphy and Pedro Geppert of Hasbro stating that he had received copies of D&D role-playing game products which were sent from Dana Crane of Wizards to the attention of Arash Amini of Atari.

48. The D&D role-playing game products which were sent to Atari should not have been forwarded to Namco Bandai. While the products were then available for sale to the public, the fact that Atari's mail was being forwarded to Namco Bandai employees was disconcerting to Wizards and Hasbro and made them question whether Atari was providing marketing, customer service, and other support of the D&D Digital Games in Europe, whether Namco Bandai was fulfilling this role pursuant to its relationship with Atari, or whether anyone was supporting D&D Digital Games in Europe.

F. Notice of Breach and Hasbro's Further Requests for Information

49. On September 29, 2009, Mark Blecher sent a "Notice of Breach of D&D License" to David Gardner, then Chief Executive Officer of Infogrames Entertainment SA and Frederic Monnereau, the Direction Junidique of Infogrames Entertainment, SA, with copies sent to Mr. Wilson and Ms. Keller.

50. In his September 29, 2009 letter, Mr. Blecher once again asked for a redacted copy of the Agreement between Atari and Namco Bandai, as well as additional back-up information needed to establish that Atari was actually supporting D&D Digital Games in Europe. Mr. Blecher requested, among other things, identification of the D&D Digital Game titles being sold in Europe, who the publishers were for each, who the product managers were for each title in each market, which Atari employees were responsible for handling marketing, approvals and distribution in each market, and what the marketing plans were in Europe for the remainder of 2009 and for 2010.

51. Mr. Blecher's letter also requested an explanation for Atari's breach of confidentiality and a description of the measures Atari would take to ensure no confidential information of Hasbro would be shared by Atari with third parties in the future.

52. Mr. Blecher and Mr. Wilson met on October 14, 2009 to discuss Atari sublicensing proposals. Atari did not provide any of the information requested by Hasbro during that meeting.

53. Atari responded to Hasbro's breach notice on October 26, 2009. Atari admitted that Namco Bandai had received Confidential Information from it, but denied any breach of the License.

54. Atari's response failed to explain the circumstances under which Namco Bandai received Hasbro's Confidential Information; failed to provide assurances that Atari would maintain the confidentiality of Hasbro's Confidential Information in the future; and failed to provide any meaningful information as to the efforts Atari was undertaking or planned to undertake to market and exploit the D&D property in Europe.

55. Atari's October 26, 2009 response flatly denied that there was any kind of sublicense, whether in fact or in name, of D&D rights from Atari to Namco Bandai. Though Atari still refused to provide a redacted copy of its agreement with Namco Bandai, it provided three clauses of what it said was a provision from its "Distribution Agreement" with Namco Bandai. This provision confirmed that, in fact, "exploitation rights" had been granted to Namco Bandai by Atari. Because Atari refused to provide the complete paragraph in which this provision appeared, let alone the entire agreement, Hasbro was unable to determine what "exploitation rights" meant with respect to D&D.

56. Atari was so adamant that there was no relationship between itself and Namco Bandai with respect to D&D that it attached to its October 26, 2009 response a "termination letter," dated October 6, 2009 and signed by Jackie Fromion, the CEO of Namco Bandai, terminating the "wholesaling relationship" between Atari and Namco Bandai and agreeing to return to Atari "game information and assets... including all files" related to D&D.

57. Because Hasbro's concerns were exacerbated by Atari's response, Hasbro wrote Atari on November 24, 2009, again requesting information about the disclosure of Hasbro's Confidential Information by Atari to Namco Bandai, the general relationship between those parties, and Atari's exploitation of D&D in Europe.

F. The Revelation of Namco Bandai's Licensed Activities Around the World, and Atari's Failure to Support D&D

58. In late November, 2009, Wizards sought out to determine what activities were being undertaken by Atari, Namco Bandai, or anyone else, to support D&D Digital Games in Europe and elsewhere.

59. Upon information and belief, contact with customer service support for D&D Digital Games in various countries was made.

Germany

60. Upon information and belief, the Atari customer support phone number in a German-language D&D Digital Game product is the same number listed for German customer support on Atari's English-language marketing and e-commerce website located at www.atari.com ("Atari.com").

61. Upon information and belief, the person who answered the customer support line identified himself as a customer support representative of Namco Bandai and proceeded to answer technical and product questions about D&D Digital Game products published in Germany. Furthermore, the representative stated that Namco Bandai is the publisher of D&D Digital Games in Germany and that Atari was no longer involved.

62. The German-language D&D Digital Game product contained reference to the website www.atari.de. This web address redirects to Atari.com. The "Atari Foreign Support Contact Info" page on Atari.com refers German customers to www.atari.de. No email address or other means of contacting Atari for German customer support is identifiable.

63. Upon information and belief, when questions about D&D Digital Game products were sent to Atari utilizing the online customer support tool on Atari.com, no response was received.

64. Hasbro has also learned that Atari Deutschland GmbH, Atari's subsidiary responsible for sales, marketing, customer support and sublicensing of Atari products in Germany, changed its name to Namco Bandai Partners Germany GmbH effective July 7, 2009 and the new company name was recorded in the official German trade register of the Local Court of Frankfurt am Main on July 13, 2009.

65. Upon information and belief, as of July 7, 2009 Atari Deutschland GmbH was acting as a sublicensor of D&D rights under at least one active and authorized agreement with a third party sublicensee. Hasbro was not notified by Atari that this sublicense was assigned or terminated.

66. Upon information and belief, in December, 2009 Namco Bandai was operating a website located at www.de.namcobandaipartners.com containing marketing and product information about German-language D&D Digital Games and offering customer service support of D&D Digital Games through Namco Bandai phone numbers and e-mail addresses.

67. Upon information and belief, Atari no longer maintains and/or updates a localized website supporting German-language D&D Digital Games, nor provides customer support for D&D Digital Games in the German market.

Italy

68. Upon information and belief, an Italian-language D&D Digital Game product does not contain a customer service telephone number but referred customer support questions to the website www.atari.it. This web address redirects to Atari.com. The "Atari Foreign Support Contact Info" page on Atari.com refers Italian customers to a customer support telephone line in Italy. No email address or other means of contacting Atari for Italian customer support is identifiable.

69. Upon information and belief, a woman named Francesca Fracassini, answered the Italian customer support telephone, and identified herself as a Namco Bandai representative. Mrs. Fracassini verified that customer support for Italian D&D Digital Game products was conducted by Namco Bandai and indicated that Namco Bandai will continue publishing all Atari games, including specific D&D Digital Game titles, in the future. Mrs. Fracassini provided itinfo@namcobandaipartners.com as the e-mail address for additional technical and product support questions.

70. Upon information and belief, Atari does not provide a response to written questions about Italian D&D Digital Games utilizing the online customer support tool on Atari.com.

71. Hasbro has also learned that Atari Italia S.p.A., Atari's subsidiary responsible for sales, marketing, customer support and sublicensing of Atari products in Italy, changed its name to Namco Bandai Partners Italia S.p.A. effective July, 2009.

72. Upon information and belief, as of July, 2009 Atari Italia S.p.A., was acting as a sublicensor of D&D rights under at least one active and authorized agreement with a third party sublicensee. Hasbro was not notified by Atari that this sublicense was assigned or terminated.

73. Upon information and belief, in December of 2009 Namco Bandai was operating a website located at www.it.namcobandaipartners.com which contained marketing and product information about Italian-language D&D Digital Games. It also offered customer service support through Namco Bandai phone numbers and e-mail addresses.

74. Upon information and belief, Atari no longer maintains and/or updates a localized website supporting Italian-language D&D Digital Games, nor provides customer service support for D&D Digital Games in the Italian market.

France

75. The “Atari Foreign Support Contact Info” page on Atari.com refers French customers to the web address www.atari.fr and to customer support telephone lines in France. However, no email address or other means of contacting Atari for French customer support is identifiable.

76. Upon information and belief, the customer support number listed on Atari.com for French customers is answered by a man who identified himself as a technician of Namco Bandai. The representative answered technical and product questions about D&D Digital Game products published in French.

77. Hasbro has also learned that Atari France, Atari’s subsidiary responsible for sales, marketing, customer support and sublicensing of Atari products in France, changed its name to Namco Bandai Partners France on July 7, 2009, and the new company name was recorded in the official French corporate registry on September 9, 2009.

78. Upon information and belief, as of July, 2009 Atari France was acting as a sublicensor of D&D rights under at least one active and authorized agreement with a third party sublicensee. Hasbro was not notified by Atari that this sublicense was assigned or terminated.

79. Upon information and belief, as of mid-December, 2009 Namco Bandai was operating a website located at www.fr.namcobandaipartners.com containing marketing and product information about French-language D&D Digital Games and offering customer service support for D&D Products through Namco Bandai phone numbers and e-mail addresses.

80. Upon information and belief, Atari no longer maintains and/or updates a localized website supporting French-language D&D Digital Games, nor provides customer service support for D&D Digital Games in the French market.

Spain

81. Upon information and belief, in early December, 2009, the customer support phone number contained in a Spanish-language D&D Digital Game product was not being answered.

82. In early December, 2009, the customer support number for Spanish customers listed on Atari.com was initially answered by a recording for the Namco Bandai Iberia office. The woman who eventually answered the telephone acknowledged she was not able to answer the caller's questions, but that Namco Bandai utilized a third party contractor in Spain who could answer the investigator's questions about D&D Digital Games after the Spanish holidays then-underway.

83. Upon information and belief, written e-mail questions sent to the Spanish customer support email addresses listed on Atari.com and in the user's manual of the Spanish-language D&D Digital Game product go unanswered.

84. Hasbro has also learned that Atari Iberica S. XXI, SA, Atari's subsidiary responsible for sales, marketing, customer support and sublicensing of Atari products in Spain, changed its name to Namco Bandai Partners Iberica SA on August 3, 2009.

85. Upon information and belief, as of July, 2009 Atari Iberica S. XXI, SA was acting as a sublicensor of D&D rights under at least one active and authorized agreement with a third party sublicensee. Hasbro was not notified by Atari that this sublicense was assigned or terminated.

86. Upon information and belief, as of mid-December, 2009, Namco Bandai was operating a website located at www.es.namcobandaipartners.com containing marketing and

product information about Spanish-language D&D Digital Games and offering customer service support for D&D Products through Namco Bandai phone numbers and e-mail addresses.

87. Upon information and belief, Atari no longer maintains and/or updates a localized website supporting Spanish-language D&D Digital Games, nor provides customer service support for D&D Digital Games in the Spanish market.

Belgium

88. Upon information and belief, e-mails sent in early December, 2009, to the customer support e-mail address contained in a French-language D&D Digital Game product purchased in Belgium bounce back as undeliverable.

89. Upon information and belief, as of mid-December, 2009 Namco Bandai is operating a website located at www.be.namcobandaipartners.com containing marketing and product information about French-language D&D Digital Games for the Belgian market and offering customer service support for D&D Products through Namco Bandai phone numbers and e-mail addresses.

90. Upon information and belief, Atari no longer maintains and/or updates a localized website supporting D&D Digital Games for the Belgian market.

United Kingdom

91. Upon information and belief, in late-November, 2009, the customer support telephone number listed in a D&D Digital Game product purchased in England was disconnected.

92. The “Atari Foreign Support Contact Info” page on Atari.com refers customers in the United Kingdom to the web address www.uk.atari.com and to customer support telephone

lines in the United Kingdom. As of December 13, 2009, the web address www.uk.atari.com redirects to Atari.com.

93. Upon information and belief, in late-November, 2009 the customer support telephone numbers for UK customers listed on Atari.com were invalid.

94. Hasbro has also learned that Atari United Kingdom Limited, Atari's subsidiary responsible for sales, marketing, customer support and sublicensing of Atari products in the United Kingdom, changed its name to Namco Bandai Partners on July 22, 2009.

95. Upon information and belief, as of July, 2009 Atari United Kingdom Limited was acting as a sublicensor of D&D rights under at least one active and authorized agreement with a third party sublicensee. Hasbro was not notified by Atari that this sublicense was assigned or terminated.

96. Upon information and belief, as of mid-December, 2009 Namco Bandai was operating a website located at www.namcobandaipartners.com containing marketing and product information about English-language D&D Digital Games for the UK market and offering customer service support through Namco Bandai phone numbers and e-mail addresses.

97. On information and belief, Atari does not maintain and/or update a localized website supporting D&D Digital Games for the UK market, and does not provide customer service support for D&D Digital Games in the UK market.

Other European Markets

98. Hasbro has learned that Atari Benelux B.V. changed its name to Namco Bandai Partners Benelux B.V. in July, 2009.

99. Upon information and belief, as of December 13, 2009 Namco Bandai was operating websites for Netherlands, Sweden, and Portugal featuring marketing and product

information about localized D&D Digital Games for those markets and offering customer service support for D&D Products through Namco Bandai phone numbers and e-mail addresses.

100. Upon information and belief, Atari does not maintain localized websites supporting local-language D&D Digital Games for these markets, nor does it provide customer or technical support for D&D Digital Games in these markets.

Australia

102. Upon information and belief, Atari Asia Holdings PTY Ltd changed its name to Namco Bandai Partners Asia Holdings PTY Ltd; and Atari Australia PTY Ltd changed its name to Namco Bandai Partners Australia PTY Ltd. Both company changes were recorded with the Australian Securities and Investments Commission on July 16, 2009.

101. Upon information and belief, the “Atari Foreign Support Contact Info” page on Atari.com refers customers in Australia to the web address www.atari.com.au. As of mid-December, 2009, the web address www.atari.com.au redirects users to www.namcobandaipartners.com.au.

102. The website located at www.namcobandaipartners.com.au provides the customer service support e-mail address customerservice.australia@namcobandaipartners.com.

103. As of early-December, 2009, e-mail inquiries sent concerning specific D&D Digital Game titles were responded to by an e-mail from Ms. Angie Baker, who identified herself as Customer Service Coordinator of Namco Bandai Partners Australia.

104. As of December 13, 2009, Namco Bandai was operating a website located at www.au.namcobandaipartners.com containing marketing and product information about English-language D&D Digital Games for the Australian market and offering customer service support through Namco Bandai phone numbers and e-mail addresses.

105. On information and belief, Atari does not maintain and/or update a localized website supporting D&D Digital Games for the Australian market nor does it provide customer or technical support for D&D Digital Games in the Australian market.

Brazil

106. The “Atari Foreign Support Contact Info” page on Atari.com refers customers in Brazil to the web address www.br.atari.com. As of mid-December, 2009, the web address www.br.atari.com cannot be located.

107. On information and belief, Atari does not maintain and/or update a localized website supporting D&D Digital Games for the Brazilian market nor does it provide customer or technical support for D&D Digital Games in the Brazilian market.

China

108. The “Atari Foreign Support Contact Info” page on Atari.com refers customers in China to the web address www.tw.atari.com. As of mid-December, 2009, the web address www.tw.atari.com redirects to www.namcobandaipartners.com.tw.

109. As of mid-December, 2009, Namco Bandai was operating a website located at www.namcobandaipartners.tw containing marketing and product information about Chinese-language D&D Digital Games for the Chinese market and offering customer service support through Namco Bandai phone numbers and e-mail addresses.

110. On information and belief, Atari does not maintain and/or update a localized website supporting D&D Digital Games for the Chinese market nor does it provide customer or technical support for D&D Digital Games in the Chinese market.

United States

111. In early-December, 2009, calling the only U.S. telephone number listed on Atari.com results in a recorded message stating that Atari no longer provides telephone customer service support, and directing customers to use the online customer support tool on Atari.com.

H. Final Requests for Assurances

112. On November 30, 2009, Greg Leeds, President of Wizards, and James Wilson, President of Atari, made plans to meet on December 9, 2009 to discuss Atari's ongoing sublicense activities. Mr. Wilson also agreed to provide more feedback at that time about the state of Atari's European business.

113. On December 2, 2009, Mr. Leeds contacted Mr. Wilson, and Kate Ross of Wizards contacted Kristen Keller, General Counsel of Atari, to let them know Wizards had just received information which called into question assertions Atari had made in its previous letters. Mr. Leeds requested delaying the meeting between Atari and Wizards by one week, because discussions about future Atari sublicenses would be awkward and disingenuous while Wizards and Hasbro were assessing the information they had obtained about Atari's past and present activities.

114. On December 4, 2009, Ms. Ross and Deborah Uluer, Attorney from Hasbro, called Ms. Keller. Ms. Keller insisted repeatedly that Atari had no relationship whatsoever with Namco Bandai related to D&D Digital Games. Ms. Ross and Ms. Uluer asked that Ms. Keller provide the previously requested information about Atari's activities to support D&D Digital Games in Europe.

115. On December 6, 2009, Ms. Ross sent Ms. Keller a letter requesting that Atari immediately provide the previously requested information and that Ms. Keller attend the December 9, 2009 meeting if it went forward.

116. On December 7, 2009, Mr. Wilson contacted Mr. Leeds and stated that the meeting would go forward, without counsel. Mr. Leeds responded that Ms. Ross would be present and asked that Ms. Keller attend the meeting by telephone, if she was unable to travel.

117. On December 9, 2009, Atari and Wizards representatives met. Wizards representatives presented to Atari an updated 2010-2014 strategic brand. Atari did not provide any information regarding its activities to support D&D Digital Products in Europe, nor any explanation of Namco Bandai's involvement with the D&D brand.

118. In the December 9, 2009 meeting, Mr. Wilson explained his employment background as a licensing professional. Mr. Wilson further explained the benefit to Atari of exploiting the D&D brand through sublicensing it to third parties as opposed to developing more D&D Digital Games internally. Mr. Wilson and Anthony Jacobson, Atari's Vice President of Business Development, walked Wizards representatives through three sublicensing proposals, one of which was previously presented by Atari with inaccurate territories, and one of which Mr. Wilson acknowledged was not ripe for discussion.

119. Late on Friday, December 11, 2009, Mr. Wilson sent Mr. Blecher a letter stating again that Atari has not sublicensed D&D rights to Namco Bandai.

120. The December 11, 2009 letter stated that, as Atari made no plans to exploit D&D through new product launches in 2009 or 2010, no marketing plans exist. Mr. Wilson indicated that Atari's future product plans in Europe involve repackaging and selling bundles of years-old D&D Digital Games, to be supported by three Atari employees in Europe.

121. Mr. Wilson's December 11, 2009 letter stated: "Consumer customer service [in Europe] is handled via Atari's local market websites."

122. In his letter, Mr. Wilson accused Hasbro and Wizards of delaying Atari's master sublicensing plans, due to their repeated requests for more information about the Namco Bandai relationship and Atari's plans to support D&D in Europe.

123. Ms. Keller sent a purported breach notice to Hasbro to this effect on December 14, 2009.

COUNT I
Breach of Contract – Confidentiality Provision

124. Hasbro realleges Paragraphs 1 through 123 as if fully set forth herein.

125. Pursuant to the License, Atari is obligated to protect and maintain Confidential Information of Hasbro.

126. Atari has failed to protect and maintain Hasbro's Confidential Information, which is a direct and material breach of the contract between Hasbro and Atari.

127. Atari has disseminated Confidential Information to Namco Bandai, a major competitor of Hasbro.

128. As a result of Atari's direct and material breach of contract, Hasbro has been harmed in an amount to be proven at trial.

COUNT II
Breach of Contract – Customer Support Provision

129. Hasbro realleges paragraphs 1 through 128 as if fully set forth herein.

130. Atari improperly delegated the duty of customer service support and marketing to Namco Bandai, its affiliates, and/or other third parties, in a number of large markets around the world. These third parties have been answering customers' technical and product questions for

D&D Digital Games and operating marketing and customer support websites featuring D&D Digital Games.

131. Atari's non-responsiveness to customer questions and/or failure to maintain the telephone or e-mail customer support locations it has advertised does not meet the requisite standard as provided under the License.

132. The aforementioned activities are direct and material breaches of the License. Atari has not provided customer support at a level that meets industry standards and has expressly or impliedly sublicensed the rights and obligations of providing customer support services to one or more third parties without Hasbro's authorization.

133. As a result of Atari's breach of contract, Hasbro has been harmed in an amount to be proven at trial.

COUNT III

Breach of Contract – Duty to Maintain Intellectual Property

134. Hasbro realleges paragraphs 1 through 133 as if fully set forth herein.

135. Atari's improper delegation of its customer service support duties and operation of localized marketing websites to Namco Bandai, its affiliates, and/or other third parties is a direct and material breach of the License as Atari is prohibited from harming or misusing the D&D intellectual property entrusted to Atari under the License, or authorizing third parties to engage in licensed activities in a manner that causes confusion or is disparaging to the D&D brand.

136. As a result of Atari's breach of contract, Hasbro has been harmed in an amount to be proven at trial.

COUNT IV

Breach of Contract – Obligation to Promote

137. Hasbro realleges paragraphs 1 through 136 as if fully set forth herein.

138. Pursuant to the License, Atari has an obligation to use commercially reasonable efforts to promote the D&D Digital Games and undertake the licensed activities in a diligent manner.

139. Atari has directly and materially breached the License by failing to use commercially reasonable efforts to promote the D&D Digital Games and undertake the licensed activities in a diligent manner, including without limitation, by ceasing to support D&D Digital Games through websites and customer support contacts that are disconnected or are not answered, and by allowing Namco Bandai to provide customer service support and operate localized marketing websites featuring D&D Digital Games.

140. As a result of Atari's direct and material breach of contract, Hasbro has been harmed in an amount to be proven at trial.

COUNT V

Breach of Implied Covenant of Good Faith and Fair Dealing

141. Hasbro realleges paragraphs 1 through 140 as if fully set forth herein.

142. Pursuant to the License and under Rhode Island law, Atari has certain obligations under the License, including the implied covenant of good faith and fair dealing.

143. Atari has failed to protect and maintain Confidential Information pursuant to the License.

144. Atari has disseminated Confidential Information to Namco Bandai, a major competitor of Hasbro.

145. Atari has failed to provide the customer service support required under the License, and has expressly or impliedly sublicensed the rights and obligations of providing customer support services to one or more third parties without Hasbro's authorization.

146. Atari has not provided the customer support service at the requisite level.

147. Atari has failed to protect the D&D intellectual property from harm or misuse.

148. Atari has failed in its obligation to properly promote the D&D Digital Games pursuant to the obligations under the License.

149. Atari has denied that Namco Bandai has undertaken any responsibilities for the D&D property under an agreement between these parties, despite overwhelming and indisputable evidence to the contrary.

150. Atari has breached its implied covenant of good faith and fair dealing, which exists in all contracts in the State of Rhode Island, by allowing harm to come to the brand which it is obligated to protect and safeguard and misrepresenting facts material to its License with Hasbro.

151. As a result of Atari's breach of contract, the Plaintiff has been harmed in an amount to be proven at trial

COUNT VI
Fraud

152. Hasbro realleges paragraphs 1 through 151 as if fully set forth herein.

153. Hasbro brought to Atari's attention its concerns that Atari had made an unauthorized sublicense to Namco Bandai.

154. James Wilson of Atari stated in writing on October 26, 2009 that Namco Bandai was not granted any rights in D&D Digital Games under Atari's Distribution Agreement with

Namco Bandai, and that Atari had terminated its wholesaling relationship with Namco Bandai as of at least September 11, 2009.

155. On or about December 4, 2009, Kristen Keller of Atari told Hasbro and Wizards employees directly that Namco Bandai has no relationship with Atari whatsoever with respect to the D&D property.

156. On December 11, 2009 James Wilson of Atari stated in writing that Atari was managing consumer customer service in Europe through its local market websites.

157. These statements made by Atari were false when made and were made with knowledge of their falsity. Atari changed the name of no fewer than five of its sublicensed subsidiaries to Namco Bandai. Namco Bandai has been acting as a customer service agent for D&D Digital Games in countries around the world, and marketing D&D Digital Games in those countries through localized Namco Bandai websites, despite Atari's express claims to the contrary.

158. Atari is not providing customer service in Europe through local market websites.

159. Customer service and marketing are activities which require a license, and Namco Bandai was not validly sublicensed by Atari to perform these functions.

160. Customer service activities are required to be provided by Atari under the License, and not by third parties.

161. Atari has engaged in fraud and/or has intentionally misrepresented to Hasbro the work being undertaken by Namco Bandai on behalf of Atari.

162. Hasbro justifiably relied on Atari's false representation, and as a result of such reliance, Hasbro has been damaged in an amount to be proven at trial.

COUNT VII
Intentional Misrepresentation

163. Hasbro realleges Paragraphs 1 through 162 as if fully set forth herein.

164. Atari knowingly and intentionally made false representations in connection with Hasbro's request for information and assurances concerning Atari providing customer service in Europe for local marketing websites.

165. Customer services and marketing are activities which require a license, and Namco Bandai was not validly sublicensed by Atari to perform these functions.

166. Customer service activities are required to be provided by Atari under the license, and not by third parties.

167. Hasbro reasonably relied on Atari's false representations in continuing to work with Atari and honor the license.

168. As a result of Hasbro's reliance on Atari's false representations, Hasbro has been damages in an amount to be proven at trial.

COUNT VIII
Declaratory Relief to Terminate the License

169. Hasbro realleges paragraphs 1 through 168 as if fully set forth herein.

170. Atari's actions, as explicated above, have caused and continue to cause harm to Hasbro until such time as the License is terminated.

171. Pursuant to 28 U.S.C. § 2201, Hasbro requests that this Court determine the rights and other legal relations between it and Atari with respect to the License in question, specifically

holding that Hasbro has the right to immediately terminate this License, and seek all just compensation as a result of said termination.

COUNT IX
Injunctive Relief

172. Hasbro realleges paragraphs 1 through 171 as if fully set forth herein.

173. Atari's actions, as alleged above, have caused and will continue to cause irreparable harm to Hasbro until such time as the License is terminated.

174. Hasbro requests that this Court enjoin Atari from utilizing non-approved sublicensees, distributors or wholesalers to promote the D&D Digital Game products, service D&D customers or in any way to act as if, or represent that, Atari is the publisher of the D&D product.

COUNT X
Request for an Accounting

175. Hasbro realleges paragraphs 1 through 174 as if fully set forth herein.

176. Hasbro is entitled to an accounting from Atari of all its sales of each specific the D&D Digital Game product from the execution of the agreement to the present, in each territory where Namco Bandai or any other non-approved entity acted as a sublicensee. Hasbro also requests an accounting of the funds received by Atari from Namco Bandai directly or indirectly related to the manufacture, marketing, sales, distribution, customer support and sublicensing of marketing of D&D Digital Products so that Hasbro can determine the profit made by Atari from this improper activity.

WHEREFORE, Hasbro respectfully requests the following relief:

1. That this Court declare that Hasbro may terminate its License with Atari, with immediate effect.

2. That this Court issue a permanent injunction against Atari and its agents from utilizing non-approved sublicensees, distributors and/or wholesalers to provide customer service and/or any service to D&D Digital Game products which is expressly reserved for approved sub-licensees

3. That this Court require Atari to account for all profits and damages resulting from the activities complained of in this Complaint.

4. That this Court order an award of attorneys' fees and costs as are contemplated in the License.

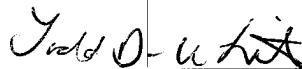
5. That this Court order an award of compensatory damages in an amount to be proven at trial and such exemplary damages as may be allowed by law.

6. That this Court grant such further relief it deems appropriate.

Dated: December 16, 2009

Plaintiff requests a trial by jury

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