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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

WIZKIDS, INC., a Delaware corporation,  
  
Plaintiff,  
  
vs.  
  
WIZARDS OF THE COAST, INC., a  
Washington corporation,  
  
Defendant.

No. 2:07-cv-00809 MJP

**DEFENDANT WIZARDS OF THE COAST  
INC.'S DISCLOSURE OF ASSERTED  
CLAIMS AND PRELIMINARY  
INFRINGEMENT CONTENTIONS**

**DEFENDANT WIZARDS OF THE COAST INC.'S DISCLOSURE OF ASSERTED  
CLAIMS AND PRELIMINARY INFRINGEMENT CONTENTIONS**

Pursuant to the Court's Order dated September 20, 2007, Defendant and Counterclaim Plaintiff Wizards of the Coast, Inc. (Wizards) hereby provides its Disclosure of Asserted Claims and Preliminary Infringement Contentions. Wizards' statements are based on publicly available materials regarding the accused infringing products of Plaintiff WizKids, Inc. (WizKids). Discovery is not yet complete, and Wizards reserves the right to supplement or alter its responses herein based on additional information obtained through discovery.

DEF WIZARDS OF THE COAST INC.'S DISCLOSURE  
OF ASSERTED CLAIMS AND PRELIMINARY  
INFRINGEMENT CONTENTIONS - 1

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**I. Infringed Claims of the ‘374 Patent and Infringing Products.**

Based upon information presently available to it, Wizards asserts that WizKids directly, contributorily and/or by inducement infringes at least claims 1, 2, 4, 6, 7, 8, and 10 of the ‘374 patent.

**II. The Infringing Games.**

These claims are asserted against the following games (Infringing Games) sold now or previously by WizKids: (1) any version of the Pirates Constructible Strategy Game; (2) any version of the Star Wars PocketModel TCG game; and (3) any version of the RocketMen Constructible Strategy Game.

**III. Claim Charts for Literal Infringement of the ‘374 Patent.**

Wizards’ detailed infringement assertions with respect to the ‘374 patent are contained in Attachments A, B, and C. The claim charts are applicable to all versions of the accused games that have been sold and/or are offered for sale.

WizKids and/or persons or entities playing Infringing Games directly infringe at least claims 1, 2, 4, 6, 7, 8, and 10 of the ‘374 patent. Upon information and belief, WizKids provides the Infringing Games, engages in in-house testing of the Infringing Games, holds demonstrations and tournaments of the Infringing Games, and directs players to play the Infringing Games in an infringing manner.

Wizards further asserts that WizKids is liable for inducing infringement of at least claims 1, 2, 4, 6, 7, 8 and 10 of the ‘374 patent at least because (1) it instructs players of the infringing games to play the infringing games with the intent that the players of such infringing games infringe the asserted claims of the ‘374 patent. Wizards also asserts that WizKids is liable for contributory infringement of at least claims 1, 2, 4, 6, 7, 8, and 10 of the ‘374 patent at least

1 because WizKids supplies the infringing games, knowing that its games are especially adapted for  
2 use in infringing the asserted claims. Also, WizKids' infringing games are not capable of  
3 substantial non-infringing use. Wizards further asserts that WizKids is liable for inducing and  
4 contributory infringement pursuant to 35 U.S.C. § 271(f)(1) and 35 U.S.C. §271(f)(2).

5  
6 Wizards expressly reserves the right to augment and supplement its identification of  
7 asserted claims and infringing products based upon additional information obtained through  
8 formal discovery.

9 **IV. Doctrine of Equivalents.**

10 Wizards alleges that WizKids infringes literally all claims identified above. To the extent  
11 that any differences are alleged to exist between the above-identified claims and the Infringing  
12 Games and infringing conduct, such differences are insubstantial. Plaintiff's products and  
13 methods perform substantially the same function, in substantially the same way, to yield  
14 substantially the same result, and therefore Plaintiff infringes under the doctrine of equivalents.  
15

16 **V. Priority Claim of the '374 to an Earlier Application.**

17 The '374 Patent claims priority to the provisional application dated October 23, 2002.  
18

19 Dated: January 7, 2008.

Respectfully Submitted,

21 /s/ Brooke A.M. Taylor

Brooke A.M. Taylor (WSBA #33190)

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26 Wizards of the Coast, Inc.

27 DEF WIZARDS OF THE COAST INC.'S DISCLOSURE  
28 OF ASSERTED CLAIMS AND PRELIMINARY  
INFRINGEMENT CONTENTIONS - 3

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**CERTIFICATE OF SERVICE**

I hereby certify that on the date written above, that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The Court or the CM/ECF system will send notification of such filings to all CM/ECF participants. I further certify that a true and correct copy of this document was sent via e-mail to all CM/ECF participants.

/s/ Brian Spangler  
Brian Spangler

DEF WIZARDS OF THE COAST INC.'S DISCLOSURE  
OF ASSERTED CLAIMS AND PRELIMINARY  
INFRINGEMENT CONTENTIONS - 4

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