

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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U. S. DISTRICT COURT
EASTERN DISTRICT OF MO.
ST. LOUIS

DAVIDSON & ASSOCIATES, INC., D.B.A.)
BLIZZARD ENTERTAINMENT, and)
VIVENDI UNIVERSAL GAMES, INC.,)

Plaintiffs,)

v.)

INTERNET GATEWAY, INC., TIM JUNG,)
an individual, ROSS COMBS, an individual,)
ROB CRITTENDEN, an individual, YI WANG,)
an individual, and JOHN DOES 1-50,)

Defendants.)

Case No. 4:02CV498 CAS

JURY TRIAL DEMANDED

**SECOND AMENDED COMPLAINT FOR FEDERAL COPYRIGHT
INFRINGEMENT; FEDERAL CIRCUMVENTION OF COPYRIGHT PROTECTION
SYSTEMS; FEDERAL TRADEMARK INFRINGEMENT, AND FALSE DESIGNATION
OF ORIGIN AND DILUTION; COMMON LAW TRADEMARK INFRINGEMENT AND
UNFAIR COMPETITION; AND BREACH OF CONTRACT; AND DEMAND FOR
JURY TRIAL**

Plaintiffs Davidson & Associates, Inc., d.b.a. Blizzard Entertainment, and Vivendi
Universal Games, Inc. (collectively "Blizzard"), hereby allege as follows against Defendants
Internet Gateway, Inc., Tim Jung, Ross Combs, Rob Crittenden, Yi Wang and John Does 1-50
based upon actual knowledge with respect to Plaintiffs and Plaintiffs' acts, and on upon
information and belief as to all other matters.

NATURE OF THE CASE

1 This is an action for direct and indirect infringement of a registered copyright in
violation of the Copyright Act, as amended, 17 U.S.C. §501; for direct and indirect
circumvention of copyright protection systems in violation of the Copyright Act, as amended, 17
U.S.C. §1201(a)(1)(A), and for trafficking in technology designed for the purpose of

circumventing copyright protection systems in violation of the Copyright Act, as amended, 17 U.S.C. §1201(a)(2); for infringement of a registered trademark in violation of Section 32(1) of the Lanham Act, 15 U.S.C. §1114(1); for false designation of origin in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. §1125(a)(1)(A); for trademark dilution in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c); for common law trademark infringement and unfair competition; and for breach of contract under the laws of Missouri and other states.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. §1121, and 28 U.S.C. §§1331, 1332 and 1338. The parties are citizens of diverse states, and the matter of controversy, exclusive of interest and costs, exceeds in value the sum specified by 28 U.S.C. §1332

3. Venue in this jurisdiction is proper pursuant to 28 U.S.C. §§1391 and 1400.

THE PARTIES

4. Plaintiff Davidson & Associates, Inc. is a corporation organized and existing under the laws of the state of California, with a principal place of business at 6080 Center Drive, Los Angeles, California 90045. A division of Davidson & Associates, Inc. does business as Blizzard Entertainment, which has a principal place of business at Irvine, California 92612. Plaintiff Vivendi Universal Games, Inc., is the parent corporation of Davidson & Associates, Inc. Vivendi Universal Games, Inc., is a Delaware corporation having a principal place of business at 6080 Center Drive, Los Angeles, California 90045. Plaintiffs are referred to collectively as "Blizzard."

5. On information and belief, Defendant Internet Gateway, Inc. is an Internet Service Provider (ISP) with a place of business at 1345 Triad Court, PMB No. 415, St. Peters, Missouri 63376, and is operating and doing business in this judicial district. According to the Missouri

Secretary of State's Office, Internet Gateway, Inc. (Charter No. 00419806) has been administratively dissolved for failure to file an annual report. Nonetheless, on information and belief, Defendant Internet Gateway, Inc., continues to operate within this judicial district as an unincorporated business or serves as an assumed name for the business of its principal, Tim Jung. Defendant Internet Gateway, Inc., operates by, among other activities, advertising its services as an ISP in the greater St. Louis area, and hosting the website www.bnetd.org, which has featured the BNETD computer program. The BNETD program operates servers that enable multiple players in remote locations to play Blizzard games against each other over the Internet, without the authorization of Blizzard.

6. On information and belief, Tim Jung is an individual residing at 611 Oregon Trail Drive, St. Charles, Missouri 63304, in this judicial district. Mr. Jung is the president or principal of Internet Gateway, Inc., as well as a co-developer of the BNETD program, and the registered owner and administrative contact for the www.bnetd.org website.

7 On information and belief, Defendant Ross Combs is an individual residing at 9801 Stonelake Blvd., Apartment 1733, Austin, Texas 78759. Mr. Combs is a lead co-developer of the BNETD program and developer of at least one related software program facilitating use of the BNETD program. On information and belief, Mr. Combs has worked with Internet Gateway, Inc. or Tim Jung within this judicial district to develop or maintain the BNETD program.

8. On information and belief, Robert Crittenden is an individual residing at 500 Darlene Avenue, Linthicum, Maryland 21090. Mr. Crittenden is a lead co-developer of the BNETD program. On information and belief, Mr. Crittenden has worked with Internet Gateway, Inc. or Tim Jung within this judicial district to develop or maintain the BNETD program.

9. On information and belief, Yi Wang is an individual residing at an unknown address and is found at the email address onlyer@users.sourceforge.net. Mr. Wang is a

