On February 26, 2019, the United States District Court for the Northern District of Illinois entered judgment in favor of GC2 Incorporated ("GC2"), an Illinois developer of wagering games and associated artwork, in the amount of over $16 million against a number of wholly owned subsidiaries of International Game Technology PLC (collectively, the "IGT Defendants") for direct, vicarious, and contributory copyright infringement. *GC2 Inc. v. Int'l Game Tech. PLC, et al.*, Case No. 16-cv-8794, Dkt. 421, Judgment in a Civil Case (N.D. Ill. Feb. 26, 2019). The Court further awarded GC2 an additional $1.74 million in statutory damages for the IGT Defendants' falsification of copyright management information ("CMI") in violation of the Digital Millennium Copyright Act ("DMCA").

According to GC2's amended complaint, IGT contracted GC2 to develop games for IGT's land-based casino game systems between 2003 and 2006. These contracts granted IGT a license to use GC2's artwork and graphics, but that license excluded use in non-wagering games or mobile- or internet-based wagering games. GC2 alleged that IGT deliberately used GC2's artwork and graphics in unauthorized online and non-wagering games and distributed those games in online casinos and as mobile apps. GC2 further alleged that IGT violated the DMCA by falsifying CMI in two ways: (1) replacing GC2's logo in the Allegedly Infringing Games with that of IGT, and (2) including a false averment that an IGT Defendant owned all right, title, and interest in the GC2 Artwork in a Terms of Use page.

Looking past the direct and contributory infringement damages—the vast majority of which comprised disgorgement of IGT's profits derived from the alleged infringement—one of the more interesting recurring issues concerned how many separate DMCA violations arose from the IGT Defendants' distribution of games with falsified, removed, or altered CMI. GC2's award for $1.74 million in statutory damages under the DMCA arose from application of the statutory *minimum* of $2,500 per violation. The Court held on IGT's motion for summary judgment that only violative acts *by IGT*, as opposed to the actions of IGT's customers (i.e. downloads), constituted DMCA violations, and each violative act, even if containing multiple instances of falsified CMI, constituted a single violation. Dkt. 318, Mem. Opinion and Order, at 16–17 (Nov. 12, 2018). At trial the jury found that through the two games bearing falsified or removed CMI, three IGT Defendants each violated four DMCA provisions 696 times. Dkt. 409, Verdict Form, at 11–16 (Feb. 2, 2019). After trial, GC2 appears to have sought damages for 2,784 violations (696 uploads × 4 DMCA provisions), whereas IGT contended that only the actual removal and the first upload constituted separate violations, yielding four or arguably

six violations in total. The Court appears to have concluded that each upload constituted a violation: 696 uploads multiplied by the statutory minimum of $2,500 per violation pursuant to 17 U.S.C. § 1203 yields the $1.74 million eventually awarded to GC2.

A more aggressive disposition of GC2’s request for DMCA statutory damages could have decupled the statutory award, doubling the total amount of the judgment, and a different counting of the number of violations could have had even more substantial effects, all completely independent of IGT’s profits. This only underscores the point: removal or falsification of CMI is no laughing matter, and such DMCA violations can substantially multiply damages based on factors (such as the number of updates the publisher pushed) that would seem to be independent of the scope or gravity of other infringing conduct.