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CMG WORLDWIDE INC.

8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11

12 CMG WORLDWIDE INC., an Indiana
corporation,

13 Plaintiff,

14 vs.
15

16 MAXIMUM FAMILY GAMES, LLC d/b/a
MAXIMUM GAMES, a California limited
liability company; and DOES 1-10,

17 Defendants.
18

Case No.

COMPLAINT FOR:

- (1) False Endorsement and Unfair
Competition under 15 U.S.C. § 1125(a)
(2) Violation of Right of Publicity under
Cal. Civ. Code § 3344.1
(3) Unfair Competition under Cal. Bus. &
Prof. Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff CMG Worldwide Inc. ("CMG") brings this action against Defendant Maximum
2 Family Games, LLC d/b/a Maximum Games ("Maximum") and Does 1-10 for violations of the
3 Lanham Act, right of publicity, and for unfair competition, and alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This Court has subject matter jurisdiction over the federal claims pursuant to 28
6 U.S.C. §§ 1331, 1338(a) and 15 U.S.C. § 1121, and has subject matter jurisdiction over the state law
7 claims under 28 U.S.C. §§ 1338(b) and 1332 because these claims are joined with substantial and
8 related claims under the federal Lanham Act.

9 2. This Court has personal jurisdiction over Maximum because, on information and
10 belief, Maximum is registered as a California limited liability company; has its principal place of
11 business in Walnut Creek, California; has a registered agent for service of process in Oakland,
12 California; has substantial, continuous, and systematic contacts with California; and purposefully
13 avails itself of the benefits and protections of California's laws. CMG's claims against Maximum
14 arise out of and are related to Maximum's contacts with California.

15 3. Venue in this judicial district is proper under 28 U.S.C. § 1391 because Maximum
16 resides in Walnut Creek, Contra Costa County, California.

17 **INTRADISTRICT ASSIGNMENT**

18 4. This action is not subject to divisional assignment because it arises under intellectual
19 property laws.

20 **NATURE OF THE ACTION**

21 5. This action arises from Maximum's willful infringement of CMG's rights to General
22 George S. Patton, Jr. ("General Patton") through its marketing and selling a certain video game using
23 the name, likeness, image, and persona of General Patton without CMG's consent. Maximum's
24 conduct constitutes false endorsement and unfair competition under 15 U.S.C. § 1125(a), violation
25 of the right of publicity under Cal. Civ. Code § 3344.1, and unfair competition under Cal. Bus. &
26 Prof. Code 17200 *et seq.*

27 6. Maximum's misuse of General Patton's name, likeness, image, and persona in
28 connection with the marketing and sales of a certain video game is willful, oppressive and malicious,

and is intended to cause confusion about the endorsement or sponsorship of the product. To halt Maximum's infringing acts and compensate CMG for the ongoing harm that Maximum is intentionally causing, CMG is entitled to injunctive relief and profits, actual and/or statutory damages, treble damages, punitive damages and attorneys' fees in this exceptional case.

THE PARTIES

7. Plaintiff CMG is incorporated in Indiana and has its principal place of business in Indianapolis, Indiana, with an office in West Hollywood, California.

8. Defendant Maximum Family Games, LLC d/b/a Maximum Games is a California limited liability company and, on information and belief, has its principal place of business in Walnut Creek, California.

9. CMG does not know the true names and capacities of defendants Does 1-10, inclusive, and therefore sues defendants by such fictitious names. CMG is informed and believes and therefore alleges that each of these fictitiously named defendants is responsible for the occurrences alleged in this Complaint, and that CMG's damages alleged herein were proximately caused by such defendants' actions. When CMG ascertains the true names and capacities of Does 1-10, it will amend this Complaint accordingly.

FACTUAL ALLEGATIONS

A. CMG's Exclusive Rights in General Patton's Name, Image and Likeness

10. CMG is the exclusive, worldwide agent and representative for the family of General Patton (the "Patton Family"), and sole proprietors of certain trademark rights, the rights of association and sponsorship, and the right of publicity in and to the name, image, voice, signature, and likeness of the late General Patton. CMG licenses General Patton's name, likeness, images, signatures, personae, and other related indicia to third parties. Under its various agreements with the Patton Family, CMG is charged with the exclusive responsibility and authority with respect to enforcing General Patton's intellectual property rights.

11. General Patton is one of the most famous military commanders in U.S. history. He was one of the highest-ranking generals in command of U.S. forces in World War II. In addition to his military achievements, he was known for his colorful personality, aggressive military strategy,

and ability to motivate troops. “Patton,” a biographical film about General Patton, was released in 1970; the film was incredibly popular and won several Academy Awards (including Best Picture). General Patton remains the subject of attention, publicity, and comment to this day. For example, “Killing Patton: The Strange Death of World War II’s Most Audacious General,” co-authored by talk-show host Bill O’Reilly, was published September 23, 2014 and, as of this filing, has been ranked number one or number two on the New York Times Best Sellers List for the Combined Print & E-Book Nonfiction category for seven consecutive weeks.

12. Based on the media’s longstanding and extensive coverage of General Patton, his status as a decorated army general and war hero, and his distinctive personality, General Patton’s name, image and likeness have earned worldwide fame and recognition and are well-known by members of the public as identifying him.

13. CMG’s exclusive rights with respect to General Patton’s intellectual property rights are extremely valuable due to General Patton’s fame and distinctiveness. CMG’s exclusive rights are especially valuable in California, where General Patton is from, where he was domiciled at the time of his death, and where CMG maintains an office and transacts substantial business.

B. Maximum’s Unauthorized Use Of General Patton’s Name, Image And Likeness

14. Maximum is a full service publisher and distributor of video games that serves all North and South American territories, as well as select European markets, and delivers premier, cross-generational console and digital titles that span the genre spectrum.

15. On information and belief, from November 20, 2012 through at least mid-2013, Maximum released various versions of a video game called *HISTORY® Legends of War: Patton* (the “Infringing Video Game”) for various systems and markets, including but not limited to versions for PC, Xbox 360, PlayStation 3, and PlayStation Vita. Below is a screenshot from Maximum’s website, MaximumGames.com, showing the product packaging for several versions of the Infringing Video Game¹:

¹ This screenshot was taken on November 18, 2014, from <http://www.maximumgames.com/legendsofwarpatton.com/#!/games-info/>.



16. Below is a picture of the back cover of the Xbox 360 version of the Infringing Video Game:

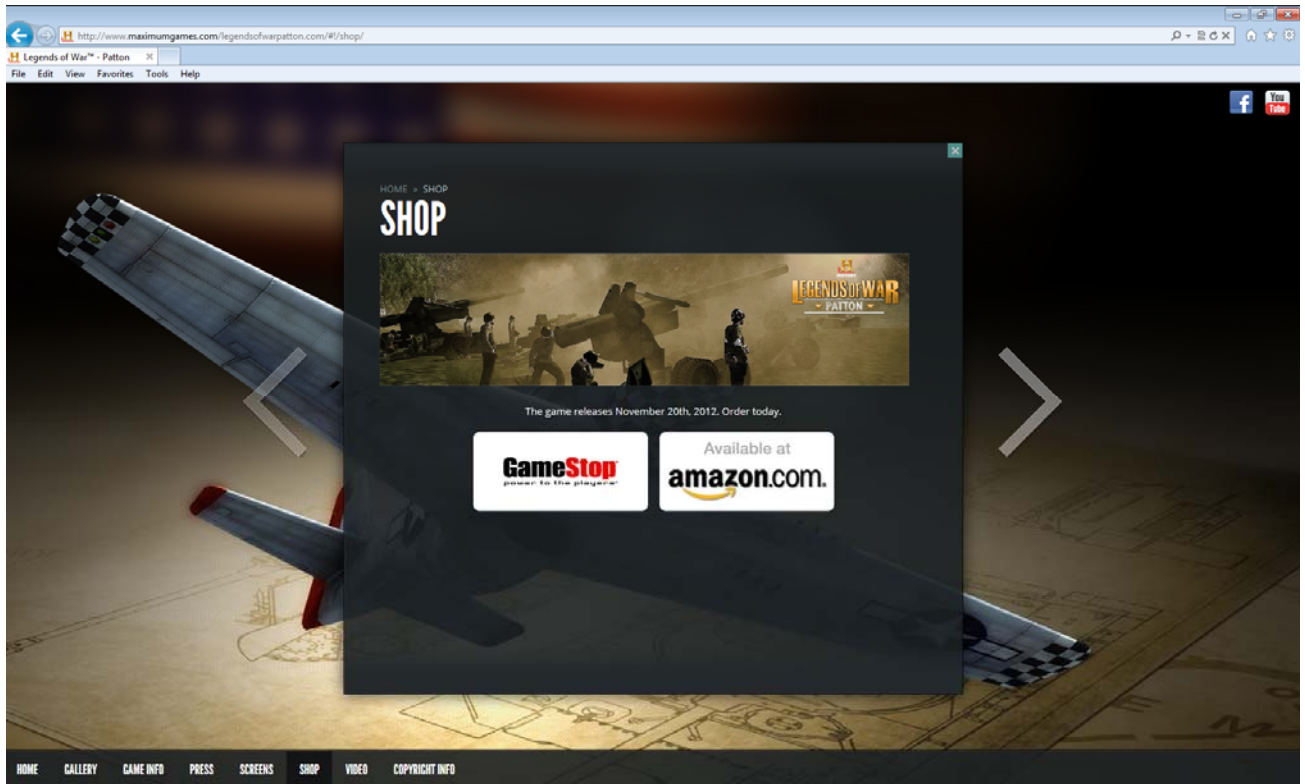


17. The Infringing Video Game features General Patton's name, image and likeness in the following ways, among others:

- a. The game explicitly features "Patton" in its name;
- b. The game features General Patton's famous image, likeness, and persona, in the context for which he is most famous – namely, as a military general from World War II;
- c. The front cover of the game shows an image of a soldier standing between two tanks. General Patton led the U.S. army's first armored attack, and was an outspoken advocate for the use of tanks and armored vehicles in combat. Due to extensive media attention, including the well-known film "Patton," the consuming public understands that General Patton is associated with tanks and armored vehicles, and would associate the image of tanks on the front cover of the Infringing Video Game with General Patton.
- d. The back cover of the game features a quote by General Patton, and explains that the game player can "[a]ssume the role" of General Patton as he or she leads troops into "historical conflicts." The player's ability to assume General Patton's persona and participate virtually in historical events involving General Patton is evidently intended as a major draw of the game.
- e. The instructional pamphlet that accompanies the Infringing Video Game explains that the player gains "prestige" and "skill" points as the game progresses, which reinforces that General Patton's prestige and skill as a military commander and war hero, which are well-known by the consuming public at large as well as by the target audience for this game, are a chief selling point of the Infringing Video Game.

18. Maximum first released the Infringing Video Game on November 20, 2012. Below is a screenshot from Maximum's website confirming that it released the game on November 20, 2012²:

² This screenshot was taken on November 18, 2014, from <http://www.maximumgames.com/legendsofwarpattton.com/#!/shop/>.



19. Attached hereto as **Exhibit A** is a copy of the press release issued on November 1, 2012 in which Maximum announced the launch date for the Infringing Video Game would be November 20, 2012. That press release also quotes Len Ciciretto, president of Maximum, as saying, “Patton is possibly the greatest known WWII hero in history.” The press release also states, “[a]t the start of each mission, the historical dates of Patton’s battles are displayed on-screen, putting players at the center of the action, and applying a uniquely fact-based framework which completely immerses the player.” Attached hereto as **Exhibit B** is a copy of a website reporting on November 10, 2012 that the Infringing Video Game would be arriving on November 20, 2012 on PC.

20. Subsequently, Maximum released additional versions of the Infringing Video Game for consoles. On November 15, 2012, the website shown in **Exhibit B** reported that the developer had given a February 2013 release for the console versions of the Infringing Video Game. On January 22, 2013, the website shown in **Exhibit B** further reported that the Infringing Video Game would be released in Europe on March 8, 2013. The website shown in **Exhibit C** hereto further stated that Maximum released a version of the Infringing Video Game for PlayStation Vita on July 7, 2013.

21. On information and belief, since the various versions of the Infringing Video Game were released beginning November 20, 2012 and continuing through at least mid-2013, they have been sold at major U.S. retailers including, but not limited to, Best Buy, Wal-Mart, Target, GameStop, and Newegg.com.

22. Maximum continues to promote, advertise, offer for sale and sell the Infringing Video Game on or through its website, MaximumGames.com. Maximum has used and continues to use General Patton's name, image and likeness in connection with and for the purpose of promoting, advertising, offering for sale and selling the Infringing Video Game.

23. Maximum's use of General Patton's name, image and likeness in connection with advertising and selling the Infringing Video Game was never authorized by CMG, and was done without CMG's knowledge.

24. Maximum's use of General Patton's name, image and likeness in connection with advertising and selling the Infringing Video Game was and is intended to deceive consumers and to cause consumer confusion and mistake as to the affiliation, connection, or association of General Patton and/or his assignees with the Infringing Video Game, and as to the origin, sponsorship, or approval of the Infringing Video Game by General Patton and/or his assignees. Consumers would readily understand that Maximum's use of General Patton's name, image and likeness in connection with the Infringing Video Game is a reference to General Patton. Indeed, Maximum expects and intends consumers to understand this as part of its marketing efforts.

25. Despite CMG's efforts to resolve this matter consensually, Maximum continues to unlawfully use General Patton's name, image and likeness in connection with advertising and selling the Infringing Video Game.

26. Maximum's conduct has caused, and continues to cause, substantial, immeasurable, and irreparable harm to CMG. In particular, Maximum's conduct has damaged the value to CMG of General Patton's name, image and likeness; has interfered with CMG's ability to license General Patton's name, image and likeness for use in other video games; and has damaged CMG's ability to enforce its rights to General Patton's name, image and likeness against third parties.

FIRST CAUSE OF ACTION**(False Endorsement and Unfair Competition under 15 U.S.C. § 1125(a))**

27. CMG realleges and incorporates by reference the foregoing paragraphs as though fully set forth here.

28. Maximum has deliberately and willfully used and continues to use, in commerce, General Patton's name, image and likeness in connection with the Infringing Video Game, a commercial product, without CMG's consent.

29. Maximum's use of General Patton's name, image and likeness in connection with the Infringing Video Game constitutes a false designation of origin, false or misleading description of fact, and/or false or misleading representation of fact, which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of General Patton and/or his assignees with the Infringing Video Game or with Maximum, or as to the origin, sponsorship, or approval by General Patton and/or his assignees of Maximum's goods, services, or commercial activities, including its advertising and sale of the Infringing Video Game.

30. As a direct and proximate result of Maximum's acts alleged herein, CMG has been damaged and suffered harm.

31. CMG's remedy at law is not adequate to compensate it for the injuries inflicted by Maximum. Accordingly, CMG is entitled to a permanent injunction pursuant to 15 U.S.C. § 1116.

32. On information and belief, Maximum's acts are willful and malicious, and intended to injure and cause harm to CMG.

33. By reason of Maximum's acts alleged herein, CMG is entitled to recover Maximum's profits, treble damages and the costs of the action under 15 U.S.C. § 1117.

34. This is an exceptional case making CMG eligible for an award of attorneys' fees under 15 U.S.C. § 1117.

SECOND CAUSE OF ACTION**(Violation of Right of Publicity under Cal. Civ. Code § 3344.1)**

35. CMG realleges and incorporates by reference the foregoing paragraphs as though fully set forth here.

36. General Patton is a “deceased personality” within the meaning of Cal. Civ. Code § 3344.1 because his name, image and likeness had commercial value at the time of his death in 1945. At the time of his death, General Patton was domiciled in California.

37. Maximum knowingly and willfully used General Patton’s name, image and likeness for purposes of advertising or selling, or soliciting purchases of, the Infringing Video Game.

38. CMG is, and at all relevant times has been, the registered agent in California for General Patton’s rights of publicity.

39. Maximum did not obtain CMG’s consent, written or otherwise, to use General Patton’s name, image or likeness in any manner.

40. As a direct and proximate result of Maximum’s acts, including acts in California, CMG has been damaged and suffered harm, including injury to the value of its exclusive rights to General Patton’s name, image and likeness.

41. The above-described acts of Maximum violate CMG’s right of publicity under Cal. Civ. Code § 3344.1, entitling CMG to relief.

42. By reason of Maximum’s acts alleged herein, CMG is entitled to recover Maximum’s profits and its actual damages under Cal. Civ. Code § 3344.1, and/or statutory damages. CMG is also entitled to punitive damages, injunctive relief, attorneys’ fees and costs.

THIRD CAUSE OF ACTION

(Unfair Competition under Cal. Bus. & Prof. Code § 17200 *et seq.*)

43. CMG realleges and incorporates by reference the foregoing paragraphs as though fully set forth here.

44. Maximum has commercially exploited General Patton’s name, image and likeness without CMG’s consent. Maximum’s conduct, as alleged above, constitutes unlawful or unfair business acts or practices under Cal. Bus. & Prof. Code § 17200 *et seq.* Maximum’s conduct has caused, and, if not enjoined, will continue to cause substantial and irreparable damage to the rights of CMG in General Patton’s name, image and likeness. CMG is entitled to relief under Cal. Bus. & Prof. Code § 17203, including enjoining Maximum from engaging in the conduct described above.

As a consequence of Maximum's violations, CMG has suffered damages in an amount to be established at trial.

PRAYER FOR RELIEF

WHEREFORE, CMG asks for a judgment as follows:

1. Permanently enjoining and restraining Maximum and its agents, servants, employees and attorneys, and those persons in active concert or participation with Maximum during the pendency of this action, and thereafter perpetually, from:

a. using General Patton's name, image or likeness, or any word, symbol, phrase, term, photograph, or image confusingly similar thereto, alone or prominently displayed in promotional material, advertisements, web pages, signs, or in any other way in connection with the advertising, distribution, offering for sale or sale of products or services not authorized by CMG, including in connection with the Infringing Video Game;

b. infringing General Patton's name, image or likeness in any manner;

c. committing any acts of false designation of origin relating to the unauthorized use of General Patton's name, image or likeness; and

d. unfairly competing with CMG in any manner whatsoever or misappropriating General Patton or CMG's reputation and goodwill;

2. Awarding CMG all damages it has sustained as a consequence of Maximum's acts complained of herein for violation of right of publicity, unfair competition, infringement, willful infringement, false endorsement as well as treble damages, punitive damages, and statutory damages where permitted;

3. That Maximum be ordered to account to CMG for, and disgorge, all profits it has derived by reason of the unlawful acts complained of herein;

4. That Maximum be ordered to pay CMG's reasonable attorneys' fees, prejudgment interest, and costs of this action under 15 U.S.C. § 1117, Cal. Civ. Code § 3344.1, and/or Cal. Civ. Proc. Code § 1021.5;

1 5. That Maximum be directed to undertake corrective advertising to remedy the
2 confusion, mistake and deception caused by its unauthorized use of General Patton's name, image
3 and likeness;

4 6. That Maximum be directed under 15 U.S.C. §1116 to file with the Court and serve
5 upon CMG within thirty (30) days after the issuance of any injunction a report in writing and under
6 oath setting forth in detail the manner and form in which Maximum has complied with the
7 injunction; and

8 7. That CMG be awarded such other and further relief as the Court may deem just and
9 the circumstances warrant.

10 Dated: November 19, 2014

Respectfully submitted,

WINSTON & STRAWN LLP

13 By: /s/ Erin R. Ranahan

Saul S. Rostamian

Erin R. Ranahan

Andrew S. Jick

16 Attorneys for Plaintiff
CMG WORLDWIDE INC.

Winston & Strawn LLP
333 South Grand Avenue
Los Angeles, CA 90071-1543

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, CMG demands a trial by jury of all issues that may be tried to a jury in this action.

Dated: November 19, 2014

Respectfully submitted,

WINSTON & STRAWN LLP

By: /s/ Erin R. Ranahan

Saul S. Rostamian

Erin R. Ranahan

Andrew S. Jick

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EXHIBIT A

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Press Releases

Maximum Games Announces Launch Date for HISTORY® Legends of War: Patton

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11/01/2012

[This unedited press release is made available courtesy of Gamasutra and its partnership with notable game PR-related resource [GamesPress](#).]

WALNUT CREEK, Calif. – (October 31, 2012)–Maximum Games (MG) and Slitherine Ltd. have announced the upcoming launch of *HISTORY® Legends of War: Patton*, an explosive new turn-based strategy game slated to hit shelves next month.

Scheduled to release November 20, 2012, *HISTORY® Legends of War: Patton* allows players to assume the role of General George S. Patton during his legendary WWII campaign. Beginning in August 1944, the game follows Patton's Third US Army starting in and moving from the west of France to the heart of Germany. Players will lead their troops into historical conflicts as they battle their way from the blood soaked beaches of Normandy to the war torn streets of Berlin.

"Patton is possibly the greatest known WWII hero in history," said Len Ciciretto, president of MG. "And this game is by far the best portrayal of war in the world of console turn-based strategy."

Developed by Slitherine and Enigma Software Productions, *HISTORY® Legends of War: Patton* offers a unique combination of console strategy gaming, turn-based tactics, and RPG elements as players cross the Western European Theatre in an epic campaign to end the war. The game features a single player Campaign as well as individual missions, and a local multiplayer Hot Seat mode. Players will be challenged across 21 different missions over 4 unique operations, and command special units including snipers, commandos, fighters, bombers, and more.

Mission types include Attack, Defense, Infiltration, and Sabotage. Additionally, throughout the campaign, players earn and apply prestige points to enhance their army and techniques. Prestige is awarded based on players' proficiency in completing missions.

"One of the most brilliant aspects of this game is the manner in which your army evolves," said Ciciretto. "Just as real combat soldiers learn and improve, the game demands and allows the same of its players."

At the start of each mission, the historical dates of Patton's battles are displayed on-screen, putting players at the center of the action, and applying a uniquely fact-based framework which completely immerses the player.

HISTORY® Legends of War: Patton is available next month on Xbox 360, PlayStation 3, and PC platforms, and is rated T by the ESRB. For more information, please visit www.maximumgames.com.

###

About Maximum Games

Headquartered in the San Francisco Bay Area, Maximum Games publishes premier interactive video games for all leading platforms. For more information on Maximum Games, visit the company's website at www.maximumgames.com.

About the Slitherine Group

The Slitherine Group is the world's leading producer and publisher of digital wargames and strategy games. Under the Slitherine (www.slitherine.com) and Matrix Games (www.matrixgames.com) Brands it has published literally hundreds of games, with many award-winning titles in its portfolio and spanning all digital platforms, from home consoles to modern Smartphone's and Tablets. Slitherine is also involved with book publishing, board gaming and works with a wide array of key licensing partners, such as HISTORY®, MILITARY HISTORY®, Horrible Histories™, Showtime, BBC, Osprey, Scholastic, Buzz Aldrin Enterprises and many others to deliver the best blend of historical accuracy in an exciting and entertaining way. Together the Group companies form the world's largest organization specializing in this important and vibrant niche. The Slitherine Group's mission over the coming years is to lead the way in innovation and growth in an ever expanding segment of the entertainment industry.

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LEGENDS OF WAR: PATTON
 EU Release date: 8 Mar, 2013 US Release date: 5 Mar, 2013

[\(/games/legends-of-war-patton\)](#)

FEATURED NEWS

[http://www.gamewatcher.com/avalanche-studio-reveals-just-cause-3-coming-to-pc-in-2015/](#)

[Avalanche Studios reveals Just Cause 3 coming to PC in 2015](#)

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LEGENDS OF WAR: PATTON SUMMARY

LATEST NEWS

PQube announces Legends of War: Patton getting 8th March Euro release
[\(/news/2013-22-01-pqube-announces-legends-of-war-patton-getting-8th-march-euro-release\)](#)

22 January 2013 | 0 comments | By JonahFalcon




[\(/news/2013-22-01-pqube-announces-legends-of-war-patton-getting-8th-march-euro-release\)](#)

Publisher PQube has announced that their turn-based History Channel-licensed strategy game, *Legends Of War: Patton*, will be released on the 8th March in Europe for PC, Xbox 360 and PlayStation 3.

PlayStation Network content for this week includes Doom Classic Collection
[\(/news/2012-20-11-playstation-network-content-for-this-week-includes-doom-classic-collection\)](#)

20 November 2012 | 0 comments | By JonahFalcon

GAME INFO



Legends of War: Patton
[\(/games/legends-of-war-patton\)](#)

Genre: Strategy [\(/strategy\)](#)

Tags: World War II [\(/tag/world-war-ii\)](#), Turns [\(/tag/turns\)](#), Minor Economy [\(/tag/minor-economy\)](#), Realistic [\(/tag/realistic\)](#), Militaristic [\(/tag/militaristic\)](#)

Publisher: Maximum Family Games [\(/companies/maximum-family-games\)](#)

Developer: Slitherine Software [\(/companies/slitherine-software\)](#)

YOUR SCORE

Played Legends of War: Patton?
 Leave a rating and/or a review

Your rating: n/a **ADD REVIEW**



Console versions of Legends of War: Patton get February 2013 release date (/news/2012-15-11-console-versions-of-legends-of-war-patton-get-february-2013-release-date)

15 November 2012 | 0 comments | By JonahFalcon

0



(/news/2012-15-11-console-versions-of-legends-of-war-patton-get-february-2013-release-date)
Slitherine announced their History Channel-backed turn-based strategy game *Legends of War: Patton* for PC, Xbox 360 and PlayStation 3. While a 20th November release date for the PC version was **revealed** (<http://www.strategyinformer.com/news/20731/legends-of-war-patton-arriving-on-the-20th-november>) at the time, the developer has now given a February 2013 release for the console versions.

Legends of War: Patton arriving on the 20th November on PC (/news/2012-10-11-legends-of-war-patton-arriving-on-the-20th-november-on-pc)

10 November 2012 | 0 comments | By JonahFalcon

0



(/news/2012-10-11-legends-of-war-patton-arriving-on-the-20th-november-on-pc)
Maximum Games has announced that *Legends of War: Patton*, a History Channel licensed turn-based strategy game developed by Slitherine, will be released on PC on the 20th November.

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History -- Legends of War: Patton

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Release Date: **July 7, 2013**

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About This Game

- Summary
- Specifications
- Features
- Game Editions



In this epic turn-based strategy game you will follow the paths of General Patton during WWII, leading your troops to battle while traversing Western Europe's devastated land. Gain prestige points and use them to enhance your army, acquiring advanced weapons and gear. Play through four different types of missions: Attack, Defense, Infiltration, and Sabotage. From the French beaches to Belgium, you will have to prove your worth as a member of Patton's Third Army, and fight for victory!

Release Date: July 7, 2013

MSRP: 29.99 USD

T for Teen: Violence

Genre: [Strategy](#)

Publisher: [Maximum Family Games](#)

Developer: [Enigma](#)

- **Supported Functions**
- Number Of Players: 1-2

- Local - VS # of Players
- Use prestige points to improve and enhance your army
- 4 different types of missions: Attack, Defense, Infiltration, and Sabotage
- Multiplayer "Hot Seat" mode allows 2 players to take turns fighting each other
- Utilize historically accurate bombers, tanks, and weapons

- US



- [History -- Legends of War: Patton](#)
Publisher: Maximum Family Games
Release Date: July 7, 2013
MSRP: 29.99 USD

- AU



- [History -- Legends of War: Patton](#)
Publisher: Maximum Family Games
Release Date: TBA 2013
MSRP: 39.99 USD

- UK



- [History -- Legends of War: Patton](#)
Publisher: Maximum Family Games
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Borderlands 2 is the epic sequel to the ultimate four-player role-playing shooter loot fest. Combining invention and evolution, Borderlands 2...



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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CMG WORLDWIDE INC., an Indiana corporation,

(b) County of Residence of First Listed Plaintiff Los Angeles, CA

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Saul S. Rostamian, Erin R. Ranahan, Andrew S. Jick, WINSTON & STRAWN LLP, 333 S. Grand Avenue, 38th Floor, Los Angeles, CA 90071-1543, T: (213) 615-1700.

DEFENDANTS

MAXIMUM FAMILY GAMES, LLC d/b/a MAXIMUM GAMES, a California limited liability company; and DOES 1-10,

County of Residence of First Listed Defendant Contra Costa, CA

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

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| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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- ☒ 1 Original Proceeding
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- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1125(a)

Brief description of cause:

False Endorsement and Unfair Competition**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/19/2014

SIGNATURE OF ATTORNEY OF RECORD

Erin R. Ranahan

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)



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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
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- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.