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11 Lilith Games (Shanghai) Co. Ltd.

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

14 Lilith Games (Shanghai) Co. Ltd.,  
15 Plaintiff,  
16 v.  
17 uCool, Inc. and uCool Ltd.,  
18 Defendants.

Case No. 3:15-cv-1267

**COMPLAINT FOR COPYRIGHT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

1 Plaintiff, Lilith Games (Shanghai) Co. Ltd. (“Lilith”), files this Complaint for Copyright  
2 Infringement (the “Complaint”) and respectfully alleges as follows:

3 **I. Introduction**

4 1. Under 17 U.S.C. § 101, *et seq.* (the “Copyright Act”), and specifically, 17 U.S.C.  
5 § 501, a party is liable for copyright infringement if it has violated any of the exclusive rights of a  
6 copyright owner, including the rights to reproduce, create derivative works from, and distribute  
7 copies of a work protected by a valid copyright. In February 2014, Lilith released in China an  
8 originally developed game titled “Dao Ta Chuan Qi,” which means “the legend of sword and tower”  
9 (“Sword and Tower”). Lilith owns the copyrights in, and has Chinese copyright registrations for, the  
10 artistic design and expression of more than 102 characters in Sword and Tower. Lilith also owns the  
11 copyrights in the pictorial and graphic works in the screen images and the user interfaces expressed  
12 in Sword and Tower. Moreover, Lilith owns the copyrights in, and has Chinese copyright  
13 registrations for, Sword and Tower’s computer software. All of these copyrighted works were  
14 created at considerable time, expense, and effort on Lilith’s part. Sword and Tower was first  
15 published outside the United States.

16 2. uCool, Inc. and uCool Ltd. (collectively “uCool”) has improperly received the benefit  
17 of Lilith’s efforts by infringing Lilith’s copyrights in each of the aforementioned works. Following  
18 publication, Sword and Tower was generally commercially available to the public, and it was  
19 accessible by uCool. After uCool had access to Lilith’s copyrighted works embodied in Sword and  
20 Tower, uCool released a game called Heroes Charge in August 2014. In Heroes Charge, uCool  
21 copied, without authorization, every aspect of Sword and Tower, including the expressions that are  
22 protected by Lilith’s valid copyrights. Indeed, uCool copied the computer software of Sword and  
23 Tower and incorporated it into Heroes Charge. Heroes Charge has been offered and distributed by  
24 uCool in the United States.

25 3. Because of uCool’s unlawful copying of Lilith’s protected, copyrighted works, uCool  
26 is liable for direct copyright infringement. As a result, Lilith requests that uCool be enjoined from  
27 any further copyright infringement, and that Lilith be appropriately compensated for the damages  
28 caused by uCool’s actions.

1 **II. Jurisdiction and Venue**

2 4. Because this lawsuit is being brought pursuant to 17 U.S.C. § 101, *et seq.*, this Court  
3 has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

4 5. This Court also has personal jurisdiction over uCool because it is based in Menlo  
5 Park, California. The majority, if not all, of its top-ranking executives and employees work and  
6 reside in California, including the producer of the infringing game Heroes Charge. Indeed, because  
7 the acts giving rise to this Complaint occurred in California, and because uCool regularly and  
8 systematically conducts business in this State, uCool is subject to both specific and general personal  
9 jurisdiction in this Court.

10 6. Venue is also proper in the Northern District of California pursuant to 28 U.S.C.  
11 § 1391(b) and 1400(a). For example, uCool unquestionably resides in this district for purposes of  
12 determining venue, and a substantial part of the events giving rise to this Complaint were  
13 intentionally committed by uCool in the Northern District of California.

14 **III. Intradistrict Assignment**

15 7. This matter should be assigned to the San Francisco Division of the United States  
16 District Court for the Northern District of California because uCool is based in and a substantial  
17 portion of the events giving rise to this action occurred in San Mateo County, California. *See* Civil  
18 L.R. 3-2(d).

19 **III. The Parties**

20 8. Lilith is a leading mobile game developer based in Shanghai, China. As noted above,  
21 Lilith released Sword and Tower in China in February 2014.

22 9. uCool is based in Menlo Park, California, and can be served through its registered  
23 agent Corporation Service Company d/b/a CSC Lawyers Incorporating Service, at 2710 Gateway  
24 Oaks Drive, Suite 150N, Sacramento, California 95833.

25 **IV. uCool's Unlawful Conduct**

26 10. As set forth above, Lilith originally developed Sword and Tower, and its content is  
27 protected by valid copyrights owned by Lilith. In particular, Lilith owns the copyrights in, and has  
28 Chinese copyright registrations for, the artistic design and expression of more than 102 characters

1 displayed in Sword and Tower. Lilith further owns the copyrights in the pictorial and graphic works  
2 in the screen images and user interfaces, holding Chinese copyright registrations on the look and feel  
3 and user interfaces expressed in the game, as well as the copyrights in, and Chinese registrations for  
4 the copyrights in Sword and Tower's computer software.

5 11. Lilith released Sword and Tower in China in February 2014, and it quickly became  
6 one of the most popular mobile games in China. As a result of that success, Lilith began making  
7 plans to release Sword and Tower in numerous other countries including those located in North  
8 America.

9 12. Before Lilith could implement those plans for further distribution, in August 2014,  
10 uCool, after having access to Lilith's copyrighted works embodied in Sword and Tower, released a  
11 game in the United States called Heroes Charge. Upon review of that game, it was clear that uCool,  
12 without authorization, copied every aspect of Sword and Tower. In particular, uCool unlawfully  
13 copied the artistic design and expression of the characters from the Sword and Tower game that are  
14 protected by registered copyrights owned by Lilith. uCool also copied Lilith's copyright registered  
15 computer software, Lilith's copyrighted pictorial and graphic works in the look and feel expressed in  
16 screen images, and Lilith's copyrighted user interfaces expressed in Sword and Tower. uCool's  
17 unlawful copying of Lilith's copyrighted works is so pervasive it can only be described as  
18 intentional.

19 13. When Lilith became aware of uCool's copyright infringement, Lilith immediately  
20 sent uCool's counsel a letter demanding that uCool cease and desist its unlawful and infringing  
21 activity. While the parties continued to exchange correspondence over a period of several months,  
22 uCool has refused to cease its conduct, and continues to infringe upon Lilith's intellectual property  
23 rights. uCool's infringing conduct has, among other things, caused damage to Lilith's reputation and  
24 good will. For example, as Lilith has now begun to release Sword and Tower in other countries,  
25 Lilith has received comments from users who are under the impression that Lilith has copied  
26 uCool's Heroes Charge. In fact, it is the other way around. Thus, in addition to any monetary  
27 compensation to which Lilith is entitled to for past infringement, Lilith has and will continue to  
28 suffer irreparable harm unless uCool is enjoined from future infringement.

**FIRST CLAIM FOR RELIEF**

**(Copyright Infringement)**

1  
2  
3 14. Lilith repeats and expressly incorporates each allegation contained in paragraphs 1  
4 through 13 as though fully set forth herein.

5 15. As alleged above, Lilith owns valid copyrights and Chinese copyright registrations  
6 covering the design and expression of characters, the look and feel expressed in screen images, the  
7 expressed user interfaces, and the computer software embodied in Sword and Tower. Lilith released  
8 Sword and Tower in China in February 2014, and uCool had access to Lilith’s copyrighted works by  
9 at least that time. After gaining access to Lilith’s copyrighted works, uCool, through its game  
10 Heroes Charge, unlawfully and without authorization copied and benefited from Lilith’s copyrighted  
11 works that are embodied in Sword and Tower.

12 16. Sword and Tower is not a United States work as defined in 17 U.S.C. § 101.  
13 However, China and the United States are both signatories to the Berne Convention. Pursuant to the  
14 Berne Convention, Lilith is entitled to bring a copyright infringement action in the United States to  
15 protect its interests. *See* 17 U.S.C. § 104.

16 17. Lilith has and continues to suffer direct and actual damages while uCool reaped  
17 profits as a result of uCool’s copyright infringement. The full extent of such damages, including  
18 uCool’s profits, will be determined following an accounting by uCool pursuant to 17 U.S.C. § 504.

19 18. In addition, Lilith has no other adequate remedy at law and has and continues to  
20 suffer irreparable harm and damage as a result of uCool’s copyright infringement. Accordingly,  
21 Lilith seeks injunctive relief pursuant to 17 U.S.C. § 502 and seizure of unauthorized copies of  
22 Lilith’s computer software and copyright protected works, including means of production as  
23 provided by 17 U.S.C. § 503.

24 19. By virtue of uCool’s refusal to cease and desist its infringing activity, Lilith has been  
25 required to bring this lawsuit and, in the process, has and will continue to incur attorneys’ fees and  
26 costs in connection with the prosecution of this action. Accordingly, Lilith is entitled to recover its  
27 fees and costs from uCool pursuant to 17 U.S.C. § 505.

28

**PRAYER FOR RELIEF**

WHEREFORE, Lilith respectfully requests that the Court order:

1) that uCool be preliminarily and permanently enjoined from directly or indirectly infringing in any manner Lilith’s copyright protected works embodied in Sword and Tower, including, but not limited to, reproduction, manufacture, importation, distribution, advertising, selling and/or offering for sale the game titled Heroes Charge, or any other game, merchandise, or other articles which infringes upon Lilith’s copyrights;

2) that Lilith be entitled to seize any unauthorized copies of Lilith’s copyrighted works embodied in Sword and Tower, regardless of the form in which those copies currently exist, as well as the equipment used by uCool to create such unauthorized copies;

3) that uCool account for and pay to Lilith all damages sustained by Lilith and profits realized by uCool as a result of uCool’s copyright infringement;

4) that uCool be required to pay all reasonable attorneys fees and costs incurred by Lilith as a result of bringing this lawsuit; and

5) that Lilith be awarded all other and further relief to which it is entitled.

Dated: March 18, 2015

Respectfully submitted,

**BAKER & McKENZIE LLP**  
Colin H. Murray  
Teresa H. Michaud

By: /s/ Colin H. Murray  
Colin H. Murray  
Attorneys for Plaintiff  
Lilith Games (Shanghai) Co. Ltd.

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**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a jury trial in this matter.

Dated: March 18, 2015

**BAKER & McKENZIE LLP**  
Colin H. Murray  
Teresa H. Michaud

By: /s/ Colin H. Murray  
Colin H. Murray  
Attorneys for Plaintiff  
Lilith Games (Shanghai) Co. Ltd.

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
Lilith Games (Shanghai) Co. Ltd.
(b) County of Residence of First Listed Plaintiff Shanghai, China
(c) Attorneys (Firm Name, Address, and Telephone Number)
Colin Murray, Baker & McKenzie LLP, Two Embarcadero Center, 11th Floor, San Francisco, CA 94111, (415) 576-3000

DEFENDANTS
uCool, Inc.
County of Residence of First Listed Defendant San Mateo County
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
David Hansen, Skadden, Arps, Slate, Meagher & Flom LLP, 525 University Avenue, Palo Alto, CA 94301, (650) 470-4500

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
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)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Motor Vehicle, Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
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):
17 U.S.C. s 101, et seq.
Brief description of cause:
Copyright infringement action

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$ According to proof
CHECK YES only if demanded in complaint:
JURY DEMAND: X Yes [ ] No

VIII. RELATED CASE(S) IF ANY
(See instructions):
JUDGE
DOCKET NUMBER 3:15-cv-1267

DATE 03/18/2015
SIGNATURE OF ATTORNEY OF RECORD /s/ Colin H. Murray

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)
(Place an "X" in One Box Only)
[X] SAN FRANCISCO/OAKLAND [ ] SAN JOSE [ ] EUREKA



## 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.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 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.