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Entertainment, Inc. and Valve Corporation
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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12 Blizzard Entertainment, Inc., and Valve
Corporation,

13 Plaintiffs,
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15 v.

16 Lilith Games (Shanghai) Co. Ltd., uCool, Inc.,
and uCool Ltd.,

17 Defendants.
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CASE NO. 3:15-CV-4084

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs Blizzard Entertainment, Inc. (“Blizzard”) and Valve Corporation (“Valve”)
2 (jointly “Plaintiffs”), for their Complaint against Defendants uCool, Inc., uCool Ltd. (collectively,
3 “uCool”), and Lilith Games (Shanghai) Co., Ltd. (“Lilith”) (collectively, the “Defendants”), allege
4 as follows:

5
6 **Preliminary Statement**

7 1. Plaintiffs Blizzard and Valve are two of the most respected game developers and
8 publishers in the world and the owners of copyrights in some of the most popular and critically-
9 acclaimed games ever made, including “Warcraft III,” “World of Warcraft,” “Diablo III,” and
10 “Dota 2.” Plaintiffs bring this lawsuit in order to put a stop to, and seek redress for, the ongoing
11 and deliberate infringement of Plaintiffs’ copyrights by Defendants through their video games
12 “Dota Legends” (sometimes called “Sword and Tower” or “Dot Arena,” among other names) and
13 “Heroes Charge” (collectively, the “Infringing Games”).

14
15 **Jurisdiction and Venue**

16 2. This is a civil action alleging copyright infringement under the Copyright Act, 17
17 USC § 501. This Court has exclusive subject matter jurisdiction over these claims pursuant to 28
18 U.S.C. § 1338.

19 3. This Court has personal jurisdiction over Defendants, including because
20 Defendants have engaged in, contributed to, and induced the infringing conduct at issue within the
21 United States and the State of California and have purposefully directed their activities at the
22 United States and at California. Among other things, (a) each of the Defendants or their respective
23 agents are doing or have been doing business continuously in the State of California and this
24 District, (b) a substantial part of the wrongful acts committed by Defendants, and each of them,
25 have occurred in interstate commerce, in the State of California, and in the Northern District of
26 California, and (c) Defendants know that the damages and other harmful effects of Defendants’
27 infringing activities occur in the United States and primarily in California, where Blizzard has its
28 principal place of business and where Valve has a substantial number of customers. In addition to

1 the foregoing, Defendant Lilith has invoked the jurisdiction of this Court by filing a lawsuit in this
2 District titled *Lilith Games (Shanghai) Co. Ltd. v. uCool, Inc. et al.*, Case No. 3:15-cv-01267-SC.

3 4. Venue in this Court exists under 28 U.S.C. § 1391(b)(2) because a substantial part
4 of the events giving rise to the claims alleged in this Complaint occurred in this District, including
5 because Blizzard and Valve have suffered injury in this District and Defendants have directed their
6 infringing activities to residents of this District.

7 8 The Parties

9 5. Blizzard is a Delaware corporation organized and existing under the laws of the
10 State of California, having its principal place of business in Irvine, California. Among the
11 computer games whose copyrights are owned by Blizzard are the games “Warcraft III,” “World of
12 Warcraft,” “Starcraft II: Wings of Liberty,” “Starcraft II: Heart of the Swarm,” “Diablo,” “Diablo
13 II,” “Diablo III,” “Hearthstone,” and “Heroes of the Storm.”

14 6. Valve is a Washington corporation, having its principal place of business in
15 Bellevue, Washington. Among the games published and owned by Valve is the computer game
16 “Dota 2.”

17 7. Plaintiffs are informed and believe, and on that basis allege, that defendant Lilith
18 Games (Shanghai Co.) Ltd., is a mobile game developer and publisher located in Shanghai, China.
19 Lilith purports to be the creator and distributor (either directly or through authorized licensees) of
20 the popular mobile game known variously as (among other names) “Sword and Tower,” “Dota
21 Legends,” and “Dot Arena.” In addition, Plaintiffs are informed and believe, and on that basis
22 allege, that on or about June 25, 2015, Lilith released in the United States another version of “Dota
23 Legends” entitled “Soul Hunters.” “Soul Hunters” is available, among other places, on the Apple
24 App Store and Google Play platform.

25 8. Plaintiffs are informed and believe, and on that basis allege, that defendants uCool,
26 Inc. and uCool, Ltd. are collectively a mobile game developer and publisher located in Menlo
27 Park, California. uCool purports to be the creator and distributor of the mobile game “Heroes
28 Charge.”

Blizzard and its Games

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2 9. Blizzard is a computer game developer and publisher, engaged in the business of
3 developing, financing, producing, marketing and distributing high-quality computer software
4 games. Among Blizzard's computer game products are some of the most successful and best-
5 selling computer games in the world, including the "Warcraft," "Starcraft" and "Diablo" game
6 franchises. Blizzard also is the publisher of the enormously popular computer and mobile card
7 game "Hearthstone" (which incorporates characters and images from the "Warcraft" universe). In
8 June 2015 Blizzard released "Heroes of the Storm," an online multiplayer game that brings
9 together Blizzard's best-known characters from each of its major game franchises. Blizzard is the
10 owner of valid and subsisting copyrights in each of the "Warcraft," "Diablo," and "Starcraft"
11 games (including "Hearthstone" and "Heroes of the Storm") and in a variety of related products
12 and merchandise (the "Blizzard Works").

13 10. All of the "Warcraft" games take place in the "Warcraft" universe, which is
14 populated by an enormous variety of distinctive mythical creatures and characters, such as tech-
15 savvy goblins, huge winged demons, bovine humanoids known as "Taurens," serpentine sea
16 creatures known as "Naga," giant humanoid panda warriors known as "Pandaren," tall purple-
17 skinned elves known as "Night Elves," sentient trees known as "Ancients," and hundreds of
18 others. Many instances of these creatures are distinctive characters in their own right, with names,
19 distinctive physical appearances, clothing, weapons, traits, abilities, and ongoing stories. Each of
20 the characters that populate the "Warcraft" universe and other worlds created by Blizzard
21 represents Blizzard's copyrightable expression and is subject to copyright protection.

22 11. Among Blizzard's copyrighted game products is the game "Warcraft III," which
23 was released in 2002. In or about 2003, members of the Blizzard community, using "Warcraft
24 III's" copyrighted graphical art assets, including the character art, sounds, and terrain models,
25 created a "mod" (or "modification") to "Warcraft III" known as "Defense of the Ancients," or
26 "DotA." "DotA" is a multiplayer game in which ten players (divided into two teams of five) each
27 select a character (or "hero"), acquire experience (used to improve the hero's abilities) and money
28 (used to acquire items), and then use their hero to attack and defeat the enemy team's stronghold.

1 “DotA” is the most popular “Warcraft III” mod ever created and has been played by millions of
2 players. The style of game pioneered by “DotA” has come to be known as a “MOBA” or
3 “multiplayer online battle arena.”

4 5 **Valve and “Dota 2”**

6 12. Valve is a computer game developer and publisher, engaged in the business of
7 developing, producing, marketing and distributing high-quality computer software games. Among
8 Valve’s computer game products are some of the most successful and best-selling computer games
9 in the world, including most recently, the game titled “Dota 2.” Valve is the owner of a valid and
10 subsisting copyright in “Dota 2” and in characters, images, artwork, and other copyrightable
11 elements contained in that work (collectively, the “Valve Works.”).

12 13. In “Dota 2,” teams select from over 100 unique playable “hero” characters and
13 engage in battle with each other on a computer-generated battlefield or “map.” Each “Dota 2”
14 hero starts the game with a single ability, and during the course of the game gains experience and
15 gold, which unlock access to unique abilities, spells, and items. Each of “Dota 2’s” heroes
16 possesses a unique set of approximately four powers, which are displayed with unique animations
17 (accompanied by sound effects and dialogue) when invoked in the game. These powers are an
18 integral part of each hero’s persona and presence within the game. Each of the characters that
19 populate the world of Dota 2 represents Valve’s copyrightable expression and is subject to
20 copyright protection.

21 22 **Defendants and their Infringing Games**

23 14. Defendants are two game developers, one (Lilith) based in Shanghai, China, and
24 the other (uCool) based in Menlo Park, California. Defendants are in the business of making and
25 distributing video games for mobile platforms such as the Apple iPhone and iPad and Android
26 devices. Defendants offer their mobile titles on a “free-to-play” basis. Under this business model
27 (known in the games industry as a “micro-transaction” model), Defendants do not charge users to
28 download their game titles, but instead make money by selling to their users (for real currency)

1 virtual goods or “unlocks” such as new characters, character upgrades, weapons, and character
2 customizations such as clothing and armor. Defendants’ business thus relies on attracting a large
3 body of users to download their games, knowing that only some portion of those users ultimately
4 will play the game for a sustained period of time and spend money to unlock or acquire additional
5 content.

6 15. Plaintiffs are informed and believe, and on that basis allege, that in or about
7 February 2014, Lilith released in China the mobile game “Dota Legends,” for the Android and
8 iOS (Apple iPhone/iPad) platforms. The name “Dota Legends” is a specific reference to “DotA”
9 and “Dota 2.” “Dota Legends” has been downloaded millions of times, and is available for
10 download in the United States, including on the Chinese language Apple App store accessible in
11 the United States. Plaintiffs are informed and believe, and on that basis allege, that of the millions
12 of downloads of “Dota Legends” many of these are by users located within the United States who
13 make in-game purchases with payment methods denominated in U.S. dollars.

14 16. Plaintiffs are informed and believe, and on that basis allege, that Lilith also has
15 created and distributed, or has caused to be created and distributed, an English-language version of
16 “Dota Legends” known as “Dot Arena” (another reference to “DotA” and “Dota 2”). “Dot Arena”
17 has been and currently is available for download, including in the United States, via the website
18 www.dotarena.com (the “Dot Arena Website”). “Dot Arena” is localized for use in the United
19 States, including by offering micro-transactions in exchange for U.S. dollars. The Dot Arena
20 Website, which is entirely in English and accessible throughout the world, including in the United
21 States, includes detailed images of each of the heroes and items contained in “Dot Arena.”
22 Plaintiffs are informed and believe, and on that basis allege, that except for its use of the English
23 language, “Dot Arena” is substantively identical to “Dota Legends.”

24 17. “Dota Legends,” and “Dot Arena” (along with the game’s other versions and
25 permutations) (collectively, the “Lilith Games”) purport to be mobile “action card games” that
26 attempt to emulate the “style” of games such as “DotA” and “Dota 2.” In the Lilith Games,
27 players assemble a team of heroes from a roster of characters and battle a variety of monsters,
28 demons, and other antagonists. As in “Dota 2,” each hero either has or acquires certain special

1 abilities or spells that may be activated to trigger a short animation sequence and deal damage to
2 enemies. Also, as in “Dota 2,” much of the Lilith Games’ strategy comes from building a team
3 that takes advantage of each hero’s strengths and weaknesses.

4 18. At present, the Lilith Games offer players a choice of more than 50 heroes, each
5 with approximately four special powers or spells. Some of these heroes (and their powers) are
6 available immediately upon starting the game, while others may be obtained only by purchasing or
7 earning virtual coins to “unlock” them.

8 19. Plaintiffs are informed and believe, and on that basis allege, that in designing the
9 Lilith Games, Lilith made a deliberate and concerted effort to re-create many of Blizzard and
10 Valve’s best-known and most recognizable characters. As a result, almost every one of the heroes
11 available to players in the Lilith Games is a two-dimensional version of a character either from
12 one of Blizzard’s games (especially its “Warcraft” series of games) or from “Dota 2.” In fact, in
13 correspondence between Lilith and uCool, uCool specifically asserted that characters from “Dota
14 Legends” are “unauthorized derivative works of copyrighted characters found in earlier
15 multiplayer battle games such as Defense of the Ancients (“DOTA”) and DOTA 2 (from which
16 Lilith also takes the names of its game and characters), as well as World of Warcraft” This is
17 not surprising; Lilith has demonstrated an ongoing pattern of conduct by which it intentionally
18 appropriates Plaintiffs’ intellectual property for its own gain. In fact, Plaintiffs are informed and
19 believe that an affiliate company of Lilith, LongTu Games, has developed and/or recently
20 published in Asia a game entitled “Star Legend,” which appropriates and exploits iconic
21 “StarCraft” characters, vehicles, settings, and other assets.

22 20. For many of the characters in the Lilith Games, Lilith also has copied Plaintiffs’
23 character’s spellbook or its set of special powers. Indeed, many of the action icons present in the
24 Lilith Games appear to be directly appropriated from Plaintiffs’ games. For example, “Dota
25 Legends” and “Dot Arena” contain a character that resembles a sea captain, who has the ability to
26 launch a ghostly pirate ship to stun and inflict damage to enemies. That character is copied from
27 Dota 2’s “Kunkaa the Admiral,” whose powers include “Ghost Ship,” by which Kunkaa
28 “summons a ghostship to cut a swath through battle, causing damage and stuns to enemy units as

1 it crashes through.” Plaintiffs also are informed and believe, and on that basis allege, that certain
2 settings, terrain, background art, and other assets within the Lilith Games (as well as “Heroes
3 Charge”) infringe protected elements of their games.

4 21. Plaintiffs are informed and believe, and on that basis allege, that in or about August
5 2014, uCool released a game titled “Heroes Charge.” “Heroes Charge” is extremely similar in
6 gameplay, design, and appearance to the Lilith Games. In fact, Lilith has alleged in a separate
7 lawsuit that “Heroes Charge” is a verbatim or near verbatim copy of the Lilith Games and copied
8 Lilith’s computer software source code.

9 22. “Heroes Charge,” like the Lilith Games, is a mobile game in which the player
10 builds a team from a roster of heroes and completes a series of objectives. Similarly, dozens of
11 characters from “Heroes Charge” are derived from and substantially similar to Blizzard and
12 Valve’s characters, rendered in cartoonish, two-dimensional form.

13 23. Plaintiffs are informed and believe, and on that basis allege, that uCool either
14 intentionally designed its heroes to emulate and copy Blizzard and Valve’s characters or, more
15 likely, appropriated the entirety of Lilith’s characters (including their spells and special actions)
16 and re-published them with minor and insubstantial changes. As a result, all or nearly all of
17 uCool’s publicly disclosed heroes are copied either from Blizzard or Valve, and/or copied from
18 the Lilith Games, which copied their heroes from Blizzard and Valve.

19 24. Additionally, accompanying each of the heroes in “Heroes Charge” is a hand-
20 drawn image of the character, representing the character in more detail and in a less cartoonish
21 manner. Many, if not all, of these character portraits are copied or derived from images of
22 characters in the “Warcraft” universe or “Dota 2.” In fact, one of the images (of uCool’s version
23 of Blizzard’s “Chen Stormstout” character), is a direct reference to the box art of the 2012
24 expansion to Blizzard’s popular game “World of Warcraft,” titled “Mists of Pandaria”:

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9 Other of uCool's character drawings are equally if not more blatant copies of Blizzard and Valve's
10 characters, such as its "Savage One," derived from and substantially similar to Blizzard's Naga
11 warrior, and "Emberstar," derived from Dota 2's "Lina."

12 25. "Heroes Charge," due in large part (if not entirely) to its use of look-alikes of
13 Plaintiffs' characters, has been enormously successful. "Heroes Charge" is one of the top ranked
14 games on the Apple App and Google Play Stores and has been downloaded millions of times. It
15 has been publicly reported that uCool recently spent \$2.25 million to run a 15-second
16 advertisement for "Heroes Charge" during the 2015 Super Bowl, and thereafter launched a
17 nationwide television campaign for the game. "Heroes Charge" continues to generate substantial
18 revenue for uCool.

19 26. Plaintiffs are informed and believe, and on that basis allege, that both Lilith and
20 uCool designed and marketed their games with the intention of capturing the attention of the tens
21 of millions of consumers who are fans of Plaintiffs' games. They deliberately created
22 substantially similar versions of Plaintiffs' characters in order to make their games immediately
23 recognizable to the general public and to capture the appeal and popularity of Plaintiffs' games.
24 Defendants did so in order to maximize the number of people downloading their games and then,
25 in turn, to sell upgrades and virtual items to some portion of those players. In fact, uCool's users
26 have repeatedly noted the similarity between uCool's "heroes" and Plaintiffs' characters: "we just
27 love[] the fact they [the heroes] were Warcraft/Dota lookalikes and we would like to have it this
28 way forever." Additionally, by withholding versions of some of Plaintiffs' most popular

1 characters until unlocked by game play or virtual currency, Plaintiffs encourage and induce their
2 players to invest a substantial amount of time and money to ensure that they are able to play with
3 those characters.

4
5 **FIRST CLAIM FOR RELIEF**

6 **Copyright Infringement**

7 (By Plaintiffs Against Lilith)

8 27. Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1
9 through 26, as if set forth fully herein.

10 28. Blizzard is the owner of valid and registered copyrights in each of the Blizzard
11 Works.

12 29. Valve is the owner of valid and registered copyrights in each of the Valve Works.

13 30. Lilith has infringed, and is continuing to infringe, Blizzard and Valve’s copyrights
14 by reproducing, adapting, distributing, publicly performing, and publicly displaying, and
15 authorizing others to reproduce, adapt, distribute, publicly perform, and publicly display
16 copyrighted elements of the Blizzard Works and Valve Works without authorization, in violation
17 of the Copyright Act, 17 U.S.C. § 101 *et seq.*

18 31. Neither Blizzard nor Valve ever have authorized or given consent to Lilith to use
19 their copyrighted works in the manner complained of herein.

20 32. Lilith’s acts of infringement are willful, in disregard of, and with indifference to the
21 rights of Blizzard and Valve.

22 33. As a direct and proximate result of the infringements alleged herein, Blizzard and
23 Valve are entitled to damages and to Lilith’s profits in amounts to be proven at trial, which are not
24 currently ascertainable. Alternatively, Blizzard and Valve are entitled to maximum statutory
25 damages of \$150,000 for each copyright infringed, or in such other amount as may be proper
26 under 17 U.S.C. § 504(c).

27 34. Blizzard and Valve further are entitled to their attorneys’ fees and full costs
28 pursuant to 17 U.S.C. § 505.

1 damages of \$150,000 for each copyright infringed, or in such other amount as may be proper
2 under 17 U.S.C. § 504(c).

3 43. Blizzard and Valve further are entitled to their attorneys’ fees and full costs
4 pursuant to 17 U.S.C. § 505.

5 44. As a result of uCool’s acts and conduct, Blizzard and Valve have sustained and will
6 continue to sustain substantial, immediate, and irreparable injury, for which there is no adequate
7 remedy at law. Blizzard and Valve are informed and believe, and on that basis allege, that, unless
8 enjoined and restrained by this Court, uCool will continue to infringe Plaintiffs’ rights in the
9 Blizzard and Valve works. Plaintiffs are entitled to temporary, preliminary, and permanent
10 injunctive relief to restrain and enjoin uCool’s continuing infringing conduct.

11
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray that this Court enter judgment in their favor on each and
14 every claim for relief set forth above and awarding them relief including, but not limited to, an
15 Order:

16 1. Preliminarily and permanently enjoining Defendants, their officers, employees,
17 agents, subsidiaries, representatives, distributors, dealers, members, affiliates, licensees, internet
18 service providers, and all persons acting in concert or participation with them from infringing
19 Plaintiffs’ copyrighted works, including by copying, selling, marketing, distributing, or publicly
20 performing the Lilith Games, “Heroes Charge,” or any substantially similar product.

21 2. Requiring Defendants to deliver to Plaintiffs all copies of materials that infringe or
22 violate any of Plaintiffs’ rights described herein.

23 3. Requiring Defendants to provide Plaintiffs with an accounting of any and all sales
24 of products or services that infringe or violate any of Plaintiffs’ rights.

25 4. Awarding Plaintiffs monetary relief including damages sustained by Plaintiffs in an
26 amount not yet determined, including actual damages and/or Defendants’ profits, or statutory
27 damages for copyright infringement and willful copyright infringement under 17 U.S.C. § 504, as
28 appropriate.

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5. Awarding Plaintiffs their costs and attorneys' fees in this action pursuant to 17 U.S.C. § 505 and other applicable laws.

6. Awarding such other and further relief as this Court may deem just and appropriate.

DATED: September 8, 2015

KARIN G. PAGNANELLI
MARC E. MAYER
DANIEL A. KOHLER
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Marc E. Mayer
Marc E. Mayer
Attorneys for Plaintiffs Blizzard
Entertainment, Inc. and Valve Corporation

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JURY DEMAND

Plaintiffs Blizzard Entertainment, Inc. and Valve Corporation hereby demand a trial by jury on all matters and issues so triable.

DATED: September 8, 2015

KARIN G. PAGNANELLI
MARC E. MAYER
DANIEL A. KOHLER
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Marc E. Mayer
Marc E. Mayer
Attorneys for Plaintiffs Blizzard
Entertainment, Inc. and Valve Corporation

JS 44 (Rev. 12/12) cand rev (1/15/13)

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

Blizzard Entertainment, Inc. and Valve Corporation

(b) County of Residence of First Listed Plaintiff Orange

(EXCEPT IN U.S. PLAINTIFF CASES)

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

Karin G. Pagnanelli (SBN 174763)/ Marc E. Mayer (SBN 190969)
Mitchell Silberberg & Knupp LLP
11377 W. Olympic Blvd.
Los Angeles, CA 90064-1683 Telephone 310-312-2000

DEFENDANTS

Lilith Games (Shanghai) Co. Ltd., uCool, Inc., uCool Ltd.

County of Residence of First Listed Defendant n/a

(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
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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status. Includes categories like Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, and Foreign Nation.

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

Large grid table for nature of suit with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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 (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):

Copyright Act, 17 USC § 501

Brief description of cause:

Copyright infringement

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: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE September 8, 2015

SIGNATURE OF ATTORNEY OF RECORD /s/ Marc E. Mayer

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

(Place an "X" in One Box Only)

() 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.