

HONORABLE TANA LIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BUNGIE, INC., a Delaware corporation,
Plaintiff,

Case No. 2:21-cv-1111-TL

v.

KUNAL BANSAL, an individual, d/b/a
LAVICHEATS.COM,
Defendant.

**REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE
PURSUANT TO THE HAGUE CONVENTION OF 18 MARCH 1970
ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL
MATTERS TO OBTAIN RELEVANT PHYSICAL EVIDENCE FROM PAYDASH LTD.**

The Honorable Tana Lin, United States District Judge of the United States District Court for the Western District of Washington, hereby requests international judicial assistance pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence in Civil or Commercial Matters (the “Hague Evidence Convention”), to obtain evidence to be used in the above-captioned civil proceeding pending before this Court (the “U.S. Civil Proceeding”). This Court has determined that it would further the interests of justice if PayDash Limited – a company incorporated in the United Kingdom that provided payment processing services to a party in the U.S. Civil Proceeding – provides documents in its possession relevant to the issues in this case.

This Request has been made upon the motion of Plaintiff Bungie, Inc. (“Bungie”), who

1 has advised this Court that the evidence sought from PayDash Limited is relevant and necessary
2 for the due determination of the matters in dispute between the parties in this case involving
3 violations of U.S. federal and state law – including violations of the Digital Millennium
4 Copyright Act, 17 U.S.C. § 1201; copyright infringement under the Copyright Act,
5 17 U.S.C. § 101 *et seq.*; trademark infringement and false designation of origin under the
6 Lanham Act, 15 U.S.C. § 1051 *et seq.*; violation of the Washington Consumer Protection Act,
7 RCW 19.86 *et seq.*; tortious interference with contractual relationship; and unjust enrichment.

8 Having considered the submissions of Bungie, this Court has found that this Request is
9 necessary in the interests of justice for the full and fair determination of the matters at issue
10 among the parties to this pending proceeding.

11 **1. Senders**

12 Plaintiff Bungie, Inc.
13 c/o Stacia N. Lay
14 stacia@focallaw.com
15 Venkat Balasubramani
16 venkat@focallaw.com
17 Focal PLLC
18 900 1st Ave. S., Suite 201
19 Seattle, Washington 98134
20 U.S.A.
21 Tel. (206) 529-4827
22 Fax (206) 260-3966

23 *As Authorized By:*
24 The Honorable Tana Lin
25 United States District Judge
26 U.S. District Court for the Western District of Washington
27 700 Stewart Street, Suite 2310
Seattle, Washington 98101

2. Central authority of the requested state

The Senior Master
For the attention of the Foreign Process Section
Room E16
Royal Courts of Justice
Strand
LONDON WC2A 2LL

1 **3. Person to whom the executed request is to be returned**

2 Plaintiff Bungie, Inc.
3 c/o Stacia N. Lay
4 stacia@focallaw.com
5 Venkat Balasubramani
6 venkat@focallaw.com
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15 Jamie Halpin
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17 Osborne Clarke LLP
18 One London Wall
19 London
20 EC2Y 5EB

21 On behalf of:
22 The Honorable Tana Lin
23 United States District Judge
24 U.S. District Court for the Western District of Washington
25 700 Stewart Street, Suite 2310
26 Seattle, Washington 98101

27 **4. Specification of the date by which the requesting authority requires receipt of the response to the Letter of Request**

A response is requested as soon as reasonably practicable, and in any event within 14 days of service of the Letter of Request, in order to ensure that the evidence may be obtained prior to Plaintiff Bungie, Inc.'s intended motion seeking entry of judgment against the Defendant in the pending U.S. Civil Proceeding.

5. In conformity with Article 3 of the Convention, the undersigned applicant has the honor to submit the following request:

(a) Requesting judicial authority (Article 3, a))

The Honorable Tana Lin

1 United States District Judge
2 U.S. District Court for the Western District of Washington
3 700 Stewart Street, Suite 2310
4 Seattle, Washington 98101

5 **(b) The competent authority of (Article 3, a))**

6 The Senior Master
7 For the attention of the Foreign Process Section
8 Room E16
9 Royal Courts of Justice
10 Strand
11 LONDON WC2A 2LL

12 **(c) Names of the case and any identifying number**

13 *Bungie, Inc.*, Plaintiff v. *Kunal Bansal*, Defendant, Case No. 2:21-cv-1111-TL (W.D.
14 Wash.).

15 **6. Names and addresses of the parties and their representatives (including**
16 **representatives in the requested State) (Article 3, b))**

17 **(a) Plaintiff and Representative**

18 Plaintiff Bungie, Inc.

19 *Representatives:*

20 Stacia N. Lay
21 stacia@focallaw.com
22 Venkat Balasubramani
23 venkat@focallaw.com
24 Focal PLLC
25 900 1st Ave. S., Suite 201
26 Seattle, Washington 98134
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Jamie Halpin
jamie.halpin@osborneclarke.com
Osborne Clarke LLP
One London Wall
London
EC2Y 5EB

1 **(b) Defendant and Representative**

2 Defendant Kunal Bansal

3 Representative: None

4 **7. (a) Nature of the proceedings (Article 3, c))**

5 The above-captioned pending case is a civil proceeding in the United States District
6 Court for the Western District of Washington. The case arises from Defendant Kunal Bansal’s
7 marketing, sale, and distribution of “hacks” or “cheats” for Bungie’s online, multiplayer first-
8 person shooter video game franchise, “Destiny”, and specifically “Destiny 2,” the latest chapter
9 in the franchise. Bungie alleges a number of claims under U.S. federal law as well as
10 Washington State law.

11 **(b) Summary of complaint**

12 Bungie is the owner of the video game franchise “Destiny.” Bungie also is the owner of
13 all rights, title and interest in the copyrights in “Destiny 2,” the most recent chapter in the
14 “Destiny” franchise. Those copyrights are the subject of a number of U.S. copyright
15 registrations. Bungie also owns numerous trademarks associated with the Destiny franchise.

16 Defendant Kunal Bansal, via websites and using third-party online service providers,
17 marketed, distributed, sold, and/or supported “cheats” or “hacks” for use in connection with
18 Bungie’s Destiny 2 game that give players an unfair advantage in the game and which are barred
19 by Bungie’s Limited Software License Agreement. These cheats – referred to as the Lavicheats –
20 infringe on Bungie’s copyrights in Destiny 2 by, among other things, modifying the game’s
21 visual output and the way the game performs for the player using the cheats. The Lavicheats, by
22 employing means to avoid detection of the cheats, also circumvent technological measures
23 Bungie has in place to control access to its copyrighted work, Destiny 2. Additionally, in
24 advertising and marketing the Lavicheats, Defendant Bansal used Bungie’s DESTINY
25 trademarks as well as images and artwork from Bungie’s copyrighted work, Destiny 2.

26 Based on these and other allegations, Bungie has alleged the following claims in its
27 Complaint in the pending U.S. Civil Proceeding: trafficking in circumvention devices

1 (17 U.S.C. § 1201(a)(2)); contributory and vicarious copyright infringement (17 U.S.C. § 101 *et*
2 *seq.*); trademark infringement (15 U.S.C. § 1114); false designation of origin and unfair
3 competition (15 U.S.C. § 1125(a)); violation of Washington Consumer Protection Act
4 (RCW 19.86 *et seq.*); tortious interference with contractual relationship; and unjust enrichment.

5 In addition to Defendant Kunal Bansal, the Complaint named several other defendants. However,
6 those other defendants have since been dismissed and therefore the claims in the U.S. Civil
7 Proceeding are pending only against Defendant Kunal Bansal.

8 **(c) Summary of defense and counterclaim**

9 Defendant Kunal Bansal, despite being properly served with the Complaint in this case
10 and receiving notice of the claims against him, elected not to appear in the U.S. Civil Proceeding.

11 **(d) Other necessary information or documents**

12 A copy of the Complaint filed in this pending proceeding is attached in Appendix 1
13 hereto.

14 **8. (a) Evidence to be obtained or other judicial act to be performed (Article 3, d))**

15 Plaintiff Bungie, Inc. asks that its requests for documents – outlined in section 10 below –
16 be duly enforced by the Central Authority for the United Kingdom against PayDash Limited.
17 Bungie contends that the documents in the possession of PayDash Limited are necessary to prove
18 essential elements of its claims against Defendant Kunal Bansal.

19 **(b) Purpose of the evidence or judicial act sought**

20 The evidence sought in this Request is intended for use in the pending U.S. Civil
21 Proceeding between Plaintiff Bungie, Inc. and Defendant Kunal Bansal currently pending in the
22 above-referenced U.S. court in order to demonstrate Bungie’s entitlement to relief against
23 Defendant. Plaintiff’s investigation indicates that Defendant Kunal Bansal used PayDash
24 Limited to provide payment processing services in connection with the activities described in the
25 Complaint. Therefore, PayDash Limited is likely to have information relevant to, in particular,
26 the scope and quantum of the damages caused by Defendant Bansal’s unlawful activities. The
27 evidence is intended to be used in connection with Bungie’s upcoming request for entry of

1 judgment against Defendant Bansal on those damages.

2 **9. Identity and Address of Person to be Examined**

3 No witness examination is sought; however, documentary evidence is sought from
4 PayDash Limited of Leonard Curtis House 1a Elms Square, Bury New Road, Whitefield, M45
5 7TA, as outlined below.

6 **10. Documents or other property to be inspected (Article 3, g))**

7 Plaintiff Bungie, Inc. seeks documentary evidence responsive to the following requests
8 for production. It would further the interests of justice for PayDash to produce or make available
9 for inspection the documents in its possession, custody, or control set forth below. Based upon
10 the facts and issues presented to it, this Requesting Court believes that PayDash may have the
11 documents set forth below in its possession, custody, or control based on evidence from Plaintiff
12 indicating PayDash’s provision of payment processing services to Defendant Kunal Bansal in
13 connection with the Lavicheats for Destiny 2. In addition, the Requesting Court respectfully
14 requests that PayDash authenticate the documents produced in response to the requests set forth
15 below as business records of the company.

16 Following are the document requests and the applicable definitions that Bungie seeks to
17 present to PayDash Limited. For convenience, it is requested that electronic copies of the
18 documents be provided. Nothing in the following requests shall call for the disclosure of
19 information that is protected from disclosure under the law of the United Kingdom or the United
20 States, including but not limited to the attorney-client privilege and attorney work-product
21 doctrine.

22 **DEFINITIONS:**

23 1. “Document” as used in the document requests shall have the broadest possible
24 meaning ascribed to it and shall include, without limitation, any and all written, printed,
25 typed, recorded, or graphic matter of every type and description, in PayDash Limited’s
26 possession, custody, or control.

27 2. “Identify” means:

1 a. for individuals, to provide the name, user name, home address(es), office
2 address(es), mailing address(es), billing address(es), email address(es), telephone
3 numbers, facsimile numbers, Media Access Control (MAC) number, related websites,
4 URLs, IP Addresses used by the subscriber with the date, time zone, hour, minute, and
5 second when each IP address was used, and any and all other identifying information,
6 including for example, information contained on any activity logs;

7 b. for entities, to provide the name, office address(es), mailing address(es),
8 billing address(es), email address(es), telephone numbers, facsimile numbers, Media
9 Access Control (MAC) number, related websites, URLs, IP Addresses used by the
10 subscriber with the date, time zone, hour, minute, and second when each IP address was
11 used, and any and all other identifying information, including for example, information
12 contained on any activity logs; and

13 c. in all other instances, the term shall be construed in accordance with its
14 ordinary meaning with the intent of providing sufficient information to identify the
15 requested subject matter.

16 3. “IP Address” means Internet Protocol address and Internet Protocol number.

17 4. “Know Your Customer information” or “KYC information” means any
18 information you request and/or collect – whether voluntarily or pursuant to legal
19 requirements – to verify the identity of individuals.

20 5. “You” or “Your” means PayDash Limited and its attorneys, agents, employees,
21 officers, representatives, former directors, and any other person or entity acting on behalf
22 and/or in control of PayDash Limited.

23 **DOCUMENT REQUESTS:**

24 Document Request No. 1. Documents sufficient to Identify all accounts linked to,
25 associated with, or related to any of the following identifiers, and any and all related
26 accounts:

27 a. Kunal Bansal

1 b. kunalbansal922@gmail.com

2 c. lavicheats.com

3 d. lavicheats.org

4 Document Request No. 2. To the extent not produced in response to any other
5 document request, Know Your Customer information for each of the accounts identified
6 in response to Document Request No. 1.

7 Document Request No. 3. Documents sufficient to Identify all individuals and/or
8 entities who have at any time held, owned, or administered any of the accounts identified
9 in response to Document Request No. 1.

10 Document Request No. 4. All IP addresses used to access, log into, or register, any of
11 the accounts identified in response to Document Request No. 1.

12 Document Request No. 5. All sales, transaction, and payment processing data for all
13 of the accounts identified in response to Document Request No. 1 from and including
14 2019 to the present.

15 **11. Special methods or procedure to be followed (Articles 3 *i*) and 9))**

16 Except to the extent that such rules are incompatible with English law, it is respectfully
17 requested that the responses to the requests for production follow the instructions outlined above,
18 which are pursuant to United States procedural guidelines, specifically, the Federal Rules of
19 Civil Procedure. It is further requested that PayDash Limited provide general information
20 regarding any responsive documents in its possession over which it claims privilege.

21 **12. Request for notification of the time and place for the execution of the Request and**
22 **identity and address of any person to be notified (Article 7)**

23 The undersigned requests notification of the time and place for the execution of the
24 Request to be sent to the following persons:

25 Counsel for Plaintiff Bungie, Inc.:
26 Stacia N. Lay
stacia@focallaw.com
27 Venkat Balasubramani
venkat@focallaw.com

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2 900 1st Ave. S., Suite 201
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9 Jamie Halpin
10 jamie.halpin@osborneclarke.com
11 Osborne Clarke LLP
12 One London Wall
13 London
14 EC2Y 5EB

15 The Honorable Tana Lin
16 United States District Judge
17 U.S. District Court for the Western District of Washington
18 700 Stewart Street, Suite 2310
19 Seattle, Washington 98101

20 **13. Specification of privilege or duty to refuse to give evidence under the law of the State or origin (Article 11, b))**

21 All documentary evidence to be provided pursuant to the Request will be subject to any
22 applicable assertions of privilege available under the law of the United States and/or the law of
23 the United Kingdom. If any documents are withheld on such grounds, a statement to that effect
24 should be provided indicating what documents are withheld or redacted and the nature of the
25 privilege claimed.

26 **14. The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under Article 26 of the Convention will be borne by:**

27 Counsel for Plaintiff Bungie, Inc. respectfully requests that it be notified if
reimbursement is to be sought for any costs or fees that may be incurred:

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3 Tel. (206) 529-4827
4 Fax (206) 260-3966

5 DATE OF REQUEST: 3 August 2022

6 SIGNATURE AND SEAL OF THE
7 REQUESTING AUTHORITY



8 Honorable Tana Lin
9 United States District Judge

10 Dated this 3rd day of August 2022.