

HON. MARSHA J. PECHMAN

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BUNGIE, INC.,

Plaintiff,

v.

NICHOLAS MINOR a/k/a "LORD
NAZO",

Defendant.

Case No. 2:22-cv-371-MJP

FIRST AMENDED COMPLAINT FOR
(1) FRAUDULENT DMCA NOTICES
UNDER 17 U.S.C. § 512(f); (2) FALSE
DESIGNATION OF ORIGIN UNDER 15
U.S.C. §§ 1125(a) and 1117(a); (3)
COPYRIGHT INFRINGEMENT UNDER
17 U.S.C. § 501 et seq.; (4) BUSINESS
DEFAMATION; (5) VIOLATION OF
THE WASHINGTON
CONSUMER PROTECTION ACT, RCW
19.86.020; and (6) BREACH OF
CONTRACT

JURY DEMAND

Plaintiff Bungie, Inc. ("Bungie"), as and for its complaint against Defendant
Nicholas Minor a/k/a Lord Nazo, respectfully alleges as follows:

INTRODUCTION

1. Bungie is the creator, developer, and publisher of *Destiny* and *Destiny 2*,
wildly successful massively multiplayer online first-person shooter games with a
devoted fanbase. This case arises out of Nick Minor's malicious campaign to serve
fraudulent takedown notices to some of the most prominent and passionate members of

1 that fanbase, purportedly on Bungie’s behalf, in apparent retaliation for Bungie
2 enforcing its copyrights against material Minor uploaded to his own YouTube channel.

3 2. In December 2021, Bungie’s brand protection vendor, CSC Global
4 (“CSC”), issued a series of Digital Millennium Copyright Act (“DMCA”) takedown
5 notices under Bungie’s direction to a number of YouTube channels that had uploaded
6 content that infringed Bungie’s copyrights and violated Bungie’s published policy on
7 fan use of intellectual property.

8 3. Among those receiving takedown notices was the YouTube channel of
9 Lord Nazo, who had posted music from Bungie’s original soundtrack (“OST”) for *The*
10 *Taken King*, a *Destiny* expansion released in 2015, in violation of Bungie’s intellectual
11 property policy.

12 4. In Bungie’s experience, most YouTubers who receive DMCA takedown
13 notices voluntarily delete the infringing video and make an effort to avoid future
14 infringements.

15 5. Minor chose a different path.

16 6. After receiving the takedown notice, Minor left his infringing video up for
17 the maximum possible time – until late January 2022, when YouTube deleted it – and
18 instead created a new Gmail address, JeffreyWilandCSC@gmail.com, intended to mimic
19 the syntax of the email address CSC used for Bungie’s legitimate takedowns.

20 7. In February 2022, he purchased and uploaded multiple tracks from
21 another OST – this time, for Bungie’s latest release, *The Witch Queen*. When Bungie had
22 CSC send DMCA takedowns for this second infringement and other infringing videos
23 on his channel, Minor acted. He registered a second fake “CSC” email address –
24 damianreynoldscsc@gmail.com – and began to send out a wave of fraudulent takedown
25 notices.

1 8. *Ninety-six* separate times, Minor used his fake “CSC” Gmail addresses¹ to
2 exploit the hole in YouTube’s DMCA-process security that allows anyone at all to claim
3 to be representing a rights holder for purposes of issuing a takedown, with no real
4 safeguards against fraud.

5 9. Ninety-six times, Minor sent DMCA takedown notices purportedly on
6 behalf of Bungie, identifying himself as Bungie’s “Brand Protection” vendor in order to
7 have YouTube instruct innocent creators to delete their *Destiny 2* videos or face
8 copyright strikes, disrupting Bungie’s community of players, streamers, and fans. And
9 all the while, “Lord Nazo” was taking part in the community discussion of “Bungie’s”
10 takedowns, spreading disinformation.

11 10. This caused Bungie significant reputational and economic damage, for
12 obvious reasons. As discussed below, the *Destiny* community was bewildered and
13 upset, believing that Bungie had reneged on a promise to allow players to build their
14 own streaming communities and YouTube channels on *Destiny 2* content. *Destiny*
15 community members were also misled to believe that Bungie’s brand protection agent
16 was also fraudulent, causing confusion among users as to the authenticity of legitimate
17 DMCA notices. Bungie had to devote significant internal resources to addressing it and
18 helping its players restore their videos and channels – an effort complicated by the fact
19 that while YouTube has a form that allows anyone to claim to represent a copyright
20 holder and issue copyright strikes, it has no dedicated mechanism for copyright holders
21 who are being impersonated to let YouTube know about the DMCA fraud. This meant
22 that Bungie had to work through several layers of YouTube contacts over a period of
23

24
25 ¹ As discussed below, one of those 96 attempts was actually sent from Minor’s JacobAverz@gmail.com
account, apparently in error: the name and address information Minor manually typed into YouTube’s
DMCA form was for “Damian Reynolds”, but the account from which Minor entered the form was the
JacobAverz account.

1 several days before it could adequately communicate and begin addressing the
2 problem.

3 11. Minor no doubt relied on his presumed anonymity to protect him as he
4 embarked on his campaign. But, as detailed below, he left more than enough traces for
5 Bungie to conclusively identify him once Google produced its data on the fraudulent
6 email addresses.

7 12. Bungie thus brings this action to recover for Minor's tortious and illegal
8 conduct, and, frankly, to demonstrate that serious consequences await anyone else
9 foolish enough to volunteer as a Defendant by targeting Bungie's community for attack.

10 **PARTIES**

11 13. Plaintiff Bungie is a Delaware corporation with its primary place of
12 business at 550 106th Avenue NE, Suite 207, Bellevue, Washington 98004.

13 14. Minor is an individual residing at 6520 Ibis Ct., Rocklin, CA 95765.

14 **JURISDICTION AND VENUE**

15 15. The Court has subject matter jurisdiction over this action pursuant to 28
16 U.S.C. § 1331, in that Plaintiff asserts claims under federal law, including for violations
17 of Section 512(f) of the Digital Millennium Copyright Act and infringement of Bungie's
18 copyrights, and supplemental jurisdiction over Bungie's state law claims under 28
19 U.S.C. § 1367(a).

20 16. This court has personal jurisdiction over Minor because Minor is a *Destiny*
21 and *Destiny 2* player who consented to jurisdiction in the state and federal courts in
22 King County, Washington by accepting the terms of Bungie's Limited Software License
23 Agreement (the "LSLA"), which provides that the licensee "agree[s] to submit to the
24 personal jurisdiction of any federal or state court in King County, Washington."
25

1 17. Additionally, this court has personal jurisdiction over Defendant pursuant
2 to RCW 26.50.240, the Washington Long-Arm Statute, because the Defendant
3 committed tortious acts that caused Bungie injury in the State of Washington.

4 18. Venue is proper under 28 U.S.C. § 1391(b)(2), in that a substantial part of
5 the events or omissions giving rise to the claims occurred in this judicial district and
6 Defendant harmed Bungie in this judicial district.

7 BACKGROUND

8 I. THE *DESTINY* COMMUNITY

9 19. *Destiny 2* is a shared-world online first-person shooter available across
10 multiple platforms, including PlayStation 4 and 5, PC, Stadia, and the Xbox One and
11 Series X consoles.

12 20. *Destiny 2* boasts a community of tens of millions of players worldwide.

13 21. But members of the *Destiny 2* community do more than just play the game
14 – content creators build fan followings of their own for their gameplay or commentary,
15 which is often streamed to followers and subscribers and/or uploaded to YouTube for
16 asynchronous viewing.

17 22. For instance, YouTubers like My Name is Byf and Datto have roughly a
18 million or more subscribers who watch their videos about *Destiny 2*, its lore and
19 gameplay.

20 23. And this isn't just gratifying for Bungie, though seeing the community's
21 love for its game is certainly that. *Destiny's* base game is free to play, as is character
22 levelling – gamers can play *Destiny 2* without purchasing anything at all unless they
23 want to.

24 24. Instead, Bungie's income stream from the *Destiny 2* game is entirely based
25 on additional content gamers choose to buy: downloadable content including

1 expansions (additional campaigns and storylines), in-game currency (“Silver,” which
2 players can purchase for real money and use in the *Destiny 2* world to “purchase”
3 cosmetic items for their characters), seasonal content, and other in-game features and
4 additions.

5 25. Thus, unlike a more typical model in which companies earn income by
6 retailing individual copies or downloads of games, Bungie generates revenue from
7 *Destiny 2* if and only if its players find the game experience so compelling and enjoyable
8 that they want to buy additional content.

9 26. As a result, the level of connection and community that Bungie’s players
10 share directly affects Bungie’s bottom line.

11 **II. BUNGIE’S INTELLECTUAL PROPERTY POLICY AND ENFORCEMENT**

12 27. Bungie is the owner of more than 200 registered copyrights and
13 trademarks.

14 28. Bungie’s registered copyrights cover, among other things, its game
15 software, its game as an audio-visual work, and various elements of its games,
16 including music and art used in the games.

17 29. Because those elements are integral to the gaming experience, and because
18 Bungie wants its community to be able to share and discuss *Destiny* gameplay and
19 elements, but also wishes to protect its intellectual property, Bungie has adopted a
20 comprehensive policy governing the use, display, and performance of Bungie’s
21 copyrighted works.

22 30. As noted in its intellectual property policy, “Bungie strongly supports the
23 efforts of our community to produce non-commercial content using video images,
24 footage, music, sounds, dialogue, or other assets from our games, subject to a few
25

1 conditions” and “generally approves streaming or commentary through approved
2 platforms like Twitch, YouTube, or Facebook.”

3 31. Bungie reserves the right to enforce its intellectual property rights against
4 infringers who violate the guidelines in its intellectual property policy, community
5 standards, or code of conduct.

6 32. Bungie permits players to create videos using *Destiny* gameplay.

7 33. Bungie permits players to upload gameplay videos to third-party video
8 sharing services such as YouTube, including to video-on-demand services that enable
9 players to monetize content, provided the videos contain substantial “player created
10 content.”

11 34. Bungie specifically notes that the sharing of videos that are primarily
12 Bungie-created content, e.g. trailers or cutscenes, is not allowed.

13 35. Similarly, simply uploading songs from Bungie soundtracks or ripped
14 from the game files of *Destiny 2* does not comply with Bungie’s intellectual property
15 policy.

16 36. Bungie uses CSC as its vendor to handle DMCA takedown notices for
17 infringing content that does not comply with Bungie’s intellectual property policy,
18 including content uploaded to YouTube.

19 37. YouTube’s DMCA reporting form requires the reporting party to use a
20 Google account if the reporting party processes DMCA requests via a YouTube content
21 management product (Creator Studio or Content Manager).

22 38. For that reason, CSC created and uses the davidthomsoncsc@gmail.com
23 account for its DMCA work relating to YouTube videos.

24 39. At no point does CSC issue takedown notices on YouTube uploads related
25 to *Destiny* without specific approval from Bungie’s legal department.

1 40. CSC maintains a record of the DMCA takedowns it executes on Bungie's
2 behalf.

3 **III. THE TAKEDOWNS FOR VIDEOS ON MINOR'S "LORD NAZO" YOUTUBE CHANNEL**

4 41. On or about December 20, 2021, with Bungie's approval and direction,
5 CSC issued a DMCA takedown for Minor's upload of *The Last Stand* - a track from the
6 *Taken King* OST - to his Lord Nazo YouTube channel.

7 42. Minor neither voluntarily deleted the infringing video nor provided
8 YouTube with a counternotice claiming his use was non-infringing; instead, he simply
9 left the video up until YouTube deleted it on or about January 25, 2022.

10 43. On January 25, 2022, Minor created the JeremyWilandCSC@gmail.com
11 account.

12 44. On January 26, Minor tweeted his recognition that the DMCA takedown
13 for *The Last Stand* was a legitimate takedown submitted by CSC as Bungie's brand
14 protection vendor, responding to another user who had lost a video to a copyright
15 strike and saying:

16 Except it's not actually Bungie who is going after them. It's a
17 3rd-party "brand protection service", which is typically more
18 of a nuisance than a benefit, especially to developers like
19 Bungie who are open to community content.

19 45. Upon information and belief, on February 5, 2022, Minor used his
20 JeremyWilandCSC@gmail.com account to submit a false DMCA takedown purportedly
21 on Bungie's behalf.

22 46. On February 25, 2022, Minor purchased a physical copy of the *Witch*
23 *Queen* OST from Bungie's online store.

24 47. That album was shipped to Minor's home address.
25

1 48. The *Witch Queen* OST purchase came with a digital perk: a downloadable
2 emblem – a virtual badge that can be applied to a player’s *Destiny* account.

3 49. Bungie delivered the emblem via a clickable link in an email to the
4 PerfectNazo1@gmail.com email address Minor supplied at the time of the purchase.

5 50. After purchasing the *Witch Queen* OST, Minor began uploading tracks
6 from the OST to his Lord Nazo YouTube channel.

7 51. On or about March 2, 2022, at Bungie’s direction, CSC initiated a series of
8 DMCA takedowns – 41 in total – relating to infringing content that had been uploaded
9 to YouTube (the “Early March Takedowns”). All 41 Early March Takedowns related to
10 music from *Destiny 2* OSTs.

11 52. Among those were 23 Early March Takedowns of videos on Minor’s Lord
12 Nazo YouTube channel.

13 53. Because Minor was a repeat offender, YouTube disabled the Lord Nazo
14 channel on March 3, 2022.

15 54. Minor instantly took to Twitter to complain to Bungie about the deletion:

16 @Bungie @A_dmg04 @Cozmo23 Please help me! I can’t access
17 anything on my Google account because it has been disabled due to
18 copyright takedowns. Please retract the takedowns and I will delete
everything that infringes on your copyright.

19 55. He also posted to his YouTube channel’s “Community” tab, informing his
20 subscribers that he was “taking steps to prevent any further copyright strikes.”

21 56. Upon information and belief, YouTube’s actions in response to the Early
22 March Takedowns were complete on or about March 16, 2022.

1 **IV. MINOR’S RETALIATORY ATTACK ON THE DESTINY COMMUNITY**

2 57. On March 16, Minor tweeted his dissatisfaction with Bungie’s copyright
3 enforcement: “This is getting out of hand. Bungie needs to rectify these copyright
4 takedowns and lock down their brand management ...”

5 58. Beginning on or about March 17, 2022, Minor began submitting a wave of
6 unauthorized DMCA takedown notices (“Fraudulent Takedown Notices”) to YouTube
7 for videos that allegedly infringed Bungie’s copyrights.

8 59. Upon information and belief, Minor created the two fake
9 [name]csc@gmail.com Google accounts specifically in order to submit Fraudulent
10 Takedown Notices.

11 60. On March 17, 2022, Minor sent out 38 Fraudulent Takedown Notices: 36
12 from the “Jeremy Wiland” account, 1 from jacobaverz@gmail.com in which he
13 identified himself as “Damian Reynolds”, and a duplicate of that “Jacob Averz”
14 takedown from the “Damian Reynolds” account.

15 61. Upon information and belief, Minor accidentally switched from his
16 Jeremy Wiland account to his Jacob Averz account before submitting the Jacob Averz
17 takedown, while believing he had switched to his “Damian Reynolds” account, and
18 therefore entered the information “Damian Reynolds” into the form. A copy of the
19 Jacob Averz Fraudulent Takedown Notice (and the subsequent correspondence
20 between Minor and YouTube) is annexed hereto as Exhibit A.

21 62. Upon information and belief, upon realizing that he had used the wrong
22 email address, Minor switched to the Damian Reynolds account and submitted an
23 identical takedown targeting the same video. A copy of the Damian Reynolds
24 Fraudulent Takedown Notice is annexed hereto as Exhibit B.

25

1 63. As reflected in Exhibits A and B, and perhaps because of the duplication
2 and the use of an email account without the [name]CSC@gmail.com naming
3 convention, on March 18, 2022 YouTube flagged both notices as fraudulent and asked
4 Minor to provide documentation of his authority to represent Bungie as the copyright
5 holder.

6 64. Both times that YouTube requested such documentation, Minor
7 responded the same way: "I hereby retract my claim of copyright infringement."

8 65. Minor was fully aware at all times that he had no authority to submit *any*
9 of the Fraudulent Takedown Notices.

10 66. Nevertheless, Minor identified himself as Bungie's authorized agent when
11 submitting the Fraudulent Takedown Notices, providing a corporate web address,
12 phone number, and address of an authentic CSC office in Delaware to do so, and
13 claiming, "I am part of CSC Brand Protection." See Exhibit A.

14 67. On March 18, 2022, Minor sent another five Fraudulent Takedown Notices
15 from the Jeremy Wiland account.

16 68. On March 19, 2022 – the same day he withdrew the Jacob Averz and
17 Damian Reynolds Fraudulent Takedown Notices – Minor submitted another 53
18 Fraudulent Takedown Notices.

19 69. Over those three days in March, Minor submitted 96 Fraudulent
20 Takedown Notices targeting 95 videos posted by many members of the *Destiny*
21 community, including but not limited to:

- 22 a. My Name is Byf, a *Destiny* YouTuber with 966,000 subscribers;
- 23 b. Aztecross, a *Destiny* YouTuber with 594,000 subscribers;
- 24 c. The Phoenix, a *Destiny* YouTuber with 54,000 subscribers;

1 d. Promethean, Archival Mind, a *Destiny* YouTuber with 17,800 subscribers;
2 and

3 e. Azrod_FR, a French YouTuber with 984 subscribers.

4 70. Indeed, Bungie's own official *Destiny* YouTube channel got hit with a
5 Fraudulent Takedown Notice.

6 71. Having taken advantage of YouTube's reporting system by impersonating
7 CSC, the attack was a success, and videos were removed on the basis of the Fraudulent
8 Takedown Notices.

9 72. Upon information and belief, Minor filed a fraudulent DMCA notice
10 targeting his own YouTube channel, purportedly on behalf of Bungie, using the
11 fraudulent alias "jeremywilandcsc@gmail.com."

12 73. Using the confusion engendered by his own false DMCA notices, Minor
13 also sent a counternotification to YouTube, *specifically* challenging Bungie's
14 identification of his videos as infringing based on the idea that the notifications may
15 have been part of his own wave of fraudulent takedowns:

16 Takedowns were issued on these videos, supposedly on behalf
17 of Bungie Inc., on the basis that using content from Bungie's
18 games violated their trademark. However, Bungie's guidelines
19 from their own website regarding use of their intellectual
20 property state otherwise: "Bungie strongly supports the efforts
21 of our community to produce non-commercial content using
22 video images, footage, music, sounds, dialogue, or other assets
23 from our games..." (Source:
24 [https://www.bungie.net/7/en/Legal/IntellectualPropertyTra](https://www.bungie.net/7/en/Legal/IntellectualPropertyTrademarks)
25 demarks) The music in these videos are from the game *Destiny*
2, which is permitted under their guidelines. Seeing as Bungie
has been, and still is, supportive of community-made content, it
would seem that these copyright takedowns go against their
wishes.

Furthermore, as per Bungie's tweet it seems like the claimant,
David, has been issuing false copyright takedowns as well:

1 “We’re aware of a series of copyright takedowns on YouTube
2 and we’re actively investigating. This includes content on our
3 own Bungie channels.

4 These actions are NOT being taken at the request of Bungie or
5 our partners. Please standby for future updates.

6 <http://bung.ie/3CZAYta>” - Source:
7 <https://twitter.com/Bungie/status/1505630845993844736>

8 **As stated from Bungie’s tweet, these takedowns were NOT**
9 **made at their request.** Plus, I have uploaded these videos for
10 years without any request from Bungie to take them down, and
11 it is even confirmed by Bungie that they did not issue or ask for
12 these takedowns.

13 I believe these videos were flagged by mistake due to parts of
14 them bearing resemblance to the original music they were
15 derived from. The videos contain self-modified audio track
16 sequences that are used to create custom extended alterations of
17 the original music, which falls under the transformative case of
18 fair use. I’m also not making money off of these videos, they are
19 non-commercial. These videos also don’t detract from Bungie
20 making a profit, but rather help gather more interest in their
21 games as I always reference what was used. In addition, I
22 supplemented the videos with my own graphics and followed
23 Bungie’s aforementioned guidelines.

24 I swear, under penalty of perjury, that I have a good faith belief
25 the material was removed due to a mistake or misidentification
of the material to be removed or disabled.

(emphasis added).

74. Minor obviously knew that the “copyright takedowns on YouTube” that Bungie was referencing in its tweet were the Fraudulent Takedown Notices he had issued from his Jeremy Wiland, Damian Reynolds, and Jacob Averz accounts.

75. The counternotice identified “Lord Nazo” as Nick Minor, his email as perfectnazo1@gmail.com, and his address as listed above.

V. THE COMMUNITY IMPACT OF MINOR’S ATTACK, AND BUNGIE’S RESPONSE

76. Minor’s attack sent shockwaves through the *Destiny* community.

1 77. Community members described the loss of the falsely-struck content as
2 “heartbreaking,”² “horrible,”³ and “[I]egitimately a tragedy.”⁴

3 78. Content creators described the chilling effect the false takedowns had on
4 their own work, saying “I’m scared to make new Destiny videos let alone keep the ones
5 I’ve already made up”⁵ and “I’m just worried that my channel is gone forever because
6 of this.”⁶

7 79. As one community member explained, “Some of the people running these
8 channels used their ‘main’ accounts for this, couldn’t take the risk. Just unlisting videos
9 doesn’t protect them from strikes at all. It was self-delete or get permanently blacklisted
10 by Google.”⁷

11 80. The community’s sorrow quickly turned to anger. Many fans reacted with
12 disbelief and frustration, saying “Bungie has always been a company that isn’t a shitty
13 soulless corp with this stuff and I’d super appreciate it if y’all can send this up to
14 flagpole to whoever can look into this”⁸ and “[t]his is the type of thing that alienates a
15 dev company from their fans... it’s damaging the community and I don’t understand it
16 tbh.”⁹

17
18
19 ²https://web.archive.org/web/20220317143736/https://www.reddit.com/r/DestinyTheGame/comments/tg01q1/its_time_to_say_goodbye_to_all_the_sunset_tracks/i10uapk/

20 ³ https://www.youtube.com/post/Ugkx78XtbobU_RBv4cVHNFAtuTCk-4Nhm15a

21 ⁴https://web.archive.org/web/20220317085347/https://twitter.com/Quantum_/status/1504380178646147073

22 ⁵https://web.archive.org/web/20220317143736/https://www.reddit.com/r/DestinyTheGame/comments/tg01q1/its_time_to_say_goodbye_to_all_the_sunset_tracks/i10uapk/

23 ⁶<https://web.archive.org/web/20220321145312/https://twitter.com/theman34005852/status/1505920305096765443>

24 ⁷https://web.archive.org/web/20220317091011/https://www.reddit.com/r/DestinyTheGame/comments/tg01q1/its_time_to_say_goodbye_to_all_the_sunset_tracks/i0zx0f6/

25 ⁸https://web.archive.org/web/20220317082420/https://www.reddit.com/r/DestinyTheGame/comments/tg01q1/its_time_to_say_goodbye_to_all_the_sunset_tracks/i0ztlvg/

⁹https://web.archive.org/web/20220320131945/https://www.reddit.com/r/destiny2/comments/tiacmp/bungie_and_their_partner_csc_are_now_extending/ileextw/

1 81. Community members felt disregarded and betrayed, saying “[i]t feels like
2 they don’t care or are complicit.”¹⁰

3 82. Because the false takedown emails used the same “CSC” identification
4 style as the authorized agent, many members believed that these were authorized
5 takedowns, saying “Bungie hired a 3rd party to enforce copyright. This is 100% on
6 Bungie.”¹¹

7 83. Minor also disseminated misinformation in various ways, helping to
8 exacerbate the community reaction to the Fraudulent Takedown Notices and, upon
9 information and belief, hoping to obscure his role as their source.

10 84. Posting from his “Lord Nazo” Twitter account on March 18, Minor sought
11 to leverage his fraud, tagging Bungie’s @DestinytheGame twitter account and multiple
12 Bungie employees while tweeting “It seems like it’s not just the music community
13 getting hit. 2 non-music channels cannot be a mistake. Either someone is making fake
14 copyright claims on behalf of @Bungie or their CSC is out of control.”

15 85. On March 20, responding to a Bungie tweet explaining that they were not
16 behind the Fraudulent Takedown Notices, Minor tweeted “I just knew it wasn’t you
17 guys. I just couldn’t believe that you’d do this to us after 8 years. I’m so glad I was
18 right.”

19 86. On March 22, Minor tweeted “The problem with this is YouTube pretty
20 much ignores everyone who doesn’t have 500k+ subscribers and the same with Bungie.
21 It took Bungie almost 2 months to respond to this, and the only reason they now
22 responded was because they and other larger channels got hit.”

23
24 _____
25 ¹⁰<https://web.archive.org/web/20220320143557/https://twitter.com/Searcy306/status/1505553615439630336>

¹¹https://web.archive.org/web/20220320173445/https://www.reddit.com/r/DestinyTheGame/comments/tinzu4/cozmo_on_twitter_regarding_youtube_videos_being/ilfcuwc/

1 87. On or about March 22, as detailed below, Minor sent out a “Manifesto”
2 designed to sow confusion about the legitimacy of CSC’s valid and authorized DMCA
3 takedowns issued on behalf of Bungie.

4 88. On March 23, Minor tweeted “@TeamYouTube People with *Destiny 2*
5 content on their channels have been getting hit with fake takedowns and even Bungie
6 confirms the takedowns aren’t legit. My channel even got terminated because of all
7 these fake takedowns. Is there anything you can do about this?”

8 89. Also on March 23, Minor took to Reddit to rile up anger at Bungie.

9 90. In one Reddit post, Minor wrote:

10 My channel started getting fake takedowns as early as January and
11 no one batted an eye. Even after Promethean’s channel started
12 getting affected, Bungie still didn’t make a public announcement. It
13 wasn’t until after their own channels got hit that they made the
14 announcement. I agree that these fake strikes would have
continued after having been ignored for so long. Plus, Bungie has
made it clear that unless a larger channel gets affected, then those
of us with smaller channels are screwed.

15 91. In another Reddit post, Minor defended the Fraudulent Takedown
16 Notices as a necessary and probably beneficial response to *Bungie’s* supposed
17 misconduct in allowing the videos he had uploaded to be taken down:

18 I don’t agree this was a great way to get Bungie’s attention either,
19 but Bungie did ignore the situation for about 2-3 months while it
20 was still happening to smaller channels. My channel even got
21 terminated because it amassed all these takedowns. I had been
uploading *Destiny* videos to my channel for 8 years. I’m not happy
about the current circumstances, but at least now I have a chance at
getting my channel restored and so do others.

22 92. On March 24, Minor tweeted at Bungie and its employees again: “You’re
23 still looking into the fake copyright takedowns, right? None of my videos have been
24 restored yet.”

1 93. On March 26, Minor attempted to defraud YouTube into restoring his
2 videos, tweeting at them to claim that his videos were subject to a “fraudulent
3 takedown” and pointing them to his “counter notification that keeps getting rejected
4 even though I explicitly mention the tweet from the copyright holder about the
5 takedowns not being issued at their request.”

6 94. Nor was the reaction to Minor’s Fraudulent Takedown Notices confined
7 to the *Destiny* community.

8 95. The Fraudulent Takedown Notices, and their aftermath, also garnered
9 significant media attention, being reported on at GamesIndustry.biz¹², GameSpot.com¹³,
10 PC Gamer^{14 15}, Forbes¹⁶, and even German web portal WinFuture¹⁷.

11 96. And at Bungie, the Fraudulent Takedown Notices consumed significant
12 time and resources.

13 97. On March 18, 2022, when the first complaints about the takedown notices
14 began coming to Bungie’s attention, Bungie’s Deputy General Counsel, James Barker,
15 reached out to Bungie’s brand protection team at CSC to inquire about a suspicious
16 takedown targeting Aztecross that was described via social media, noting that he did
17 not see the Aztecross takedown in the CSC-provided list of completed takedowns, or
18 any requests targeting Aztecross, and asking CSC to confirm if there was a takedown.

19
20
21 ¹²<https://web.archive.org/web/20220321222220/https://www.gamesindustry.biz/articles/2022-03-21-bungie-reports-destiny-youtube-video-copyright-takedowns>

22 ¹³<https://web.archive.org/web/20220321135521/https://www.gamespot.com/articles/destiny-2-copyright-strikes-hit-high-profile-creators-and-bungie/1100-6501726/>

23 ¹⁴<https://web.archive.org/web/20220324230146/https://www.pcgamer.com/bungie-says-last-weeks-destiny-2-video-takedowns-were-fraudulent/>

24 ¹⁵<https://web.archive.org/web/20220325054014/https://www.pcgamer.com/no-one-is-safe-from-destiny-copyright-strikes-not-even-bungie/>

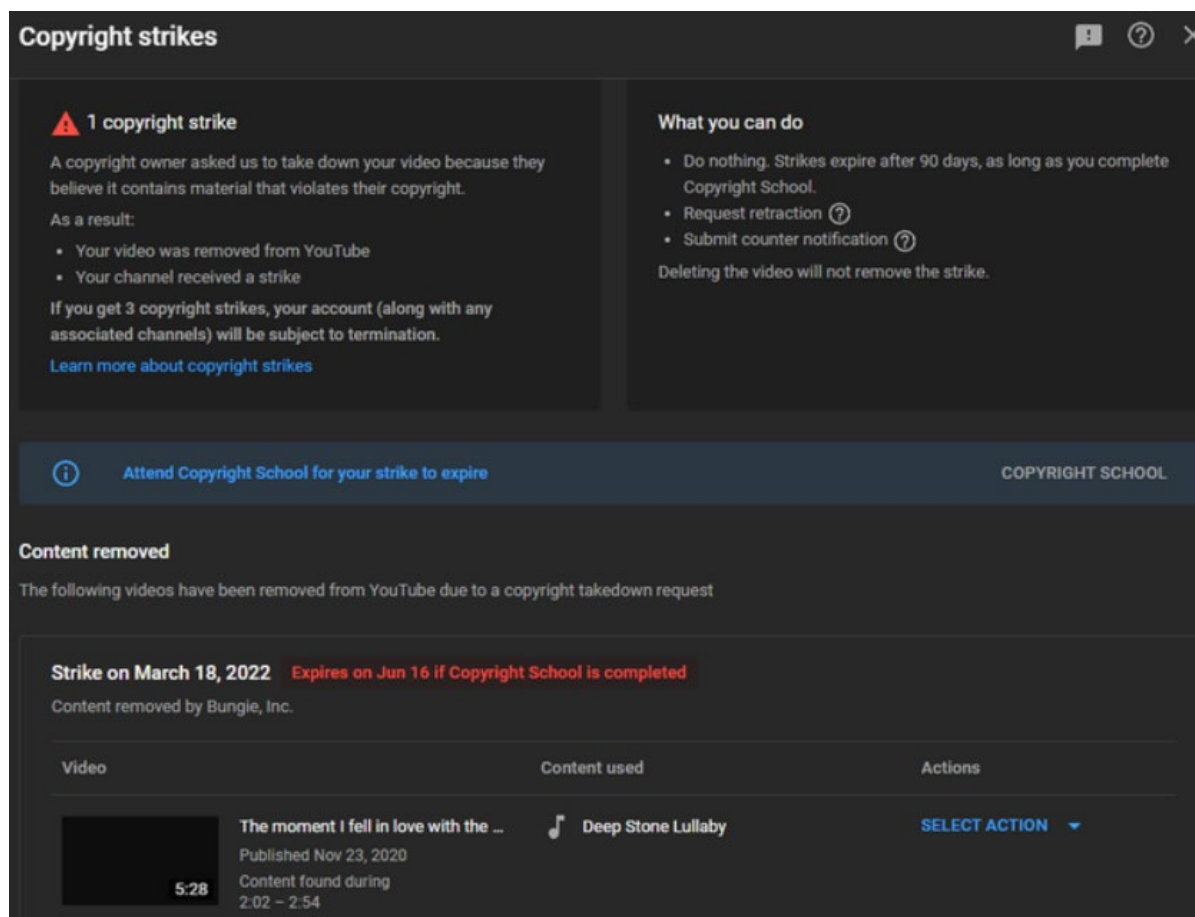
25 ¹⁶<https://www.forbes.com/sites/paultassi/2022/03/21/someone-is-weaponizing-the-dmca-against-destiny-2-creators-and-bungie-itself/?sh=2cf8201b17b1>

¹⁷<https://web.archive.org/web/20220325072105/https://winfuture.de/news,128688.html>

1 98. By email roughly half an hour later, CSC responded that it had no such
 2 record either, nor any secondary records that would suggest any such takedown had
 3 occurred by mistake, and asked for more information so that it could confirm with
 4 certainty that it was not the source.

5 99. After being provided details on the timing of the copyright complaint
 6 filed against Aztecross, CSC confirmed that they had no record and the complaint likely
 7 did not come from them.

8 100. Mr. Barker then forwarded the image of the takedown from the user,
 9 noting the oddity of the fact that the notice indicated that content was “removed by
 10 Bungie, Inc.” when any removals handled by CSC would not have used that language,
 11 and Bungie had not authorized anyone else to issue takedowns.



1 101. Based on those issues, Mr. Barker asked if CSC believed it could be a
2 spoof, and CSC responded that it believed so but would need until Monday, March 21
3 to confirm fully.

4 102. In response, Mr. Barker directed CSC to do what it could to get the video
5 reinstated, as it did not violate Bungie's guidelines.

6 103. CSC issued a retraction notice requesting reinstatement of the video, but
7 on Monday, March 21 it reported that YouTube had denied the retraction request
8 because the retraction notice was not sent from the same email that had issued the
9 initial Fraudulent Takedown Notice.

10 104. In the interim, the nature of Minor's impersonation of Bungie had become
11 clear, and Bungie had reached out to YouTube to try to address the issue.

12 105. Over a period of four days – from March 19 through March 22 – Bungie
13 engaged in repeated, urgent, and escalating communications with Google, leveraging
14 all of the company's contacts and attempting to get YouTube to stop the attack, prevent
15 future attacks, restore videos that had been wrongfully taken down, and provide
16 information on the fraudulent accounts so that Bungie could identify the then-unknown
17 person or persons – Minor – behind the attack.

18 106. While Bungie's legal department, management, and executives were
19 attempting to negotiate the byzantine procedural labyrinth Google required before it
20 would address the fraud Minor was committing, let alone identify him to Bungie,
21 Minor was gloating, confessing, and threatening.

22 107. Over that weekend, Minor's "Damian Reynolds" account began sending
23 threatening emails to CSC, with the subject line "You're in for it now" and telling CSC
24 "Better start running. The clock is ticking."
25

1 108. At 12:41 a.m. on Monday the 21st, Minor used his “Damian Reynolds”
2 account to email davidthomsoncsc@gmail.com the following:

3 Hope striking everyone’s content was worth it, asshat. You’ve
4 now got Bungie’s full attention. You really oughta grow up
5 and get a life instead of tormenting people from behind a
6 screen like a fucking coward. If I were you, I’d delete my
7 Google account right now because Bungie (and probably even
8 Google) are gonna come after you hard.

9 109. Meanwhile, members of the *Destiny 2* community forwarded Bungie’s
10 community team an email Minor had sent using his “Jeremy Wiland” account, which
11 took credit for the fraud (the “Manifesto”).

12 110. The Manifesto reads like a hackneyed “look what you made me do” letter
13 from the serial killer in a bad novel:

14 Greetings. I’m one of the people who filed false takedowns on videos uploaded
15 by you and others in the *Destiny* community. The other person filing takedowns
16 is “davidthomsoncsc@gmail.com”, whom I will refer to as “David Thomson”.
17 I’m not aware of any other email addresses that are being used to issue
18 fraudulent takedowns. I am also keeping some parts of this email confidential for
19 obvious reasons.

20 With that said, there’s more to this that you should know.

- 21 1. As is obvious, I’m not employed by CSC and I have no affiliation with
22 Bungie. The same applies to “David Thomson”.
- 23 2. YouTube’s copyright takedown system is incredibly flawed. Their
24 verification system for takedown requests is so gullible that people,
25 such as I and “David Thomson”, are able to file takedowns without
any legitimacy to our names. If you’re looking to place blame, place it
on YouTube for its sloppy copyright takedown system and Bungie for
ignoring this issue for so long

I could tell you how I got YouTube to think I was a legitimate
representative for Bungie. All it took was a single sentence. No
documents, no license, no private information.

Also, I did not issue takedowns on Bungie’s own channels. Whoever
did that is further proof that YouTube doesn’t verify the identities of
takedown claimants.

1 3. I was directly affected by false takedowns from “David Thomson”
2 several months ago, and many others were issued false takedowns by
3 this person over the past several years. I believed with enough
4 attention, Bungie might have been prompted to step in. The first few
5 channels that were hit by takedowns didn’t seem to grab anyone’s
6 attention, so I had to escalate the matter.

7 If I hadn’t escalated the issue, many people would not have had their
8 takedowns removed.

9 You may choose not to believe me, but at least I responded to some of the people
10 whose videos I took down. The other frauds like “David Thomson” never reply
11 because they’re spiteful cowards who want their victims to feel helpless and
12 afraid. **“David Thomson” has also been issuing false takedowns for years** with
13 no repercussions. Although, unlike me, they have been playing it safe up until
14 now by only issuing takedowns on a few videos to avoid Bungie’s radar. I
15 intended to get caught so that Bungie would take heed of the corruption that has
16 been ensuing in the center of their YouTube community.

17 I fully intended to retract my takedowns and stop issuing them after Bungie had
18 acknowledged the issue and begun restoring people’s videos/channels or
19 otherwise.

20 If “David Thomson” went after more videos I wouldn’t be able to remove the
21 takedowns, since takedowns can only be retracted from the original claimant’s
22 email address. Otherwise, I would have undone all of their actions and
23 prevented this altogether.

24 None of this was about copyright infringement, nor did it have anything to do
25 with the Sony acquisition. In the future, you should expect the claimant’s email
address in the “**contact info**” field of a copyright takedown notice made on
behalf of a large studio like Bungie to originate from a domain other than Gmail
when determining its legitimacy.

Finally, I know this hardly means anything, but I apologize to you and everyone
else who was affected by my selfish actions. You have every right to be furious
with me. My goal was to get Bungie to see the fake takedowns and stop them.
That’s all.

(emphasis in original).

111. The Manifesto caused confusion among recipients of legitimate DMCA
notifications and upon information and belief was calculated to cause the recipients of
legitimate takedown notices to file inappropriate copyright counter notifications with
YouTube, as Minor himself had done or would soon do.

1 112. At 3:18 p.m. on March 22, Google finally confirmed that the accounts that
2 submitted the fraudulent requests had been terminated and all fraudulent submissions
3 would be reversed, but Google would not share any information identifying the
4 fraudulent user without a law enforcement request or civil process.

5 **VI. BUNGIE IDENTIFIES MINOR**

6 113. Fortunately for the people whose videos were targeted by the Fraudulent
7 Takedown Notices, Bungie had the financial resources to begin that civil process in
8 order to meet Google's requirements.

9 114. On June 10, 2022, Google responded to a subpoena served by Bungie in
10 this action, providing Bungie with significant information on the accounts that had sent
11 the Fraudulent Takedown Notices.

12 115. That information included, among other things:

13 a. The dates on which the "Jeremy Wiland" and "Damian Reynolds"
14 accounts were created: January 26, 2022 and March 17, 2022, respectively;

15 b. Every takedown notice Minor sent from each of those accounts, and any
16 communications between Minor and Google relating thereto; and

17 c. A log of each IP address used by Minor in connection with the two
18 accounts.

19 116. Taken together, and combined with the information already in Bungie's
20 possession, the Google data allowed Bungie to conclusively identify Minor as the
21 attacker.

22 117. First, Minor's IP address information makes crystal clear that he is both
23 Damian Reynolds and Jeremy Wiland.

1 118. Between February 5, 2022 and March 25, 2022, “Wiland” and “Reynolds”
2 consistently logged into their accounts from the following IP address: 135.26.144.241
3 (the “.241 Address”).

4 119. The .241 Address is part of the 135.26.144.x subnet, which is registered to
5 Consolidated Communications, a residential ISP that serves Rocklin, CA.

6 120. Confirming that the Wiland and Reynolds accounts were operated by the
7 same person, on March 22, 2022, the Damien Reynold account logged out from the .241
8 Address and the Wiland account logged in from the .241 Address *within the same second*
9 (at 11:07:28 p.m.).

10 121. Minor also logged into both his “Lord Nazo” *Destiny 2* account and his
11 “Overlord Nazo” *Destiny* account from the .241 Address.

12 122. Minor purchased the *Witch Queen* OST for delivery to his Rocklin, CA
13 address.

14 123. A download link for the emblem that came with the *Witch Queen* OST
15 purchase was sent to Minor’s PerfectNazo1@gmail.com email address.

16 124. Minor clicked the emblem link to download that emblem from a using the
17 .241 Address.

18 125. The abusive emails “Damian Reynolds” sent to David Thomson were sent
19 from the .241 Address.

20 126. The emails that “Damian Reynolds” and “Jeremy Wiland” sent in the
21 process of issuing the Fraudulent Takedown Notices were sent from the .241 Address.

22 127. The Manifesto was sent from the .241 Address.

23 128. As noted above, Minor’s perjurious counternotification identified Minor,
24 his address, and the Lord Nazo YouTube account as associated with the
25 PerfectNazo1@gmail.com email.

1 129. On either March 26, 2022 or March 27, 2022, the IP Address assigned to
2 the Minor household changed to 135.26.144.206 (the “.206 Address”).

3 130. That only the final three numbers in the IP Address changed confirms that
4 these two addresses were on the same subnet, which had been assigned to the Roseville,
5 California branch of Consolidated Communications.

6 131. From March 27, 2022 until Minor finally began to use a VPN provider for
7 his Wiland and Reynolds logins in the wake of media reports of this lawsuit, all of
8 Wiland and Reynolds’ activity was associated with the .206 Address.

9 132. Throughout May 2022, Minor repeatedly logged into his Overlord Nazo
10 *Destiny* account from the .206 Address.

11 133. Moreover, the duplicate Fraudulent Takedown Notice confirms that
12 “Jacob Averz” and “Damian Reynolds” are the same person.

13 134. The Gmail address Minor used to register his *Destiny* account was
14 JacobA10000000@gmail.com.

15 135. The data revealed in the 2016 data breach from the hacking and cheating
16 site nulled.io included accounts registered to the following email addresses:

17 PerfectNazo1@gmail.com, JacobAverz@gmail.com, and JacobA10000000@gmail.com.

18 136. All three accounts logged in from the same IP addresses: 174.34.220.179
19 (the “.179 Address”) and 137.164.229.164 (the “.164 Address”).

20 137. Sometimes, one of Minor’s account would log out and another would log
21 in within the same minute.

22 138. Both the .179 Address and the .164 Address were also assigned by
23 Consolidated Communications.

24 139. The Steam profile linked to Minor’s *Destiny* account itself links to the Lord
25 Nazo YouTube account.

1 140. The YouTube account description links to the @Lord_Nazo Twitter
2 account from which Minor tweeted about the takedowns he had received.

3 141. The Reddit user /u/LordNazo has claimed to be the person behind both
4 the LordNazo YouTube account and the LordNazo Twitter account.

5 142. Given all this overlap, Minor's identity as the fraudster behind the
6 Damian Reynolds and Jeremy Wiland email addresses is a certainty.

7
8 **FIRST CAUSE OF ACTION**
(DMCA 512(f) - FRAUDULENT NOTICE)

9 143. Bungie repeats and realleges the allegations of Paragraphs 1-142 of this
10 Complaint as though fully set forth herein.

11 144. The Fraudulent Takedown Notices targeted the following copyrighted
12 content: 21 songs from the *Destiny* OST; 1 song from the *Destiny: Rise of Iron* OST; 2
13 songs from the *Destiny 2* OST; 1 song from the *Destiny 2: Forsaken* OST; 13 songs from
14 the *Destiny 2: Shadowkeep* OST; 3 songs from the *Destiny 2: Beyond Light* OST; 12 songs
15 from the *Witch Queen* OST; the *Grasp of Avarice* music Bungie released as a standalone
16 track in December 2021; *Destiny 2: The Witch Queen*; and (in 31 separate notices
17 apparently directed at standard gameplay videos) the *Destiny 2* game itself.

18 145. Bungie holds the copyrights to each of the allegedly infringed works,
19 including Registration No. PA 2-282-670 (for the *Destiny 2* game), Registration No.
20 TX-9-130-251 (for the *Destiny 2: The Witch Queen* game), Registration No. SR-891-773 (for
21 the *Destiny* OST), Registration No. SR-875-932 (for the song from the *Destiny: Rise of Iron*
22 OST) Registrations No. SR-881-881 and SR-875-890 (for the songs from the *Destiny 2*
23 OST), Registration No. SR-888-261 (for the *Destiny 2: Forsaken* OST); Registration No.
24 SR-894-199 (for 8 of the songs on the *Destiny 2: Shadowkeep* OST), Registrations No.
25 SRu-1-441-990 and SRu-1-441-972 (for the songs from the *Destiny 2: Beyond Light* OST),

1 and Registrations No. SR-924-470 and SR-924-472 (for the *Destiny 2: The Witch Queen*
2 OST).

3 146. Bungie did not authorize Minor to submit DMCA notices on its behalf.

4 147. Minor had no right to submit the Fraudulent Takedown Notices.

5 148. At least some of the content that was the subject of the Fraudulent
6 Takedown Notices was not infringing, because, upon information and belief, it
7 complied with Bungie's intellectual property policy and therefore the YouTubers who
8 posted it did so under license from Bungie.

9 149. Upon information and belief, Minor knew he had no right to submit the
10 Fraudulent Takedown Notices.

11 150. The Fraudulent Takedown Notices were based on knowing and material
12 misrepresentations, in violation of 17 U.S.C. § 512(f).

13 151. Moreover, Minor relied on the confusion caused by his fraudulent activity
14 to file knowingly false counternotices challenging the legitimacy of the valid DMCA
15 notices addressed to Minor's own infringing content, in violation of 17 U.S.C. § 512(f).

16 152. As a result of Defendant's acts alleged herein, Bungie incurred costs and
17 expenses, including attorneys' fees, and has suffered, is suffering, and will continue to
18 suffer substantial damage to its business in the form of lost profits and injury to its
19 goodwill and reputation.

20 153. Bungie is thus entitled to damages in an amount to be proven at trial, and
21 preliminary and permanent injunctive relief.

22 **SECOND CAUSE OF ACTION**
23 **(FALSE DESIGNATION OF ORIGIN, 15 U.S.C. § 1125(a))**

24 154. Bungie repeats and realleges the allegations of Paragraphs 1-153 of this
25 Complaint as though fully set forth herein.

1 155. Bungie is the owner of U.S. Trademark Registration Number 2038273, for
2 “BUNGIE” (the “BUNGIE Mark”).

3 156. YouTube is a service as that term is used in the Lanham Act.

4 157. YouTube’s DMCA reporting system is a service as that term is used in the
5 Lanham Act.

6 158. Submission of a DMCA takedown notice to YouTube is an act that
7 impacts interstate commerce and, therefore, is “commercial activity” under the Lanham
8 Act.

9 159. By submitting the Fraudulent Takedown Notices to YouTube under the
10 name “Bungie, Inc.,” Minor used the BUNGIE Mark in connection with a service.

11 160. Minor’s use of the BUNGIE Mark was likely to and in fact did cause
12 confusion and mistake, and was likely to and did in fact deceive, as to the association of
13 Minor with Bungie and as to Bungie’s sponsorship or approval of the submission of the
14 Fraudulent Takedown Notices, in violation of 15 U.S.C. § 1125(a).

15 161. Under 15 U.S.C. § 1117(a), Plaintiff is entitled to relief including, but not
16 limited to Bungie’s damages to be proven at trial, and the costs of this action.

17 162. In addition, Minor has admitted that he was aware of the fraudulent
18 nature of his conduct and acted willfully.

19 163. As such, Bungie is entitled to an award of treble damages and attorneys’
20 fees.

21 164. In addition, Bungie is entitled to preliminary and permanent injunctive
22 relief.

23 **THIRD CAUSE OF ACTION**
(COPYRIGHT INFRINGEMENT UNDER 17 U.S.C. § 501 *et seq*)

24 165. Bungie repeats and realleges the allegations of Paragraphs 1-164 of this
25 Complaint as though fully set forth herein.

1 166. Bungie holds the copyrights to each of the allegedly infringed works,
2 including Registration No. PA 2-282-670 (for the *Destiny 2* game), Registration No.
3 TX-9-130-251 (for the *Destiny 2: The Witch Queen* game), Registration No. SR-891-773 (for
4 the *Destiny* OST), Registration No. SR-875-932 (for the song from the *Destiny: Rise of Iron*
5 OST) Registrations No. SR-881-881 and SR-875-890 (for the songs from the *Destiny 2*
6 OST), Registration No. SR-888-261 (for the *Destiny 2: Forsaken* OST); Registration No.
7 SR-894-199 (for 8 of the songs on the *Destiny 2: Shadowkeep* OST), Registrations No.
8 SRu-1-441-990 and SRu-1-441-972 (for the songs from the *Destiny 2: Beyond Light* OST),
9 and Registrations No. SR-924-470 and SR-924-472 (for the *Destiny 2: The Witch Queen*
10 OST).

11 167. Bungie also holds the copyrights to the works Minor infringed on his Lord
12 Nazo YouTube channel, including, in addition to those listed above, Registration No.
13 SR-876-013 (for *The Last Stand*), Registration No. SR-875-996 (for *Remembrance*), and
14 Registration No. SRu-1-441-986 (for *Reflection, Enlightened, New Beginnings, Obsession,*
15 and *Control*).

16 168. Each alleged infringement identified in the Fraudulent Takedown Notices
17 was an alleged infringement of content for which Bungie has the copyright.

18 169. By submitting the Fraudulent Takedown Notices, Doe Defendants
19 infringed Bungie's right under 17 U.S.C. § 106 to authorize the public display and
20 performance of its copyrighted works.

21 170. That infringement was willful, as evidenced by the Manifesto.

22 171. As such, Bungie is entitled to damages and injunctive relief, including
23 enhanced statutory damages of \$150,000 for each of the works implicated in the
24 Fraudulent Takedown Notice that willfully infringed Bungie's registered copyrights,
25 totaling \$7,650,000.

1 172. In addition, Minor’s YouTube uploads of the 24 videos for which he
2 received DMCA takedowns (the “Nazo Uploaded Works”) infringed Bungie’s
3 registered copyrights in those works.

4 173. Those works were: The Last Stand and Remembrance (from the Taken
5 King OST), The Witch Queen (from the Witch Queen OST), Enlightened, Deep Stone
6 Lullaby, Athanasia, Stay Down, Desolation, New Beginnings, Obsession, Reservations,
7 Look Within, Frigid Tomb, Control, Security Breach, Whiteout, Acceptance, Beyond
8 Light, Lament, Reflection, Disquiet, Unveiled, and Reckless (from the Beyond Light
9 OST), and The Sanctified Mind (from the Shadowkeep OST).

10 174. While as a general policy and in the absence of factors beyond simply an
11 infringing upload Bungie does not typically sue infringers whose uploads were the
12 subject of a DMCA notice, Minor’s malicious conduct in filing the Fraudulent
13 Takedown Notices, and the willfulness of his purchase and upload of the *Witch Queen*
14 OST immediately after receiving notice that his upload of the *Taken King* OST was
15 infringing, are more than enough, in Bungie’s judgment, to qualify as an “additional
16 factors” warranting an infringement suit for any infringement that was the subject of a
17 legitimate DMCA notice.

18 175. Moreover, Minor has announced his intention to continue infringing,
19 posting to the Community tab of his YouTube channel in late April or early May 2022:
20 “I just want everyone to know: this won’t be the end. I’m not sure if I’m going to
21 continue uploading Destiny content on this channel, but I might offload my deleted
22 videos to a different channel.”

23 176. Bungie thus seeks – and is entitled to – actual or statutory damages for
24 Minor’s infringement of its copyrights in the 24 Nazo Uploaded Works, as well as
25 preliminary and permanent injunctive relief, costs, and attorneys’ fees.

FOURTH CAUSE OF ACTION
(BUSINESS DEFAMATION)

1
2
3 177. Bungie repeats and realleges the allegations of Paragraphs 1-176 of this
4 Complaint as though fully set forth herein.

5 178. Minor's Fraudulent Takedown Notices included the false claim that the
6 Fraudulent Takedown Notices were submitted either by or on behalf and with the
7 authorization of Bungie.

8 179. Minor made that false claim with actual knowledge of its falsity.

9 180. Minor made that false claim with actual knowledge that, in implementing
10 a DMCA takedown, YouTube would pass along that false assertion to the targeted
11 YouTubers.

12 181. Upon information and belief, Minor made that false claim with the intent
13 that the targeted YouTubers would report to their subscribers, followers, and friends
14 that Bungie had taken down their videos and/or channels.

15 182. Upon information and belief, Minor's intent was to cause anger and
16 consternation at Bungie within the *Destiny* community, so as to "get Bungie's attention"
17 and/or to stop Bungie from sending future, legitimate takedown notices against
18 Minor's own illegally-uploaded content.

19 183. This intentional and malicious conduct resulted in harm to Bungie's
20 reputation.

21 184. As a direct result of Minor's defamatory statements, Bungie has incurred,
22 and continues to incur, damages in an amount to be proven at trial.
23
24
25

**FIFTH CAUSE OF ACTION
(VIOLATION OF THE WASHINGTON
CONSUMER PROTECTION ACT, RCW 19.86.020)**

1
2
3 185. Bungie repeats and realleges the allegations of Paragraphs 1-184 of this
4 Complaint as though fully set forth herein.

5 186. Minor has engaged in unfair and deceptive acts by fraudulently
6 impersonating Bungie to issue false takedown notices.

7 187. Minor's practices occurred in trade or commerce.

8 188. As alleged in the Counts of this Complaint, Minor's actions were
9 unlawful.

10 189. Moreover, Minor's Manifesto, in effect, was calculated to discredit the
11 authenticity of takedown notices legitimately issued by Bungie's authorized brand
12 protection personnel by claiming, falsely, that DMCA notices issued by the authorized
13 vendor were also fraudulent.

14 190. Minor's Manifesto resulted in confusion among the creator community,
15 causing at least one recipient of a legitimate copyright notice to file a copyright counter
16 notice on the improper basis that the authorized brand protection agent was not in fact
17 authorized.

18 191. Moreover, there is a strong public interest in protecting creators and
19 businesses from bad actors impersonating and misrepresenting them in the marketplace
20 in order to fraudulently exploit their intellectual property rights to the detriment of the
21 true rightsholders and other parties.

22 192. Minor's unfair and deceptive acts have directly and proximately caused
23 Bungie to incur, and to continue incurring, damages.
24
25

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Bungie, Inc., prays for the following relief:

- A. Damages in an amount to be proven at trial;
- B. Preliminary and permanent injunctive relief barring Defendants, and anyone acting in concert with them, from impersonating Bungie or further infringing Bungie’s copyrights or trademarks;
- C. Costs, attorneys’ fees, interest, and punitive damages as allowed by law; and
- D. Such other relief as the Court deems just and proper.

DATED this 22nd day of June, 2022

By 

Tim J. Billick, WSBA No. 46690
TBILLICK LAW PLLC
600 First Ave
Seattle, WA 98101
Ph. (206) 494-0020
E-mail: tim@tbillicklaw.com

/s/ Akiva M. Cohen
pro hac vice
Akiva M. Cohen, NY Bar No. 4328969
KAMERMAN, UNCYK, SONIKER &
KLEIN P.C.
1700 Broadway
New York, NY 10019
Ph: (212) 400-4930
Email: acohen@kusklaw.com

/s/ Dylan M. Schmeyer
pro hac vice
Dylan M. Schmeyer, CO Bar No. 50573
KAMERMAN, UNCYK, SONIKER &
KLEIN P.C.
Ph: (719) 930-5942
Email: dschmeyer@kusklaw.com

Attorneys for Plaintiff