

1 DAVID H. KRAMER, State Bar No. 168452
2 MAURA L. REES, State Bar No. 191698
3 LAUREN GALLO WHITE, State Bar No.
4 309075
5 WILSON SONSINI GOODRICH &
6 ROSATI
7 Professional Corporation
8 650 Page Mill Road
9 Palo Alto, CA 94304-1050
10 Telephone: (650) 493-9300
11 Facsimile: (650) 565-5100
12 Email: dkramer@wsgr.com
13 mrees@wsgr.com
14 lwhite@wsgr.com

BRIAN M. WILLEN (admitted *Pro Hac*
Vice)
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
1301 Avenue of the Americas, 40th Floor
New York, NY 10019-6022
Telephone: (212) 999-5800
Facsimile: (212) 999-5801
Email: bwillen@wsgr.com

Attorneys for Defendants and Counterclaimants
YOUTUBE, LLC and GOOGLE LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MARIA SCHNEIDER and PIRATE MONITOR)
LTD, individually and on behalf of all others)
similarly situated,)

Plaintiffs,)

v.)

YOUTUBE, LLC and GOOGLE LLC,)

Defendants.)

YOUTUBE, LLC and GOOGLE LLC,)

Counterclaimants,)

v.)

PIRATE MONITOR LTD, PIRATE MONITOR)
LLC and GÁBOR CSUPÓ,)

Counterclaim Defendants.)

CASE NO.: 3:20-cv-04423-JD

**DEFENDANTS AND
COUNTERCLAIMANTS
YOUTUBE, LLC AND GOOGLE
LLC'S AMENDED
COUNTERCLAIMS**

1 **COUNTERCLAIMS**

2 Counterclaimants Google LLC and YouTube, LLC (collectively “YouTube”) assert the
3 following Counterclaims against Pirate Monitor LTD, Pirate Monitor LLC (except where
4 otherwise indicated, Pirate Monitor LTD and Pirate Monitor LLC are referred herein together as
5 “Pirate Monitor”) and Gábor Csupó (“Csupó”), on personal knowledge as to YouTube’s own
6 actions and on information and belief as to the actions of others, as follows:

7 1. Working together, Pirate Monitor and Csupó misused the YouTube service and
8 engaged in a fraudulent scheme to obtain access to YouTube’s copyright management systems.
9 Using false identities and/or agents in an attempt to hide their involvement, Pirate Monitor and
10 Csupó uploaded roughly two thousand videos to YouTube, each time representing that they had
11 the rights to upload that content and that the content did not infringe any third party copyrights.
12 Shortly thereafter, Pirate Monitor and Csupó invoked the notice-and-takedown provisions of the
13 Digital Millennium Copyright Act (“DMCA”) to demand that YouTube remove the very same
14 videos that Pirate Monitor and Csupó had uploaded. In those notices, Pirate Monitor and Csupó
15 represented that the videos were infringing their copyrights or those of copyright owners they
16 claimed to represent.

17 2. Pirate Monitor and Csupó violated the law. Either they lied to YouTube when
18 they uploaded the videos in the first place, or lied when they demanded their removal. Their
19 misrepresentations were intended to fool YouTube into believing that they could be trusted not to
20 abuse YouTube’s powerful copyright management tools, including Content ID. And their
21 machinations render them liable to YouTube for breach of contract and fraud or, alternatively,
22 violations of Section 512(f) of the DMCA.

23 **THE PARTIES**

24 3. **Counterclaim Plaintiff Google** is a Delaware limited liability company with its
25 principal place of business in Mountain View, California. YouTube, a Google subsidiary, is a
26 Delaware limited liability company with its principal place of business in San Bruno, California.

1 YouTube offers an online platform, including a website and mobile applications, that, among
2 other things, enables users to share videos they post with a global audience at no charge.

3 4. **Counterclaim Defendant Pirate Monitor LTD**, a Plaintiff in this action, is a
4 limited company claiming a principal place of business at Intershore Chambers, 3rd Floor,
5 Geneva Place, Road Town, Tortola, VG1110 British Virgin Islands. Pirate Monitor LTD itself,
6 or through agents and related entities, has operations in Hungary and California, but has not
7 registered to do business in California. Pirate Monitor LTD claims in the Complaint to own the
8 copyrights to certain works through assignment from Hungarian movie producer Mega Film Kft
9 (“Mega Film”). Pirate Monitor LTD is a shell corporation set up principally if not exclusively for
10 purposes of pursuing this action and furthering the unlawful scheme described below.

11 5. At the time of the filing of this pleading, despite filing this lawsuit against
12 YouTube more than seven months ago, Pirate Monitor LTD has failed to produce a single
13 document in response to YouTube’s discovery requests that were served on October 12, 2020.
14 YouTube’s requests seek, among other things, information regarding Pirate Monitor LTD’s
15 corporate structure, identification of its agents and affiliates, its operations, its capitalization, and
16 its observance of corporate formalities. Pirate Monitor LTD has not even indicated if or when
17 document production will start. Pirate Monitor LTD is withholding the requested documentation
18 in a further effort to conceal the facts regarding the misconduct about which YouTube
19 complains, along with the identity of the individuals and entities involved.

20 6. **Counterclaim Defendant Gábor Csupó** is an individual, a Hungarian film
21 director and a resident of California. Csupó is the managing director, sole stockholder, sole
22 decision maker, and alter ego of Pirate Monitor LTD. From what YouTube has been able to
23 piece together given Pirate Monitor LTD’s refusal to provide any discovery, Pirate Monitor LTD
24 has no principals or employees other than Csupó. It is inadequately capitalized, disregards
25 corporate formalities, and commingles funds and other assets with Csupó. Csupó dominates and
26 controls Pirate Monitor LTD to such an extent that it has no separate corporate personality. So
27 thorough is Csupó’s dominance of Pirate Monitor LTD that, if the actions of Pirate Monitor LTD
28

1 alleged herein were treated as those of Pirate Monitor LTD alone, and not those of Csupó, it
2 would lead to an inequitable result. Csupó created Pirate Monitor LTD after his personal liability
3 for the acts alleged herein first arose, and his misuse of the corporate form is continuing. As a
4 result, Csupó is responsible, and personally liable for, not only his own actions, but the acts of
5 Pirate Monitor LTD as well.

6 7. **Counterclaim Defendant Pirate Monitor LLC** represented itself to YouTube as
7 a business entity, but YouTube has not found corporate registration information for a “Pirate
8 Monitor LLC” anywhere in the world, and Pirate Monitor LTD has not provided any discovery
9 on the question. Instead, it appears that Pirate Monitor LLC is merely an unincorporated d/b/a of
10 Csupó. If Pirate Monitor LLC actually exists as a corporate entity at all, it is indistinguishable
11 from Pirate Monitor LTD. Pirate Monitor LTD does not view Pirate Monitor LLC as an entity
12 distinct from itself. In Paragraph 13 of its Complaint in this action, Pirate Monitor LTD alleges
13 that it has applied for and been denied access to Content ID and that it has sent “successful
14 takedown requests” to YouTube. But, according to YouTube’s records, the only Pirate Monitor
15 entity that has applied for Content ID or sent “successful takedown notices” to YouTube is the
16 entity calling itself “Pirate Monitor LLC.” By claiming Pirate Monitor LLC’s actions as its own
17 in the Complaint (in allegations that are central to its claim to represent a putative class), Pirate
18 Monitor LTD has demonstrated that it believes itself to be, and holds itself out as, functionally
19 the same entity as Pirate Monitor LLC.

20 8. No matter what Pirate Monitor LLC’s corporate status, Csupó is responsible for
21 the acts of Pirate Monitor LLC. Insofar as Pirate Monitor LLC is an unincorporated d/b/a of
22 Csupó, Pirate Monitor LLC’s actions are Csupó’s actions, and Csupó is personally liable for
23 them. Alternatively, insofar as Pirate Monitor LLC actually exists as a corporate entity, Csupó is
24 the alter ego of Pirate Monitor LLC. From what YouTube has been able to piece together given
25 Pirate Monitor LTD’s refusal to provide any discovery, Pirate Monitor LLC has no other
26 principals, employees, or even operations. It is a shell corporation set up for purposes of
27 furthering the scheme described herein. Under Csupó’s sole control, Pirate Monitor LLC is
28

1 inadequately capitalized, disregards corporate formalities, and commingles funds and other
2 assets with Csupó. Csupó dominates and controls Pirate Monitor LLC to such an extent that it
3 has no separate corporate personality. So thorough is Csupó's dominance of Pirate Monitor LLC
4 that if its actions alleged herein were treated as those of Pirate Monitor LLC alone, and not those
5 of Csupó, it would lead to an inequitable result. As a result, Csupó is responsible and personally
6 liable for the acts of Pirate Monitor LLC.

7 **JURISDICTION AND VENUE**

8 9. This Court has subject matter jurisdiction over the counterclaims pursuant to 28
9 U.S.C. §§ 1331, 1338, 1367.

10 10. Pirate Monitor LTD is subject to this Court's personal jurisdiction because it has
11 availed itself of the jurisdiction of this Court by filing the Complaint in this action and because it
12 has minimum contacts with the State of California. The Court also has personal jurisdiction over
13 Pirate Monitor LTD because it consented to such jurisdiction in the Terms of Service Agreement
14 it entered into with YouTube and because it purposefully directed the misconduct described
15 herein against YouTube in this District.

16 11. Csupó is subject to this Court's personal jurisdiction because he is a resident of
17 California and because he has minimum contacts with this State. The Court also has personal
18 jurisdiction over Csupó because he is the alter ego of Plaintiff Pirate Monitor LTD and thus
19 availed himself of this Court's jurisdiction by filing the Complaint in this action. The Court also
20 has personal jurisdiction over Csupó because he consented to such jurisdiction in the Terms of
21 Service Agreement he entered into with YouTube and because he purposefully directed the
22 misconduct described herein against YouTube in this District.

23 12. To the extent it is a corporate entity separate from Pirate Monitor LTD or Csupó,
24 Pirate Monitor LLC is subject to this Court's personal jurisdiction because it has availed itself of
25 the jurisdiction of this Court because it consented to such jurisdiction in the Terms of Service
26 Agreement it entered into with YouTube, and because it purposefully directed the misconduct
27 described herein against YouTube in this District.

1 detected, including options to “monetize” the videos, (i.e. earn advertising revenue when users
2 watch the videos) or to “block” the videos from appearing altogether.

3 19. Content ID and YouTube’s other scaled copyright management tools empower
4 users to automatically, or at the touch of a button, remove content from YouTube or block it
5 from appearing in the first place. The tools thus have the potential to be used improperly to
6 censor videos that others have every right to post and share through YouTube. Further, the tools
7 enable users to claim ownership rights in others’ content, and to siphon to themselves revenue
8 that rightly belongs to others.

9 20. Because of the potential for abuse of these scaled tools, YouTube limits access to
10 them, seeking to ensure that those who use them will do so responsibly, and will not cause harm
11 to YouTube, its users, or to other copyright owners.

12 **Users’ Promises And Representations To YouTube**

13 21. To create an account and post content on the YouTube service, users must
14 affirmatively accept the YouTube Terms of Service Agreement (the “ToS Agreement”). Parties
15 to the ToS Agreement consent to personal jurisdiction and exclusive venue for disputes arising
16 out of or relating to the YouTube service in the Courts of Santa Clara County, California.

17 22. Under the applicable ToS Agreement in effect during all times relevant to these
18 counterclaims, a user creating a YouTube account promised to provide “accurate and complete”
19 identification information for the account to YouTube.

20 23. Under the ToS Agreement in effect during all times relevant to these
21 counterclaims, users represent and warrant to YouTube that if they upload any content to the
22 YouTube service, they will “own or have the necessary licenses, rights, consents, and
23 permissions to publish Content [they] submit.” Users also promise that any “content [they]
24 submit to the Service [will] not contain third party copyrighted material, or material that is
25 subject to other third party proprietary rights, unless [they have] permission from the rightful
26 owner of the material or [they are] otherwise legally entitled to post the material.” And users
27
28

1 agree to grant YouTube a copyright license in and to any content they submit, representing that
2 they have the required rights to do so.

3 24. In addition to accepting the ToS Agreement and making the representations and
4 promises it contains when creating an account, users must reaffirm their agreement to the ToS
5 each time they upload material to the service. In that upload process, users are again expressly
6 warned against submitting content that violates others' copyrights.

7 **Pirate Monitor And Csupó Uploaded Nearly 2000 Video Clips To YouTube**
8 **Through "Ransom Nova" Accounts And Represented That**
9 **They Did Not Infringe Anyone's Copyright**

10 25. From August through November 2019, Pirate Monitor and Csupó created, or
11 authorized and directed their agents to create, at least 23 accounts on YouTube. Each time they
12 caused a new account to be created, Pirate Monitor and Csupó, or the agents acting on their
13 behalf and under their direction and control, affirmatively agreed to the YouTube ToS
14 Agreement, and made the representations and promises to YouTube that are set out in the ToS
15 Agreement.

16 26. Among other things, Pirate Monitor and Csupó promised to provide YouTube
17 with "accurate and complete" identification information for their YouTube accounts. They
18 represented and warranted to YouTube that if they uploaded any content to the YouTube service,
19 they would "own or have the necessary licenses, rights, consents, and permissions to publish
20 Content [they] submit." They also promised that any "content [they] submit to the Service [will]
21 not contain third party copyrighted material, or material that is subject to other third party
22 proprietary rights, unless [they have] permission from the rightful owner of the material or [they
23 are] otherwise legally entitled to post the material." And they granted YouTube a copyright
24 license to the videos they submitted, representing that they had the required rights to do so.

25 27. To deceive YouTube, and in violation of the ToS Agreement, Pirate Monitor and
26 Csupó, or the agents acting on their behalf and under their direction and control, provided bogus
27 account registration information. Rather than properly identifying themselves as the account
28 creator, Pirate Monitor and Csupó, or the agents acting on their behalf and under their direction

1 and control, used alternative account names and contact information designed to mask the
2 relationship of the account creators and the accounts to Pirate Monitor and Csupó.

3 28. Pirate Monitor and Csupó, or the agents acting on their behalf and under their
4 direction and control, created and used at least the following YouTube accounts (or “channels”)
5 between August 23 and November 13, 2019:

6 Account Name	7 Associated Email Address	8 Account Creation Date
9 ransom nova2	ransomnova2@gmail.com	August 23, 2019
10 ransom nova3	ransomnova3@gmail.com	September 3, 2019
11 ransom nova	ransomnova4@gmail.com	September 25, 2019
12 ransom nova6	ransomnova6@gmail.com	September 28, 2019
13 ransom nova	ransomnova7@gmail.com	September 28, 2019
14 ransom nova	ransomnova8@gmail.com	October 7, 2019
15 ransom nova9	ransomnova9@gmail.com	October 7, 2019
16 ransom nova10	ransomnova10@gmail.com	October 7, 2019
17 ransom nova11	ransomnova11@gmail.com	October 7, 2019
18 ransom nova12	ransomnova12@gmail.com	October 7, 2019
19 ransom nova13	ransomnova13@gmail.com	October 8, 2019
20 ransom nova14	ransomnova14@gmail.com	October 8, 2019
21 ransom nova15	ransomnova15@gmail.com	October 8, 2019
22 Massive Films	ransomnova18@gmail.com	November 4, 2019
23 Movie Mania	ransomnova19@gmail.com	November 5, 2019
24 Movie Fun	ransomnova20@gmail.com	November 6, 2019
25 Movie Festival	ransomnova21@gmail.com	November 8, 2019
26 Entertainment Movie Channel	ransomnova22@gmail.com	November 8, 2019
27 Ultimate Entertainment	ransomnova23@gmail.com	November 9, 2019

1 Avengers	ransomnova25@gmail.com	November 10, 2019
2 Fantastic	ransomnova26@gmail.com	November 10, 2019
3 Amazing Channel	ransomnova27@gmail.com	November 10, 2019
4 Avenger film	ransomnova29@gmail.com	November 13, 2019

5
6 29. Most of the account names that Pirate Monitor or its agents selected for these
7 accounts were variants on the name “Ransom Nova.” Variations of the name “Ransom Nova”
8 also appear in the email addresses that Pirate Monitor or its agents supplied in the account
9 registration process. YouTube refers to these accounts hereafter as the “Ransom Nova accounts.”

10 30. The person(s) who created the Ransom Nova accounts did so using a computing
11 device connected to the YouTube service via Internet Protocol (“IP”) addresses indicating that
12 they were in Pakistan at the time the accounts were created.

13 31. From at least August 24, 2019 through at least November 13, 2019, Pirate
14 Monitor and Csupó, or the agents acting on their behalf and under their direction and control,
15 used the Ransom Nova accounts to upload at least 1,960 videos to YouTube. At the time of the
16 uploads, the Ransom Nova accounts were connected to the YouTube service from a computing
17 device using IP addresses again indicating that they were in Pakistan.

18 32. Using the Ransom Nova accounts, Pirate Monitor and Csupó, or the agents acting
19 on their behalf and under their direction and control uploaded hundreds of video clips from the
20 Hungarian film *Csak szex és más semi* (“*Csak szex*”), one of the copyrighted works that Pirate
21 Monitor LTD claimed to own in the Complaint and accused YouTube of infringing in this action.

22 33. Pirate Monitor and Csupó, or the agents acting on their behalf and under their
23 direction and control, also used the Ransom Nova accounts to upload hundreds of video clips
24 from the Hungarian film *Zimmer Feri* to YouTube. *Zimmer Feri* is a prequel to *Zimmer Feri 2*,
25 another work that Pirate Monitor claimed to own in the Complaint and accused YouTube of
26 infringing in this action.

1 34. Each time Pirate Monitor and Csupó, or the agents acting on their behalf and
2 under their direction and control, uploaded a video to the YouTube service through the Ransom
3 Nova accounts, they were required to and did reconfirm that they were abiding by the ToS
4 Agreement; in relevant part, they represented and warranted to YouTube each time that they
5 owned or had the rights to upload and license the material contained in the videos and that the
6 videos they uploaded did not infringe any third party's copyrights.

7 **Pirate Monitor Demanded Removal Of The Nearly 2000 Video Clips It**
8 **Had Previously Uploaded Through the Ransom Nova Accounts,**
9 **Charging That They Infringed Copyrights**

10 35. Between October 29 and November 15, 2019, Pirate Monitor and Csupó sent
11 YouTube hundreds of takedown notices under the DMCA for the same videos they had uploaded
12 or had directed to be uploaded through the Ransom Nova accounts. The DMCA takedown
13 notices were sent in the name of an entity calling itself "Pirate Monitor LLC," using a Google
14 account opened in the name of Gábor Csupó with the email address
15 usintellectualpropertyllc@gmail.com. Csupó electronically signed each of the takedown notices.

16 36. In those DMCA takedown notices, Pirate Monitor and Csupó represented to
17 YouTube under penalty of perjury that "Mega Film" was the copyright owner of the videos that
18 were the subject of the notices, and that they were Mega Film's authorized representatives. Pirate
19 Monitor and Csupó also represented in the notices that the targeted video clips included material
20 from the films *Czak Szex* and *Zimmer Feri* that infringed Mega Film's copyrights—i.e., that the
21 use was not "authorized by Mega Film, its agents or the law." The notices were all virtually
22 identical save for targeting different video clips uploaded through varying Ransom Nova
23 accounts.

24 37. At the time YouTube received these DMCA takedown notices from Pirate
25 Monitor and Csupó, it was not aware of the connection between Pirate Monitor and Csupó on the
26 one hand and the Ransom Nova accounts on the other. YouTube did not know that the parties
27 insisting that the videos were infringing and should be removed were the same parties that had
28

1 uploaded or directed the upload of the videos in the first place and who had represented in that
2 process that the videos were not infringing.

3 38. In reliance on the representations from Pirate Monitor and Csupó in the takedown
4 notices that were made to YouTube via the DMCA's statutorily prescribed mechanism, YouTube
5 processed approximately 1,800 separate notices from Pirate Monitor and Csupó and
6 expeditiously removed the targeted videos.

7 **Pirate Monitor And Csupó's Scheme Amounts Either To Fraud And**
8 **Breach Of Contract Or A Violation Of Section 512(f) Of The DMCA**

9 39. As set forth above, Pirate Monitor and Csupó uploaded, or authorized and
10 directed their agents to upload, nearly two thousand videos to YouTube, representing to
11 YouTube that the videos did not infringe copyrights, and then promptly sent DMCA takedown
12 notices for the same videos, representing to YouTube that the videos did infringe copyrights.
13 Without the benefit of discovery, it is unclear which of these conflicting representations about
14 the videos were truthful. But either way, Pirate Monitor and Csupó made material
15 misrepresentations on which YouTube relied.

16 40. On the one hand, if Pirate Monitor and Csupó falsely represented to YouTube that
17 they had the authority to post the videos and that the videos did not infringe anyone's copyrights,
18 then Pirate Monitor and Csupó breached the ToS Agreement and perpetrated a fraud on
19 YouTube. Had Pirate Monitor and Csupó not made the representations to YouTube that they did,
20 YouTube would not have allowed them to create accounts on the service, and it would not have
21 allowed them to upload content to the service.

22 41. On the other hand, if Pirate Monitor and Csupó accurately represented to
23 YouTube that they had the authority to post the videos and that the videos did not infringe any
24 third party's copyrights, then Pirate Monitor and Csupó made knowingly false statements when
25 they subsequently represented to YouTube in their DMCA takedown notices that those same
26 videos were infringing.

27
28

1 42. These conflicting representations from Pirate Monitor and Csupó were no
2 accident. Their serial uploads and DMCA takedown notices for the same videos were central to a
3 scheme through which they hoped to gain access to YouTube's powerful copyright management
4 tools, in particular Content ID.

5 43. In May 2019, an entity calling itself Pirate Monitor LLC applied for access to use
6 YouTube's copyright management tools. The application was made by Gabor Csupó, who
7 supplied the email address usintellectualpropertyllc@gmail.com.

8 44. YouTube denied this application in June 2019, explaining to Pirate Monitor and
9 Csupó that access to YouTube's copyright management tools was predicated in part on
10 demonstrating both a need for such access and a history of properly using the DMCA takedown
11 notice process.

12 45. Pirate Monitor and Csupó believed that they could demonstrate both the need for
13 access, and a track record of valid DMCA takedown notices, by surreptitiously uploading a
14 substantial volume of content through accounts seemingly unconnected to them, and then
15 sending DMCA takedown notices for that same content. Three months after YouTube declined
16 their copyright management tools application, Pirate Monitor and Csupó began the process of
17 creating the Ransom Nova accounts and uploading videos through those accounts, in furtherance
18 of their scheme.

19 **The Evidence To Date Without Discovery Of The Connection**
20 **Between Pirate Monitor, Csupó, And The Ransom Nova Accounts**

21 46. Pirate Monitor and Csupó are in sole possession of the full information regarding
22 their unlawful scheme, and have refused to provide any of it to YouTube in response to
23 YouTube's specific discovery requests. By way of example, attached as Exhibit A is a true and
24 correct copy of Pirate Monitor LTD's objections and responses to YouTube's Second Set of
25 Document Requests in which it objects in full to every request, including those seeking
26 information regarding *inter alia*, Ransom Nova and Pirate Monitor LLC.

1 47. While withholding from YouTube all relevant information they possess, Pirate
2 Monitor and Csupó have never denied that they and/or their agents were responsible for creating
3 the Ransom Nova accounts. They have never denied that they and/or their agents uploaded
4 through those accounts the very same videos that they then promptly claimed in DMCA
5 takedown notices were infringing.

6 48. YouTube already has overwhelming evidence that reveals Pirate Monitor and
7 Csupó’s deceptions and demonstrates that Pirate Monitor and Csupó either operated the Ransom
8 Nova accounts directly or that the person(s) operating the Ransom Nova accounts were agents of
9 Pirate Monitor and Csupó, acting at their direction and control and for their benefit.

10 49. First, the video uploading activity conducted through the Ransom Nova accounts
11 was not consistent with the behavior of users actually seeking to share videos with others
12 through the YouTube service. Though the videos contained clips from the Hungarian movies
13 *Csak szex* and *Zimmer Feri*, the user(s) uploading those videos selected nondescript titles for the
14 clips, such as “Test1” or “Hot Clip.” An uploader genuinely seeking an audience on YouTube for
15 clips from those films would have selected titles that enabled users looking for clips from the
16 films to find them. Additionally, almost all of the nearly two thousand video clips uploaded via
17 the Ransom Nova accounts were the same length, 31 seconds, and they did not correspond to
18 particular moments or scenes from the films. Further, the clips were not uploaded in any
19 recognizable order, such as to track the films sequentially. It is evident from this unusual pattern
20 that the person(s) who uploaded these clips to YouTube through the Ransom Nova accounts did
21 not expect anyone to actually find and watch them. That is because the videos were not uploaded
22 by a genuine YouTube user, but instead by or at the direction of Pirate Monitor and Csupó for
23 the purpose of sending DMCA takedown notices for those clips.

24 50. Second, Pirate Monitor and Csupó regularly sent DMCA takedown notices for
25 videos uploaded through the Ransom Nova accounts within a very short time—no more than a
26 few days—after the videos were uploaded. For example, 99 clips were uploaded through the
27 “Ransom Nova” account, “Amazing Channel,” on November 10, 2019. All 99 clips were the
28

1 subject of DMCA takedown notices four days later. When Pirate Monitor and Csupó sent their
2 takedown notices, none of the videos targeted in those notices had an appreciable number of
3 views on YouTube. In many cases, *the videos targeted in Pirate Monitor and Csupó's takedown*
4 *notices had not recorded even a single view on YouTube.* In other words, Pirate Monitor and
5 Csupó knew that the videos for which they sent takedown notices were on the YouTube service
6 without having to actually view them. That is because Pirate Monitor and Csupó were
7 responsible for having uploaded those videos in the first place.

8 51. Third, there is powerful forensic evidence tying Pirate Monitor and Csupó to the
9 Ransom Nova accounts. When Pirate Monitor and Csupó sent their takedown notices to
10 YouTube—on behalf of Hungarian film company Mega Film—for videos uploaded through the
11 Ransom Nova accounts, they had no reason to conceal their identities. They correctly identified
12 themselves and invariably sent their takedown notices from a computer connected to the Internet
13 via a unique Hungarian IP address: 217.65.XXX.XXX. On November 12, 2019, Pirate Monitor
14 and Csupó were sending takedown notices to YouTube from that Hungarian IP address. At
15 roughly the same time, someone logged into one of the Ransom Nova accounts—specifically the
16 account created by RansomNova7@gmail.com—not from a Pakistani IP address, but from the
17 same IP address in Hungary (217.65.XXX.XXX) that Pirate Monitor and Csupó were
18 concurrently using to send the takedown notices. **In other words, RansomNova7 was sharing a**
19 **computer and/or unique Internet connection with Pirate Monitor and Csupó in Hungary**
20 **on the same day (and in fact, at almost the same time) that Pirate Monitor and Csupó were**
21 **using that same computer and/or Internet connection to send takedown notices to**
22 **YouTube.** That is because the person operating and responsible for the
23 RansomNova7@gmail.com account either was Pirate Monitor or Csupó, or someone acting on
24 their behalf.

25 52. YouTube's investigation following the filing of this lawsuit has further revealed
26 that the person or persons who created several of the Ransom Nova accounts on YouTube
27 supplied the email address sarfrazjbd@gmail.com in connection with the accounts. That address
28

1 is registered to a person named Sarfraz Arshad Khan. Mr. Khan represents himself on the
2 Internet as a Pakistani resident and computer services freelancer and advertises having expertise
3 in data entry and promotion of content on YouTube. Mr. Khan also has a LinkedIn profile,
4 posted under the name “Ransom Nova,” which states that he is a computer science student in
5 Pakistan. These facts make it extremely unlikely that Mr. Khan was acting on his own in setting
6 up and using the Ransom Nova accounts, but instead suggest that he was hired by Pirate Monitor
7 and Csupó to perform that work.

8 53. Although Pirate Monitor has withheld all evidence, based on what YouTube
9 knows today, the only plausible conclusion is that the Ransom Nova accounts were created and
10 operated directly by Pirate Monitor and Csupó as part of the scheme alleged herein, or that they
11 were created and operated by agents, including Mr. Khan, acting at the direction and control of
12 Pirate Monitor and Csupó and for their benefit. Either way, Pirate Monitor and Csupó are
13 responsible for the acts performed through the Ransom Nova accounts.

14 **COUNTERCLAIM I: Against Pirate Monitor LTD,
15 Pirate Monitor LLC, And Gábor Csupó
16 Breach Of Contract**

17 54. YouTube restates and realleges the preceding allegations of its Counterclaims.

18 55. Pirate Monitor LTD, Pirate Monitor LLC, and Csupó directly themselves, and/or
19 through their authorized agents who created the “Ransom Nova” accounts, agreed to be bound by
20 the ToS Agreement.

21 56. The ToS Agreement constitutes a valid, binding contract between each of Pirate
22 Monitor LTD, Pirate Monitor LLC, and Csupó, and YouTube.

23 57. YouTube has performed its obligations under the ToS Agreement, save for any
24 that have been excused, including by providing YouTube services to the parties who created the
25 “Ransom Nova” YouTube accounts.

26 58. Pirate Monitor LTD, Pirate Monitor LLC, and Csupó directly themselves, and/or
27 through their authorized agents who created the “Ransom Nova” accounts, breached the ToS
28 Agreement by, among other things:

1 necessary licenses, rights, consents, and permissions to publish Content [they] submit.” They
2 also promised that any “content [they] submit to the Service [will] not contain third party
3 copyrighted material, or material that is subject to other third party proprietary rights, unless
4 [they have] permission from the rightful owner of the material or [they are] otherwise legally
5 entitled to post the material.” And they granted YouTube a copyright license to any videos they
6 submitted, representing that they had the required rights to do so.

7 65. Each time Pirate Monitor LTD, Pirate Monitor LLC, and Csupó directly
8 themselves, and/or through their authorized agents uploaded a video to the YouTube service,
9 they reaffirmed their agreement to the ToS Agreement, and made those same promises and
10 representations.

11 66. But Pirate Monitor LTD, Pirate Monitor LLC, and Csupó had no intention of
12 honoring the promises in the ToS Agreement either at the time they created their accounts or
13 when they uploaded videos to the service. Rather, they intended to use the service to upload
14 material that infringed third-party copyrights.

15 67. Pirate Monitor LTD, Pirate Monitor LLC, and Csupó themselves or through their
16 authorized agents also represented to YouTube through the ToS Agreement at the time they
17 created the Ransom Nova accounts and again in the video upload process that they had the
18 authority to post the videos that they did, and that the videos did not infringe any third party’s
19 copyrights. These representations were made, in materially identical form, each time videos were
20 uploaded through the Ransom Nova accounts. The representations were false, and Pirate Monitor
21 LTD, Pirate Monitor LLC, and Csupó knew that the representations were false.

22 68. Pirate Monitor LTD, Pirate Monitor LLC, and Csupó made those representations
23 or caused their authorized agents to make them with the intention of inducing YouTube to accept
24 and allow to be uploaded the content that Pirate Monitor LTD, Pirate Monitor LLC, and Csupó
25 wanted uploaded to the YouTube service.

26 69. Pirate Monitor LTD, Pirate Monitor LLC, and Csupó made the false promises and
27 misrepresentations they did because they knew that YouTube would not allow them to create
28

1 accounts or allow them to upload content through those accounts if they did not make those false
2 promises and misrepresentations. That, in turn, would have frustrated their scheme to send mass
3 takedown notices and establish the track record they hoped would gain them access to
4 YouTube's copyright management tools.

5 70. YouTube relied on Pirate Monitor LTD, Pirate Monitor LLC, and Csupó's false
6 promises and misrepresentations by allowing them to create accounts and by accepting content
7 uploaded through those accounts to the YouTube service. YouTube would not have allowed the
8 creation of the accounts or accepted the content but for Pirate Monitor LTD, Pirate Monitor LLC,
9 and Csupó's false promises and misrepresentations.

10 71. YouTube's reliance was justifiable. It had no reason to believe Pirate Monitor
11 LTD, Pirate Monitor LLC, and Csupó would make promises they had no intention of performing
12 or misrepresent the nature of the content they were uploading.

13 72. Because they hid their intention not to honor their promises in the ToS
14 Agreement, and because of the misrepresentations they made in the ToS Agreement, Pirate
15 Monitor LTD, Pirate Monitor LLC, and Csupó were able to create at least 23 accounts and
16 upload at least 1,960 videos to YouTube, and soon thereafter sent DMCA takedown notices for
17 those same videos.

18 73. As a proximate result of Pirate Monitor LTD, Pirate Monitor LLC, and Csupó's
19 promises made without intention to perform and misrepresentations, YouTube has been damaged
20 in an amount to be proven at trial, but including among other things, the cost of processing at
21 least 1,800 DMCA takedown notices for the content Pirate Monitor LTD, Pirate Monitor LLC,
22 and Csupó uploaded, and the cost of investigating and remediating their misconduct.

23 74. To the extent that Pirate Monitor LTD's claims in this action implicate content
24 that Pirate Monitor LTD itself uploaded to the YouTube service, the costs of defending the
25 action as well as any liability also constitute damages proximately caused by Pirate Monitor
26 LTD's promises without intention to perform and false representations.

1 they identified as infringing in their DMCA takedown notices were not infringing their
2 copyrights or those of copyright owners that they represented. In fact, through their authorized
3 agents who created the “Ransom Nova” accounts, Pirate Monitor and Csupó themselves had
4 uploaded those same videos.

5 81. Each time they sent DMCA takedown notices to YouTube for videos they had
6 uploaded, Pirate Monitor and Csupó knowingly and materially misrepresented that material or
7 activity on YouTube was infringing.

8 82. YouTube, the service provider that received these DMCA takedown notices,
9 relied upon the misrepresentations made by Pirate Monitor LLC and Csupó therein by removing
10 or disabling access to the material they falsely claimed was infringing. YouTube’s reliance was
11 reasonable, given that the notices at issue were made in the form prescribed by the DMCA, 17
12 U.S.C. § 512(c)(3).

13 83. YouTube was injured by Pirate Monitor and Csupó’s misrepresentations in their
14 DMCA notices. But for those misrepresentations, YouTube would not have had to incur the costs
15 of processing approximately 1,800 DMCA notices and removing the videos identified in those
16 notices. Further, as a result of Pirate Monitor and Csupó’s misrepresentations, YouTube had to
17 expend substantial additional sums on an investigation in an effort to detect and thwart their
18 deceptive behavior.

19 84. Pirate Monitor LTD, Pirate Monitor LLC, and Csupó have yet to admit their role
20 in the scheme detailed herein, much less forsworn similar misconduct in the future. The sheer
21 number of material misrepresentations they made in DMCA takedown notices demonstrates that
22 they have little fear of the threat of monetary liability under Section 512(f). Further, as the
23 Complaint in this action demonstrates, Pirate Monitor LTD, Pirate Monitor LLC, and Csupó still
24 harbor the same motive to obtain access to Content ID as they did when they first hatched their
25 plan.

26 85. Pirate Monitor LTD, Pirate Monitor LLC, and Csupó have demonstrated their
27 willingness to conceal their identities in furtherance of their goals. Having been caught by
28

1 YouTube, they now can learn from their mistakes to evade detection in the future by, *inter alia*,
2 selecting new account names, masking their IP addresses, using new and different agents to
3 upload videos, and sending new false DMCA takedown notices for different videos that their
4 new agents upload. Because YouTube relies on the sworn representations made by those that
5 send facially valid copyright removal requests, there is no guarantee it can detect and prevent
6 such fraudulent behavior in the future, nor should it be forced to expend substantial sums to try
7 to do so. Further, YouTube has no ready means of calculating the harm that such
8 misrepresentations would cause to YouTube or its users in terms of lost goodwill, lost audiences,
9 and lost opportunities. To prevent such irreparable harm, injunctive relief barring Pirate Monitor
10 LTD, Pirate Monitor LLC, and Csupó from future misrepresentations in DMCA takedown
11 notices is warranted.

12 PRAYER FOR RELIEF

13 Wherefore, YouTube respectfully requests that the Court:

- 14 a. Award damages against Pirate Monitor LTD, Pirate Monitor LLC, and
15 Gábor Csupó sufficient to compensate YouTube for the harm caused by their
16 conduct;
- 17 b. Award punitive damages against Pirate Monitor LTD, Pirate Monitor
18 LLC, and Gábor Csupó for their fraudulent conduct;
- 19 c. Issue an injunction barring Pirate Monitor LTD, Pirate Monitor LLC, and
20 Gábor Csupó and all those in active concert with them from submitting notices of
21 alleged infringement to YouTube that misrepresent that material on the YouTube
22 service is infringing copyrights held or claimed to be held by Pirate Monitor LTD,
23 Pirate Monitor LLC, and Gábor Csupó or anyone they claim to represent.
- 24 d. Award YouTube the costs of this action along with attorneys' fees
25 pursuant to 17 U.S.C. § 512(f) against Pirate Monitor LTD, Pirate Monitor LLC,
26 and Gábor Csupó; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

e. Award YouTube such other and further relief as the Court may deem just and proper.

Dated: February 19, 2021

Respectfully submitted

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: /s/ David H. Kramer

Attorneys for Defendants and Counterclaimants
YOUTUBE, LLC and GOOGLE LLC