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4 Attorney for Cognosphere Pte. Ltd.
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 In re DMCA Subpoena to Spartan Host LLC

MISC. CASE NO. 3:23-Mc-80257

**DECLARATION OF JAMES D.
BERKLEY IN SUPPORT OF REQUEST
FOR SUBPOENA TO SPARTAN HOST
LLC PURSUANT TO 17 U.S.C. § 512(H)**

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17 I, James D. Berkley, declare as follows:

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19 1. I am an attorney at law, duly licensed to practice law in the State of California and
20 before this Court. I am employed by the law firm Mitchell Silberberg & Knupp, LLP (“MSK”),
21 counsel for Cognosphere Pte. Ltd. (“Cognosphere”). Among other things, Cognosphere is the
22 exclusive licensee in the United States and other territories of copyright in and to the popular
23 video game *Genshin Impact*, including without limitation artwork, gameplay, and audiovisual
24 content contained therein. MSK is authorized to act on Cognosphere’s behalf in the protection of
25 copyrights and/or exclusive rights possessed by Cognosphere pertaining to *Genshin Impact*.

26 2. Cognosphere is requesting the attached proposed subpoena that would order the
27 web hosting company Spartan Host LLC (“Spartan Host”) to disclose the identity, including the
28 name(s), address(es), telephone number(s), and e-mail addresses(es) of the user maintaining the

1 website www.casks.me (the “Casks.me Website”), which MSK has reason to believe is hosted by
2 Spartan Host. The purpose for which this subpoena is sought is to obtain the identity of this user,
3 who has posted infringing content on the Casks.me Website.

4 3. The information obtained will be used only for the purposes of protecting the rights
5 granted to Cognosphere under the Copyright Act.

6 4. Under 17 U.S.C. § 512(c)(3)(A), Cognosphere has submitted a takedown notice to
7 Spartan Host identifying the infringing content posted by the infringing user(s) and providing the
8 information required by 17 U.S.C. § 512(c)(3)(A). A true and accurate copy of the submitted
9 notification is attached hereto as **Exhibit 1**.

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct to the best of my knowledge, information and belief.

12 Executed at Los Angeles, California on October 6, 2023.

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16 James D. Berkley
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EXHIBIT 1



MITCHELL SILBERBERG & KNUPP LLP
A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

James D. Berkley
Attorney-at-Law
(310) 312-3717 Phone
jdb@msk.com

October 6, 2023

VIA E-MAIL ONLY

Spartan Host LLC / Spartan Host Ltd.
Attn: Copyright Agent
12201 Tukwila International Blvd.
Seattle, WA 98168
abuse@spartanhost.net

Re: Notice of Infringement Submitted Pursuant to 17 U.S.C. Section 512

To Whom It May Concern:

I submit to you the following statement pursuant to section 512 of Title 17 of the U.S. Code and inform you that Mitchell Silberberg & Knupp LLP is authorized to act on behalf of Cognosphere Pte. Ltd. (“Cognosphere”), the owner of exclusive rights under copyright in and to the highly popular video game *Genshin Impact*, including artwork, gameplay elements, and other audiovisual materials associated therewith.

It has come to our attention that material infringing Cognosphere’s exclusive rights in *Genshin Impact* is being made available via the website www.casks.me, which we have reason to believe is hosted by Spartan Host. Specifically, and without limitation, such infringing material includes copyrighted artwork being display at Uniform Resource Locators (“URLs”) including the following:

- <https://casks.me/wp-content/uploads/2023/01/image-13-1024x461.png>
- <https://casks.me/wp-content/uploads/2023/01/image-12-1024x482.png>
- <https://casks.me/wp-content/uploads/2023/01/image-28-1024x461.png>
- https://casks.me/wp-content/uploads/2022/11/IMG_20221115_095313-edited.png

We request that Spartan Host take expeditious action to remove or disable access to the materials referenced above. Furthermore, it is requested that Spartan Host take appropriate measures to prevent further infringements by the party responsible, including pursuant to any “repeat infringer” policies maintained by Spartan Host.

I hereby state that I have a good faith belief that the use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law. Additionally, I hereby state that the information in this notification is accurate, and under penalty of perjury, that I am the owner, or an agent authorized to act on behalf of the owner, of an exclusive right that is allegedly infringed.



Spartan Host LLC / Spartan Host Ltd.
October 6, 2023
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I very much appreciate your cooperation in this matter. Please advise me regarding what actions Spartan Host has taken, or intends to take, by contacting me at the above address.

Very truly yours,

A handwritten signature in black ink, appearing to read "J.D. Berkley", with a long horizontal flourish extending to the right.

James D. Berkley
Attorney-at-Law for
MITCHELL SILBERBERG & KNUPP LLP

JDB/jdb