

1 JAMES D. BERKLEY (SBN 347919), jdb@msk.com
MITCHELL SILBERBERG & KNUPP LLP
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Los Angeles, CA 90067-3120
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Facsimile: (310) 312-3100

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 Google LLC, dba
YouTube

MISC. CASE NO. 3:23-mc-80259

**DECLARATION OF JAMES D.
BERKLEY IN SUPPORT OF REQUEST
FOR SUBPOENA TO GOOGLE LLC
DBA YOUTUBE 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
27 Google LLC d/b/a YouTube to disclose the identity, including the name(s), address(es), telephone
28 number(s), and e-mail addresses(es) of the user “casksteven,” who maintains an account at the


1 Internet address <https://www.youtube.com/@casksteven> (the “Casksteven YouTube Account”).
2 The purpose for which this subpoena is sought is to obtain the identity of this user, who has posted
3 infringing content on the Casksteven YouTube Account.

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 Google LLC d/b/a YouTube identifying the infringing content posted by the infringing user(s) and
8 providing the information required by 17 U.S.C. § 512(c)(3)(A). A true and accurate copy of the
9 submitted 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

From: Berkley, James
Sent: Friday, October 6, 2023 2:07 PM
To: 'copyright@youtube.com'
Subject: Notice of Infringement Submitted Pursuant to 17 U.S.C. Section 512
Attachments: 2023-10-06 Notice of Infringement to YouTube Pursuant to 17 U.S.C. Section 512(15874236.1).pdf

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 the gameplay and audiovisual elements embodied therein.

It has come to our attention that certain videos infringing Cognosphere's exclusive rights in *Genshin Impact* are being made available via the YouTube website via the user account www.youtube.com/@casksteven. These videos include, without limitation, videos appearing at the following Uniform Resource Locators ("URLs"):

- https://www.youtube.com/watch?v=h1_1rI7w06w
- <https://www.youtube.com/watch?v=UzxXns-l-M0>
- <https://www.youtube.com/watch?v=v3RPgiCFN-k>
- <https://www.youtube.com/watch?v=GYOcAPx6bq0>
- https://www.youtube.com/watch?v=-_ytktQbeTo8
- <https://www.youtube.com/watch?v=SgdTF0td-tk>
- <https://www.youtube.com/watch?v=RD7enpJzkBw>
- https://www.youtube.com/watch?v=_7g8T2hxVw4

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

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.

I very much appreciate your cooperation in this matter. Please advise me regarding what actions YouTube has taken, or intends to take, by contacting me at the above address.

Very truly yours,
/s/ James D. Berkley



James Berkley | Attorney-at-Law

T: 310.312.3717 | jdb@msk.com

Mitchell Silberberg & Knupp LLP | www.msk.com

2049 Century Park East, 18th Floor, Los Angeles, CA 90067

THE INFORMATION CONTAINED IN THIS E-MAIL MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT AN

INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, USE, DISSEMINATION, FORWARDING OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. PLEASE NOTIFY US IMMEDIATELY BY REPLY E-MAIL OR TELEPHONE, AND DELETE THE ORIGINAL MESSAGE AND ALL ATTACHMENTS FROM YOUR SYSTEM. THANK YOU.



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

Copyright Agent
Google LLC d/b/a YouTube
1600 Amphitheatre Parkway
Mountain View, CA 94043
copyright@youtube.com

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

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- <https://www.youtube.com/watch?v=UzxXns-l-M0>
- <https://www.youtube.com/watch?v=v3RPgiCFN-k>
- <https://www.youtube.com/watch?v=GYOcAPx6bq0>
- https://www.youtube.com/watch?v=_ytktQbeTo8
- <https://www.youtube.com/watch?v=SgdTF0td-tk>
- <https://www.youtube.com/watch?v=RD7enpJzkBw>
- https://www.youtube.com/watch?v=_7g8T2hxVw4

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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



Copyright Agent
October 6, 2023
Page 2

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I very much appreciate your cooperation in this matter. Please advise me regarding what actions YouTube 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