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THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BUNGIE, INC., a Delaware corporation,

Plaintiff,

v.

AIMJUNKIES.COM, a business of  
unknown classification; PHOENIX  
DIGITAL GROUP LLC, a Delaware  
limited liability company; DAVID  
SCHAEFER, an individual; JORDAN  
GREEN, an individual; JEFFREY  
CONWAY, an individual; and JAMES  
MAY, an individual,

Defendants.

No. 2:21-cv-811-TSZ

AMENDED COMPLAINT  
WITH JURY DEMAND

Plaintiff Bungie, Inc. (“Plaintiff” or “Bungie”), by and through its undersigned attorneys,  
for its Amended Complaint against Defendants AimJunkies.com, Phoenix Digital Group LLC,  
David Schaefer, Jordan Green, Jeffrey Conway, and James May (“Defendants”), hereby allege  
and aver as follows:

**INTRODUCTION**

1. Bungie is the owner of the popular Destiny franchise including *Destiny 2*, an  
incredibly successful shared-world first-person action video game. *Destiny* (2014) and *Destiny 2*  
(2017) and its expansions (2018, 2019, 2020 and ongoing) have been persistent recipients or

1 nominees for rewards worldwide since their release. *Destiny*, *Destiny 2*, and its expansions have  
2 met with commercial success due in part to their persistent multiplayer features, matchmaking,  
3 cooperative Player vs. Environment (PvE) and Player vs. Player (PvP) modes, and in-game  
4 rewards. Such rewards include items, seals, and titles that are obtainable by players through  
5 skillful gameplay and that are visible to other players, this visibility being an important aspect of  
6 the social, always-online nature of the games.

7         2. Defendants develop, advertise, use, and distribute a software cheat that purports to  
8 give players an unfair advantage in *Destiny 2*. Specifically, Phoenix Digital Group LLC  
9 (“Phoenix Digital”) and its three managing members—Defendants David Schaefer, Jeffrey  
10 Conway, and Jordan Green—operate the website AimJunkies.com, where they sell cheat  
11 software for dozens of video games, including *Destiny 2*. On information and belief, Defendants  
12 copied Bungie’s data structures for *Destiny 2* and reverse-engineered other components of  
13 *Destiny 2*’s software code to develop cheat software.

14         3. On information and belief, Defendants’ *Destiny 2* cheat software also operates by  
15 injecting code into the *Destiny 2* software code while it is running, creating an unauthorized  
16 derivative work of *Destiny 2*.

17         4. On information and belief, Phoenix Digital is comprised of several employees and  
18 other participants. According to its publicly-filed Articles of Organization, Phoenix Digital has  
19 three managing members: David Schaefer, Jeffrey Conway, and Jordan Green.

20         5. Defendant David Schaefer is a Director, Officer, and managing member of  
21 Phoenix Digital. He personally participated in Phoenix Digital’s infringing activities by actively  
22 recruiting and hiring developers for the specific purpose of copying game engine structures and  
23 reverse engineering new video games and circumventing anti-cheat technologies in video games,  
24 like *Destiny 2*. According to his own admissions, Mr. Schaefer has been making video game  
25 cheats for decades, including on information and belief, the *Destiny 2* cheat software.  
26

1           6. Defendant Jefferey Conway is also a managing member of Phoenix Digital.  
2 Additionally, Mr. Conway’s residence is the listed place of business for Phoenix Digital. Mr.  
3 Conway’s personal phone number is also associated with the entity accepting payment for sales  
4 of the *Destiny 2* cheat software. On information and belief, Mr. Conway directly participated in,  
5 or was an active moving force behind, the infringement of the *Destiny 2* software.

6           7. Defendant James Green is the third managing member of Phoenix Digital and, on  
7 information and belief, also directly participated in, or was an active moving force behind, the  
8 infringement of the *Destiny 2* software.

9           8. Defendant James May has also used Defendants’ *Destiny 2* cheat software on  
10 Bungie’s servers for *Destiny 2*, and, on information and belief, contributed to the development of  
11 the *Destiny 2* cheat software.

12           9. Defendants are infringing Bungie’s copyrights and trademarks, circumventing  
13 technological measures protecting access to *Destiny 2*, and breaching and inducing other players  
14 to breach Bungie’s Limited Software License Agreement (“LSLA”). In order to expeditiously  
15 address these activities, Bungie voluntarily initiated arbitration of all claims other than its  
16 trademark and copyright claims against Defendants.

17           10. Cheaters ruin the experience of playing *Destiny 2*. Not only do cheaters impair  
18 the enjoyment of gameplay by non-cheaters with whom they interact in-game; cheaters  
19 illegitimately obtain and thereby devalue the in-game rewards that non-cheaters obtain  
20 legitimately. It is vital to Bungie’s and *Destiny 2*’s success that Bungie keep cheaters out of the  
21 game. Bungie has expended substantial time and money to keep players from utilizing cheats  
22 like those developed by Defendants. Defendants’ cheats cause harm to Bungie including to the  
23 goodwill Bungie has developed with the *Destiny 2* community as well as to Bungie’s reputation.

24           11. Bungie brings this action to stop Defendants’ unlawful actions, to prevent  
25 Defendants from profiting off the unlawful infringement of Bungie’s intellectual property, to  
26 prevent Defendants from damaging Bungie’s reputation and diminishing the perceived value of

1 the *Destiny* franchise by impairing the experience of legitimate non-cheat players of *Destiny 2*,  
2 as well as to put cheaters and those who assist them on notice that Bungie does not and will not  
3 tolerate cheating in *Destiny 2*.

#### 4 **PARTIES**

5 12. Bungie is a Delaware corporation with its principal place of business at 550 106th  
6 Avenue NE, Suite 207, Bellevue, Washington, 98004-5088.

7 13. Defendant Aimjunkies.com is a business of unknown classification that  
8 advertises, markets and sells Defendants' cheats.

9 14. Defendant Phoenix Digital Group LLC is a Delaware limited liability company  
10 with a mailing address of 8837 W. Vernon, Phoenix, Arizona, 85037.

11 15. Defendant David Schaefer is an Officer, Director, and managing member of  
12 Phoenix Digital with a mailing address of 5669 Snell Ave., #433, San Jose, California 95123.

13 16. Defendant Jordan Green is a managing member of Phoenix Digital with a mailing  
14 address of 2839 SW Dickinson Street, Portland, Oregon, 97219.

15 17. Defendant Jeffrey Conway is a managing member of Phoenix Digital with a  
16 mailing address of 8837 W. Vernon, Phoenix, Arizona, 85037.

17 18. Defendant James May is an individual residing at 2217 Polo Park Drive, Dayton,  
18 Ohio, 45439.

#### 19 **JURISDICTION AND VENUE**

20 19. This Court has subject matter jurisdiction over Bungie's claims for violations of  
21 the Copyright Act and the Lanham Act pursuant to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and  
22 1338(a).

23 20. Personal jurisdiction over Defendants is proper because Defendants consented to  
24 jurisdiction in the state and federal courts in King County, Washington. As explained herein,  
25 Defendants accepted the terms of the LSLA, which contain the following forum selection clause:  
26

1 “you agree to submit to the personal jurisdiction of any federal or state court in King County,  
2 Washington.”

3 21. Personal jurisdiction over Defendants is also proper because, as more fully set  
4 forth below, Defendants infringed Bungie’s copyrights and trademarks and committed other acts  
5 directed to Washington. Defendants knew or should have known that the impact of their  
6 intentional acts would cause harm in Washington, where Bungie is headquartered.

7 22. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and 1400(a) because a  
8 substantial part of the events or omissions giving rise to the claims occurred in this judicial  
9 district and Defendants have harmed Bungie in this judicial district.

10 23. Venue is also proper because Defendants consented to suit in the federal court  
11 located in King County, Washington.

12 **FACTS AND BACKGROUND**

13 **A. Bungie and the *Destiny* Franchise**

14 24. Bungie is an independent game development studio dedicated to creating hopeful  
15 worlds that inspire passionate player communities and lifelong friendships. Over the past 30  
16 years, Bungie has created many popular video games, including the Halo franchise, the Marathon  
17 Trilogy, and the first two Myth games.

18 25. Bungie’s latest, and most ambitious project is the *Destiny* franchise. The  
19 franchise launched in September 2014 with the release of *Destiny*. In *Destiny*, players are  
20 Guardians of the last safe city on Earth, protecting humanity from aliens and combatting the  
21 looming threat of the Darkness, an ongoing threat to humanity. At the time of its release,  
22 *Destiny* offered an unprecedented variety of gameplay that broke traditional conventions of  
23 story, cooperative and competitive multiplayer modes, combined with public and social  
24 activities.

25 26. *Destiny* has a large, vibrant and passionate community of players. Since its  
26 release in 2014, *Destiny* attracted more than 10 million players worldwide. Post-launch, Bungie

1 supported the growth of *Destiny* and the *Destiny* community by selling downloadable content  
2 (“DLC”) expansions with new content and in-game events that offered challenges, new game  
3 modes, and rewards for its players.

4 27. The most recent game in the *Destiny* franchise, *Destiny 2*, was released in  
5 September 2017 and builds on the success of the original game. *Destiny 2* is now a free-to-play  
6 game with paid expansions, continually refreshed DLC, and a player base estimated over 30  
7 million players. As with the original *Destiny*, Bungie continues to offer new DLC post-launch in  
8 *Destiny 2* with three major expansions and substantial seasonal releases, including the recent  
9 expansion, *Destiny 2: Beyond Light*, which allows players to harness new powers and explore a  
10 new frontier on Europa.

11 28. *Destiny 2* and its expansions have received or been nominated for the following  
12 rewards worldwide since their release: in the US, Best Ongoing Game Award (2020, 2019, 2018,  
13 2017), Best Community Support Award (2020, 2019), Best Multiplayer Game Award (2018,  
14 2017), Best Action Game Award (2018, 2017), and others; and comparable awards and  
15 recognitions in Italy, France, Russia, the UK, Australia, New Zealand, Spain, Germany, and  
16 elsewhere.

17 29. A key part of the *Destiny* franchise’s success is bringing together players in a  
18 shared, persistent world. The *Destiny* franchise combines the game with a unique social  
19 experience by connecting players with a living world that they can explore and social spaces  
20 where players can congregate and celebrate achievements.

21 30. *Destiny 2* offers a variety of game modes that present exciting challenges for  
22 players, and rewards for those who complete them. Players can test their skills in PvP  
23 competitive matches, featuring objective-based game modes requiring players to take control of  
24 locations on a map or detonating a charge on the opposing team’s base, and non-objective-based  
25 game modes which require only that players defeat other players. By performing well in the  
26 Crucible (*Destiny 2*’s online PvP gameplay mode) and defeating opponents, players are rewarded

1 with powerful weapons and gear. The endgame PvP contests offer skill-based matchmaking in  
2 which teams of players are iteratively matched against stronger opponents, in a system that  
3 naturally concentrates cheaters.

4 31. *Destiny 2* also offers PvE activities where players, often working together, battle  
5 non-player characters to complete objectives. The most challenging PvE activities require a high  
6 level of skill and coordination among players to complete. By completing more difficult  
7 activities, players can obtain the most powerful weapons and gear with unique abilities. High  
8 skill-based performance in endgame PvE content also rewards players with powerful weapons  
9 and gear, as well as access to exclusive rewards both in-game (e.g., banners, seals) and in  
10 exclusive physical merchandize through the Bungie Rewards program.

11 32. Keeping cheaters out of *Destiny 2* is vital to Bungie, the *Destiny* community, and  
12 to the success and continued player interest in the *Destiny* franchise. Bungie has made  
13 substantial investments in time and money to ensure that all players in *Destiny 2* achieve success  
14 due to their talent and skill, and not due to software that gives them an unfair advantage.

15 33. Cheaters, and those who develop and sell cheats, are especially harmful to the  
16 *Destiny 2* community. *Destiny 2* rewards players for their gameplay skills with items, seals, and  
17 titles, and these rewards are visible to other players. Cheaters earn the same rewards without the  
18 requisite gameplay skill. When cheating occurs, or when there is a perception that players are  
19 cheating, then non-cheating players become frustrated that cheaters obtain the same rewards and  
20 stop playing.

21 34. Cheaters are also harmful to the continued commercial success of *Destiny 2*. As a  
22 free-to-play game, *Destiny 2*'s commercial success is dependent upon continued player  
23 engagement, including the purchase of DLC and *Destiny 2* expansions. When players are  
24 deprived of in-game rewards because cheaters defeat them in competitive game modes, or when  
25 players' in-game rewards are devalued by cheaters who obtain rewards they otherwise would not  
26 have obtained, players stop playing *Destiny 2* and stop purchasing the DLC and expansions.

1           35.     On information and belief, cheat software may also be used to surreptitiously  
2 install malware and other harmful software on the computers of cheat software users.

3           36.     Simply put, cheaters ruin the game for everyone.

4     **B.     Bungie’s Intellectual Property Rights in the *Destiny* Franchise**

5           37.     Bungie is the owner of all rights, title, and interest in the copyrights in *Destiny*,  
6 *Destiny 2* and all expansions, including without limitation, in its computer software and the  
7 audiovisual works that software creates (collectively, the “Destiny Copyrights”). These  
8 copyrights are the subjects of U.S. Copyright Registrations listed in the table below, and attached  
9 hereto as Exhibits 1–4.

Title	Type	Registration No.	Date of 1st Publication	Expiration Date of Registration
Destiny 2	Code (Literary Work)	TX 8-933-655	September 9, 2017	September 9, 2112
Destiny 2: Beyond Light	Code (Literary Work)	TX 8-933-658	November 10, 2020	November 10, 2115
Destiny 2	Audiovisual	PA 2-282-670	September 9, 2017	September 9, 2112
Destiny 2: Beyond Light	Audiovisual	PA 2-280-030	November 10, 2020	November 10, 2115

10           38.     Bungie also owns multiple trademarks associated with the *Destiny* franchise  
11 including but not limited to DESTINY, DESTINY (& design), DESTINY 2, DESTINY 2:  
12 LIGHTFALL, DESTINY 2: BEYOND LIGHT, and DESTINY 2: THE WITCH QUEEN (the  
13 “DESTINY Marks”).

14           39.     Bungie began using the DESTINY and DESTINY (& design) marks in commerce  
15 at least as early as February 1, 2013. Since their first use, Bungie has continually used those  
16 marks in connection with video game software.

17           40.     Bungie has invested substantial resources in marketing, advertising, and  
18 distributing video games under the DESTINY Marks.

19           41.     *Destiny 2*, sold under the DESTINY Marks, has a growing player base of more  
20 than 30 million players.  
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1 42. Bungie has developed substantial goodwill and strong recognition in the  
2 DESTINY Marks, and those marks have come to be associated with Bungie.

3 43. Through its nationwide use and promotion of the DESTINY Marks, Bungie has  
4 established strong rights in those trademarks, and they are entitled to protection.

5 44. Bungie also owns United States Patent and Trademark Office (“USPTO”)  
6 Registration No. 4,321,315 for the DESTINY (& design) mark:



11 A true and correct copy of the registration certificate for the DESTINY (& design) mark is  
12 attached hereto as Exhibit 5.

13 45. Bungie also has pending applications for DESTINY 2: LIGHTFALL (Serial No.  
14 88/955,399), DESTINY 2: BEYOND LIGHT (Serial No. 88/955,392), and DESTINY 2: THE  
15 WITCH QUEEN (Serial No. 88/955,395).

16 **C. Bungie’s Efforts to Eliminate Cheaters from *Destiny 2***

17 46. Because of *Destiny 2*’s popularity, it is under constant threat by individuals  
18 seeking to make a profit from selling cheats and cheaters seeking to gain an unfair advantage  
19 over other players for personal gain and glory.

20 47. By downloading, installing, playing, copying, or using *Destiny 2*, players accept  
21 the terms of Bungie’s LSLA. If a player does not agree to the LSLA or wishes to reject the  
22 terms of the LSLA, then the player may not download, install, play, copy, or use *Destiny 2*. A  
23 true and correct copy of the LSLA is attached hereto as Exhibit 6.

24 48. Defendants’ cheat software targets specific locations in computer memory that are  
25 specific to *Destiny 2*, and, by design, are not accessible to end users, by bypassing security  
26

1 measures that are also specific to *Destiny 2*; and therefore Defendants' cheat software could not  
2 have been created without copying the software code for *Destiny 2*.

3 49. In order to develop the cheats for *Destiny 2* that Defendants developed and  
4 distributed, they needed to first download, install play, copy, and/or use *Destiny 2*. Thus, in  
5 developing the cheats at issue, Defendants each downloaded, installed, played, copied, and/or  
6 used *Destiny 2* and therefore accepted the terms of the LSLA.

7 50. Specifically, Mr. Schaefer, Mr. Conway, Mr. Green and Mr. May each  
8 downloaded, installed, played, copied or used *Destiny 2*, and members or agents of Defendants  
9 Aimjunkies.com and Phoenix Digital Group LLC—acting on behalf of those entities and the  
10 defendant managing members of those entities—downloaded, installed played, copied, or used  
11 *Destiny 2*.

12 51. As alleged herein, each of Mr. Schaefer, Mr. Conway, Mr. Green and Mr. May  
13 participated in or were a moving and driving force behind the creation of the cheat software for  
14 *Destiny 2*. In order to create that cheat software, and on information and belief, Mr. Schaefer,  
15 Mr. Conway, Mr. Green and Mr. May reverse engineered and copied the software code for  
16 *Destiny 2*. By doing so, each Defendant agreed to the terms of the LSLA by copying and using  
17 *Destiny 2*.

18 52. In addition, Mr. Schaefer, Mr. Conway, Mr. Green and Mr. May have conceded  
19 that they accepted and are bound by the LSLA. Among other things, Mr. Schaefer, Mr. Conway,  
20 Mr. Green and Mr. May cited and relied on the terms of the LSLA and demanded arbitration of  
21 certain claims that Bungie alleged in its first complaint. That LSLA-driven arbitration has  
22 commenced; and Mr. Schaefer, Mr. Conway, Mr. Green, and Mr. May have not contested  
23 jurisdiction.

24 53. Under the LSLA, players agree they will not do, or allow, any of the following:

- 25 a. Exploit *Destiny 2* or any of its parts commercially;  
26

- b. Copy, reproduce, distribute, display or use any part of *Destiny 2* except as expressly authorized by Bungie;
- c. Sell, rent, lease, license, distribute, or otherwise transfer *Destiny 2* or any copies thereof;
- d. Reverse engineer, derive source code, modify, decompile, disassemble, or create derivative works of *Destiny 2*, in whole or in part; or
- e. Hack or modify *Destiny 2*, or create, develop, modify, distribute, or use any unauthorized software programs to gain advantage in any online or multiplayer game modes.

54. Bungie employs a variety of technological protection measures that, in the ordinary course of their operation, require the application of information, or a process or a treatment, with the authority of Bungie, to gain access to *Destiny 2* and prevent, restrict, or otherwise limit a player's ability to access, copy, or modify *Destiny 2*. At a high level, the *Destiny 2* game client attempts to safeguard critical player data and prevent unauthorized reading and writing of this data, as well as unauthorized execution of game logic. Additional measures are taken to prevent otherwise normal game functionality (e.g. firing a weapon) from being manipulated, misused, or over-used to gain an unfair advantage.

55. The AimJunkies cheat suite evades these protections to offer its users access to hidden player data and to modify or use it to further abuse existing game functionality, thus disrupting other players' experience with the game. The AimJunkies cheat suite also attempts to evade the detection by Bungie of cheat mechanisms.

56. In addition, Bungie provides a mechanism for players to report cheating via an in-game reporting tool or through a form on the Bungie website. Bungie uses those reports along with other tools to investigate players who may be using cheats.

57. Bungie does not tolerate cheating or the individuals and entities who assist players in cheating.

1 58. Bungie regularly bans players who are connected to cheat makers and/or who use  
2 cheat software within *Destiny 2*.

3 **D. Defendants Phoenix Digital, It's Managing Members, and AimJunkies.com**

4 59. Defendants created, advertised, sold, and distributed cheat software, including for  
5 *Destiny 2*.

6 60. Defendants advertised and sold their cheats through their website,  
7 AimJunkies.com. Defendants sold their cheat, "Destiny 2 Hacks," for \$34.95/month.

8 61. As of December 4, 2020, Phoenix Digital was listed as the seller of the *Destiny 2*  
9 cheat software purchased through AimJunkies.

10 62. On information and belief, Defendant Phoenix Digital—and its three managing  
11 members, Mr. Schaefer, Mr. Conway and Mr. Green—own and control AimJunkies. According  
12 to the AimJunkies website, the website was acquired by Phoenix Digital in or around June 2016.

13 63. In addition to operating and controlling AimJunkies.com, on information and  
14 belief, Mr. Schaefer, Mr. Conway and Mr. Green also work closely together on and own and  
15 operate other similar websites which distribute infringing cheat software, including but not  
16 limited to websites located at <mombotcheats.com> and <virtual-advantage.com>.

17 64. Defendant David Schaefer is a managing member, Officer, and Director of  
18 Phoenix Digital. Mr. Schaefer has decades of experience making cheats, writing to the  
19 undersigned counsel on November 11, 2021, that "when you were in high school i [sic] was  
20 making cheats, when you were in college and law school i [sic] was making cheats. When this  
21 litigation is over and you've moved on to private practice, i [sic] will still be making cheats."

22 65. On information and belief, Mr. Schaefer has also recruited cheat developers to  
23 work for Phoenix Digital and AimJunkies for the express purpose of infringing video game  
24 software. For example, in or around December 2017, Mr. Schaefer posted an announcement on  
25 the AimJunkies website titled "Looking for cheat developers!" Mr. Schaefer sought cheat  
26 developers with the following criteria (among others):

- a. Knowledge of game engine structures and the ability to reverse engineer new games in a timely fashion to bring product to market.
- b. Knowledge of anti-cheating strategies and ability and willingness to develop defensive strategies and technologies.
- c. Experience in engaging anti-cheats in either public or private cheat environments is expected.

66. On information and belief, Mr. Schaefer hired cheat developers to develop the *Destiny 2* cheat software on behalf of Phoenix Digital.

67. In other words, Mr. Schaefer was looking for cheat developers who knew how to copy and modify video game software code and circumvent technological measures meant to protect video game software code from cheats. This post remains tagged at the top of the AimJunkies.com Announcements page and has received over 38,000 views.

68. On information and belief, Mr. Schaefer personally participated in the creation of Defendants' *Destiny 2* cheat software due to his years of experience creating cheat software and through his recruitment of cheat developers for that purpose. On information and belief, Mr. Schaefer also personally directed and participated in the decision to make and sell the *Destiny 2* cheat software on the AimJunkies website with knowledge of how the cheat functions and which features were included in the cheat software.

69. Defendants Jeffrey Conway and Jordan Green are the other two managing members of Phoenix Digital. On information and belief, Mr. Conway's primary residence serves as the principal place of business for Phoenix Digital, and Mr. Conway's phone number is used in connection with service providers to accept payments for Defendants' *Destiny 2* cheat software sold through AimJunkies.com.

70. On information and belief, Mr. Conway and Mr. Green also personally participated in the creation of Defendants' *Destiny 2* cheat software or were a driving and moving force behind its creation, and benefited from the infringement.

1           71. On information and belief, each of the three managing members of Phoenix  
2 Digital operated and controlled the AimJunkies.com website, and accessed and utilized the same  
3 email accounts and AimJunkies.com forum aliases to promote the distribution of the *Destiny 2*  
4 cheat software. These accounts and forum aliases, including  
5 phoenixdigitalgroup2012@gmail.com, were also used to solicit resumes for programmers to  
6 develop cheats for AimJunkies, including on information and belief, the cheat software for  
7 *Destiny 2*.

8           72. Additionally, on information and belief, as the managing members of Phoenix  
9 Digital, each of Mr. Schaefer, Mr. Conway, and Mr. Green personally and directly benefited  
10 from the sale and distribution of the *Destiny 2* cheat software including by sharing in the profits  
11 generated from the sale of the cheat software.

12           73. Further on information and belief, as the managing members of Phoenix Digital,  
13 each of Mr. Schaefer, Mr. Conway, and Mr. Green had the right and ability to supervise and  
14 control the actions of the employees and agents of Phoenix Digital that assisted them in creating  
15 and distributing the *Destiny 2* cheat software, and directed those employees and agents to  
16 develop and distribute the *Destiny 2* cheat software. As the owners and controllers of the  
17 AimJunkies.com website and the managing members of Phoenix Digital, each of Mr. Schaefer,  
18 Mr. Conway, and Mr. Green had the ability to control the distribution of the cheat software  
19 through the website and had knowledge that such software was being developed and distributed  
20 through their website.

21 **E. Defendant James May**

22           74. On information and belief, Defendant James May has also used and been involved  
23 in the development of Defendants' *Destiny 2* cheat software. For instance, between October 3,  
24 2019 and May 13, 2021, Bungie identified at least 83 unique accounts now believed to be  
25 connected to Mr. May contacting Bungie's servers in a suspicious manner consistent with either  
26 the use of Defendants' cheat software or operation of detectable reverse-engineering tools that

1 interact with the *Destiny 2* game engine, or both at the same time, and at times triggering  
2 automatic bans as frequently as thirty minutes apart. On information and belief, this activity was  
3 conducted by Mr. May at the direction of and/or on behalf of Defendant Phoenix Digital and its  
4 managing members in order to update their *Destiny 2* cheat. Bungie also discovered that Mr.  
5 May was part of these activities and that, during that time, he used a Phoenix Digital computer  
6 file while connected to Bungie's *Destiny 2* servers and in connection with Defendants' actions in  
7 updating their cheat.

8 75. On information and belief, Mr. May also has a history of cheat development and  
9 sale, including in connection with AimJunkies.com and Phoenix Digital. For example, a PayPal  
10 account linked to Mr. May's email address has been used in connection with the sale of cheat  
11 software for the Call of Duty 4 video game on the website mombotcheats.com. According to the  
12 AimJunkies.com website, mombotcheats.com is also part of the Phoenix Digital network of  
13 cheat websites.

14 76. Mr. May has also been banned from video game platforms for cheating. Mr.  
15 May's Bungie account under the username "Sw1fty" has been banned by Bungie for using  
16 Defendants' cheat software and/or operating reverse-engineering tools. In addition, multiple  
17 Steam profiles that, on information and belief, are associated with Mr. May have been banned for  
18 cheating, including at least one Steam profile (also named "Sw1fty") that is friends with a Steam  
19 profile named "AimJunkiesMediaLive."

#### 20 **F. Defendants' Cheat Software**

21 77. Defendants' *Destiny 2* cheat software infringes the computer software and  
22 audiovisual copyrights owned by Bungie.

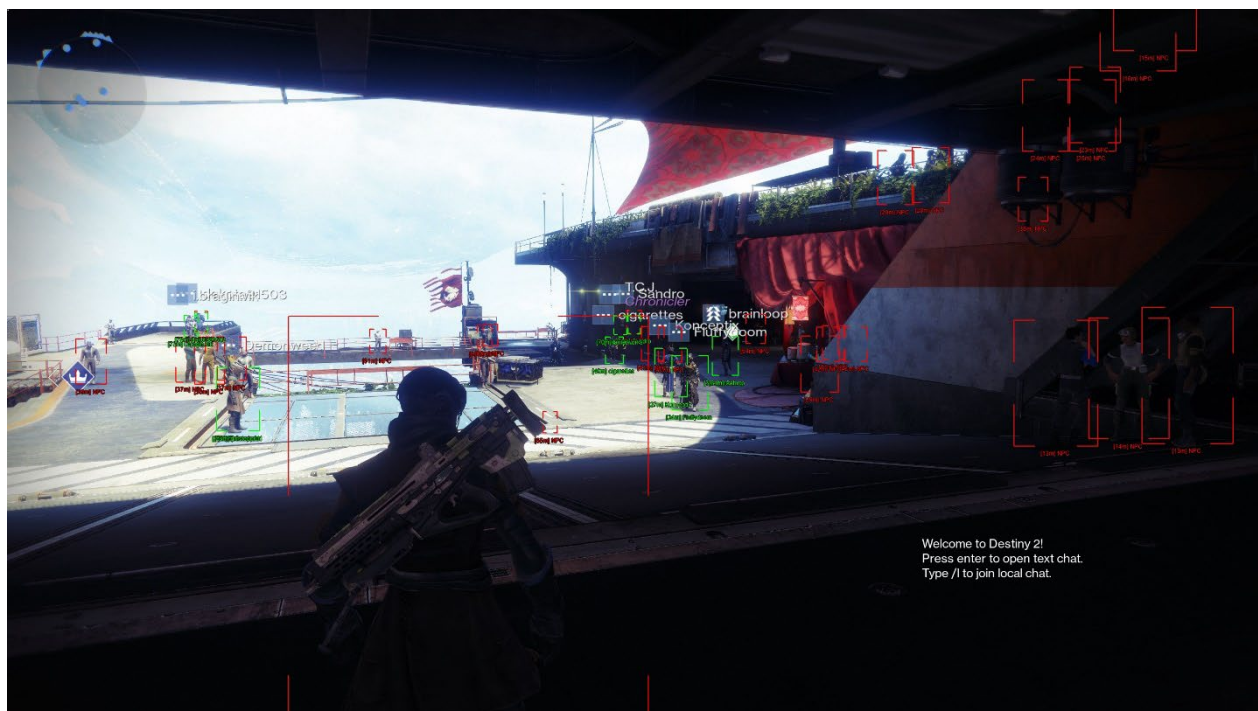
23 78. Among other things, Bungie's *Destiny 2* computer software copyrights consist of  
24 data structures that correspond to attributes of the *Destiny 2* game. These attributes include, for  
25 example, player positioning (i.e., where each *Destiny 2* player and non-player character is in  
26 *Destiny 2* at any given moment). These data structures provide instructions for how individual

1 pieces of data are stored and organized in a computer's memory so that the game displays and  
2 functions properly for players.

3 79. In addition, Bungie's *Destiny 2* copyrighted software includes data structures and  
4 functions dedicated to *Destiny 2*'s rendering, which determines what each *Destiny 2* player sees  
5 from their character's perspective while playing *Destiny 2*.

6 80. On information and belief, Phoenix Digital copied and modified these data  
7 structures and software code to create its *Destiny 2* cheat software.

8 81. For example, Defendants' *Destiny 2* cheat software included a feature called  
9 "ESP," which allowed users of Defendants' cheat software to see other *Destiny 2* players and  
10 non-player characters through solid walls by displaying a distinct box around the other players,  
11 displaying the players' names, and the distance between the cheating and non-cheating players.  
12 A screenshot of this feature of Defendants' cheat software is shown below:



24 82. The resulting display by Defendants' *Destiny 2* cheat software is a modified  
25 version of *Destiny 2*'s original audiovisual output and is an infringement of Bungie's *Destiny 2*  
26 audiovisual copyrights.



1           83.     On information and belief, in order to provide this ESP feature, Defendants  
2 copied the *Destiny 2* software code that corresponds to the data structures for player positioning  
3 *Destiny 2*, and reverse engineered the software code for *Destiny 2*'s rendering functions. On  
4 information and belief, Defendants then incorporated cheat software code derived from copies of  
5 these data structures into every copy of Defendants' cheat software they sold.

6           84.     To use the Cheat Software, cheat users run an authentic copy of *Destiny 2* on their  
7 computers while also running a copy of the Cheat Software.

8           85.     On information and belief, Defendants then inject their own code into (i.e., run  
9 their software code inside) the *Destiny 2* game engine.<sup>1</sup> The injected code extracts information  
10 to which the cheat user does not ordinarily have access from the player positioning data  
11 structures and then manipulates the rendering data structures and calls the camera and display  
12 functions (that are ordinarily only called by other game functions within authentic copies of  
13 *Destiny 2*) to (a) determine where the other *Destiny 2* characters are located, and then (b) display  
14 the boxes, player name, and distance information on the cheat users' screen. The resulting  
15 software that is based on the *Destiny 2* software code is an unauthorized derivative work of  
16 Bungie's *Destiny 2* computer software copyrights.

17           86.     Defendants' *Destiny 2* cheat software also included an "AIMBOT" feature, which  
18 allowed cheat users to automatically aim at other *Destiny 2* player and non-player characters with  
19 little to no input (i.e., movement of the mouse and/or joystick) by the player using Defendants'  
20 cheat software.

21           87.     On information and belief, in order to provide this AIMBOT feature, Defendants  
22 first copied the *Destiny 2* software code that corresponds to the player positioning data  
23 structures, and/or reverse engineered the *Destiny 2* software code that calculates the angle deltas  
24  
25

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26           <sup>1</sup> The *Destiny 2* game engine refers to the software that supports gameplay, networking, and display, among other functions.

1 for mouse movements, and then incorporated cheat software code derived from copies of these  
2 data structures into every copy of Defendants' cheat software they sold.

3 88. On information and belief, Defendants then inject their own code into the *Destiny*  
4 2 game engine to automatically call certain functions within *Destiny 2* that enable cheat users to  
5 aim at other *Destiny 2* players and non-player characters without the player inputting commands  
6 into *Destiny 2*. The resulting cheat software that is based on the *Destiny 2* data structures is an  
7 unauthorized derivative work of Bungie's *Destiny 2* computer software copyrights.

8 89. Defendants' *Destiny 2* cheat software included a feature called "One Position  
9 Kill" ("OPK"), which allowed cheat users to cause other players and characters to either respawn  
10 at or move (teleport) to the same space in *Destiny 2* so that the cheat user's abilities would be  
11 more effective at defeating those opponents, accelerating the rate at which cheat users  
12 accumulate rewards and accolades.

13 90. On information and belief, in order to provide this OPK feature, Defendants  
14 copied the *Destiny 2* software code that corresponds to the data structures for player positioning  
15 and combatant positioning, reverse engineered the *Destiny 2* software, and then incorporated  
16 cheat software code derived from copies of these data structures into every copy of Defendants'  
17 cheat software they sold.

18 91. On information and belief, Defendants then inject their own code into the *Destiny*  
19 2 game engine to manipulate the player and non-player character positions. The resulting cheat  
20 software is based on the *Destiny 2* data structures and is an unauthorized derivative work of  
21 Bungie's *Destiny 2* computer software copyrights.

22 92. In addition, when Bungie updates the software code for *Destiny 2*, Bungie  
23 frequently updates the *Destiny 2* data structures. Defendants then update their *Destiny 2* cheat  
24 software to work with the updated data structures. For example, Bungie updated the *Destiny 2*  
25 software code for its *Beyond Light* expansion, which was released on November 10, 2020. The  
26 following day, Defendants announced that their *Destiny 2* cheat software was "back online for

1 the expansion.” A screenshot of a post from AimJunkies’ social media account announcing their  
 2 updated cheat software is shown below:



16 93. Every time Defendants updated their cheat software to be compatible with  
 17 Bungie’s updated game software, Defendants created a new copy of Bungie’s above-described  
 18 data structures and software code, and then modified those data structures and software code.

19 94. The purpose of Defendants’ cheat is to allow players to gain an advantage in  
 20 *Destiny 2*. Defendants’ website states that it “offers cheats and mods that give a user an  
 21 improved experience and an advantage over the competition,” boasting that “AimJunkies is the  
 22 first place to go for the best cheating experience.”

23 95. Defendants have caused and continue to cause serious harm to the value of  
 24 *Destiny 2* and to the *Destiny 2* community by preventing players who do not use cheats from  
 25 enjoying the game, causing players to grow dissatisfied and stop playing.  
 26

1           96. In addition, Bungie has been forced to expend significant resources attempting to  
2 detect, investigate, and remediate this activity, including creating and releasing new versions of  
3 the game, responding to player complaints, and banning users of Defendants’ cheat software.

4           97. Defendants’ conduct has harmed Bungie’s reputation and goodwill among the  
5 *Destiny* community.

6           98. Although Bungie is unable to confirm that Defendants continue to offer the cheat,  
7 Bungie is equally unable to confirm that Defendants have permanently and forever discontinued  
8 any offering of the cheat. Defendants may still be offering the cheat under alternative branding,  
9 Defendants may have already and may in the future provide the cheat to other cheat software  
10 providers, and Defendants’ conduct is capable of repetition, either by selling the same cheat  
11 software again on AimJunkies.com or another website.

12           99. In fact, after Bungie initiated this litigation in June 2021, Mr. Schaefer threatened  
13 to make Defendants’ cheat software publicly available for free on the internet, issuing a veiled  
14 threat to Bungie’s CEO that:

15           In the old days sites would put the source code on public forums for every 14yo to  
16 get and make a hack for your game. Most of the time when they do it [sic] they  
17 make it a free public cheat accessible to everyone. Imagine players having access  
18 to cheats for free? I don't think anyone wants to go back to those days. The net  
19 would be you would have more cheaters in your game then [sic] before the  
20 crusader came in. Is that what you're looking for in your game?

21           100. Defendants now appear to be trying to follow through on that threat. Defendants  
22 are reportedly attempting to sell the AimJunkies website, and on information and belief the  
23 associated cheat software, to third parties in an attempt to evade liability and perpetuate the  
24 propagation of their cheat software, including the *Destiny 2* cheat. On April 28, 2022, it was  
25 reported that Defendants “are in the final stages of selling the AimJunkies websites to a  
26 Ukrainian group of investors.”

**FIRST CAUSE OF ACTION**

**(Copyright Infringement, 17 U.S.C. § 501, et seq. -- Against All Defendants)**

1  
2  
3  
4 101. Bungie repeats, realleges, and incorporates herein by reference the allegations in  
5 the foregoing paragraphs as if fully set forth herein.

6 102. *Destiny 2* constitutes an original work of authorship and copyrightable subject  
7 matter under the laws of the United States.

8 103. Bungie owns or has exclusive rights to all right, title, and interest in *Destiny 2*.

9 104. Defendants had access to *Destiny 2*.

10 105. Defendants infringe Bungie’s *Destiny* Copyrights by copying *Destiny*’s computer  
11 software code, including but not limited to *Destiny 2*’s data structures, reverse-engineering  
12 Bungie’s computer software code for *Destiny 2*’s camera and player data structures, preparing  
13 unauthorized derivative works based on Bungie’s *Destiny* Copyrights, and distributing these  
14 unauthorized derivative works without Bungie’s permission. Defendants also infringe Bungie’s  
15 audiovisual copyrights in *Destiny 2* by creating and displaying modified versions of the  
16 audiovisual outputs of *Destiny 2*.

17 106. Defendants’ copies, reproductions, derivative works, and displays are identical or  
18 substantially similar to the copyrighted works.

19 107. The foregoing acts of Defendants constitute direct infringement in violation of  
20 Bungie’s exclusive rights in its copyrighted works under 17 U.S.C. § 106.

21 108. Defendants are also vicariously liable for the infringing acts of any cheat  
22 developers hired by, contracted with, or otherwise working for Defendants to develop or  
23 distribute Defendants’ *Destiny 2* cheat software, as well as the infringing acts of any purchasers  
24 of Defendants’ *Destiny 2* cheat software that purchased, downloaded, and used the cheat  
25 software. Defendants have the right and ability to control and supervise the infringing activities  
26 that were necessary for the creation, development, and modification of Defendants’ *Destiny 2*

1 cheat software. Defendants also had the right and ability to control and supervise the infringing  
2 activities of their purchasers, including for example, by purportedly taking down the *Destiny 2*  
3 cheat software from the AimJunkies.com website after receipt of Bungie's November 2020 cease  
4 and desist letter. At all relevant times, Defendants have derived a direct financial benefit from  
5 the infringement of Bungie's copyrighted works, including but not limited to by generating over  
6 \$27,000 in sales of the *Destiny 2* cheat software on the AimJunkies.com website.

7 109. Defendants are also liable under the Copyright Act for inducing the infringing  
8 acts of the users of Defendants' *Destiny 2* cheat software. Defendants operate the  
9 AimJunkies.com website with the object of promoting its use to infringe the Destiny Copyrights.

10 110. Defendants are also liable as contributory infringers for the infringing acts of any  
11 cheat developers hired by, contracted with, or otherwise working for Defendants to develop or  
12 distribute Defendants' *Destiny 2* cheat software, as well as the infringing acts of any purchasers  
13 of Defendants' *Destiny 2* cheat software that purchased, downloaded, and used the cheat  
14 software. Defendants have actual and constructive knowledge of the infringing activity of its  
15 developers and the users of the *Destiny 2* cheat software and knowingly cause or otherwise  
16 materially contribute to those infringements of the Destiny Copyrights.

17 111. Defendants' actions are willful, intentional, and purposeful, or in reckless  
18 disregard of Bungie's rights.

19 112. Bungie has been and will continue to be damaged by Defendants' unlawful  
20 infringement.

21 113. Defendants' conduct has caused irreparable harm to Bungie, and, unless enjoined,  
22 will cause further irreparable harm for which Bungie has no adequate remedy at law.

23 114. Bungie is entitled to relief pursuant to 17 U.S.C. §§ 502-505, including, but not  
24 limited to, injunctive relief, an order for the impounding and destruction of Defendants'  
25 infringing copies and/or derivative works, compensatory damages (including, but not limited to  
26 actual damages and/or Defendants' profits), and Bungie's costs and attorneys' fees.

**SECOND CAUSE OF ACTION**

**(Trademark Infringement, 15 U.S.C. § 1114 -- Against AimJunkies.com, Phoenix Digital Group LLC, David Schaefer, Jordan Green, and Jeffrey Conway<sup>2</sup>)**

115. Bungie repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

116. The Phoenix Digital Defendants' unauthorized use of the DESTINY (& design) mark to advertise, promote and sell their cheat constitutes infringement of Bungie's registered DESTINY (& design) mark.

117. Because of Bungie's continuous and exclusive use of the DESTINY (& design) mark, it has come to mean, and is understood by consumers to signify products of Bungie.

118. The Phoenix Digital Defendants' unauthorized use of the DESTINY (& design) mark in connection with the sale, offering for sale, distribution, and advertising of cheats, is likely to cause confusion, mistake, or deception as to the source, origin, or authenticity of the Phoenix Digital Defendants' products and services.

119. Further, the Phoenix Digital Defendants' activities are likely to lead consumers to conclude, incorrectly, that the Phoenix Digital Defendants' products and services originate with or are authorized by Bungie.

120. The Phoenix Digital Defendants' actions damage and harm Bungie.

121. Bungie is entitled to the relief provided by 15 U.S.C. § 1117, including, but not limited to, statutory damages, enhanced damages, the Phoenix Digital Defendants' profits, Bungie's damages, and the costs of this action.

122. The Phoenix Digital Defendants knew of Bungie's rights, and their infringement has been knowing, willful, and deliberate, such that the Court should award Bungie its attorneys' fees pursuant to 15 U.S.C. § 1117.

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<sup>2</sup> These Defendants—all except James May—are collectively referred to hereafter as the "Phoenix Digital Defendants."

1 123. Bungie has been, and continues to be, damaged by such acts in a manner that  
2 cannot be fully measured or compensated in economic terms and therefore has no adequate  
3 remedy at law. Furthermore, upon showing a violation of 15 U.S.C. § 1114, Bungie is entitled a  
4 rebuttable presumption of irreparable harm from that violation, and seeks permanent injunctive  
5 relief pursuant to 15 U.S.C. § 1116.

6 124. The Phoenix Digital Defendants' activities have damaged, and threaten to  
7 continue damaging, Bungie's reputation and goodwill.

8 **THIRD CAUSE OF ACTION**

9 **(False Designation of Origin, 15 U.S.C. § 1125(a) -- Against The Phoenix Digital**  
10 **Defendants)**

11 125. Bungie repeats, realleges, and incorporates herein by reference the allegations in  
12 the foregoing paragraphs as if fully set forth herein.

13 126. Bungie has strong rights in the DESTINY Marks.

14 127. The Phoenix Digital Defendants' actions constitute the use in interstate commerce  
15 of a false designation of origin, false or misleading description of fact, or false or misleading  
16 representations of fact that are likely to cause confusion or mistake, or to deceive as to the  
17 affiliation, connection, or association of the Phoenix Digital Defendants' products and services  
18 with Bungie, or as to the origin, sponsorship, or approval of the goods and services provided by  
19 the Phoenix Digital Defendants in violation of 15 U.S.C. § 1125(a).

20 128. Bungie is entitled to the relief provided by 15 U.S.C. § 1117(a), including, but not  
21 limited to, the Phoenix Digital Defendants' profits, Bungie's damages, and the costs of this  
22 action.

23 129. The Phoenix Digital Defendants knew of Bungie's rights, and their infringement  
24 has been knowing, willful, and deliberate, such that the Court should award Bungie its attorneys'  
25 fees pursuant to 15 U.S.C. § 1117.  
26





1 D. An order requiring that Defendants then destroy all copies of *Destiny 2* or any  
2 derivative work thereof in their possession or control;

3 E. An award to Bungie of restitution and damages, including but not limited to  
4 compensatory, statutory (including enhanced statutory damages for willful infringement),  
5 punitive damages, and all other damages permitted by law;

6 F. That Bungie be awarded pre-judgment and post-judgment interest on all  
7 damages awarded against Defendants;

8 G. An award to Bungie of its costs incurred in this suit as well as reasonable  
9 attorneys' fees; and

10 H. For such other relief as the Court deems just and proper.

11 DATED this 19th day of May 2022

12 By: /s/William C. Rava  
William C. Rava, WSBA No. 29948

13 By: /s/Jacob P. Dini  
Jacob P. Dini, WSBA No. 54115

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