

RE: Civil Action No: 5:17-cv-534  
Honorable Malcolm J. Howard  
Eastern District of North Carolina

FILED

NOV 15 2017

PETER A. MOORE, JR., CLERK  
US DISTRICT COURT, EDNC  
BY  DEP CLK

To Whom It May Concern:

This letter is in response to the alleged allegations of copyright infringement via Epic Games, INC. This company is in the process of attempting to sue a 14-year-old child. They are claiming he prepared derivative works based upon a copyrighted work and publicly performed and displayed this as such. They are also claiming he "modified their game" to use a cheat and live streamed it. This would, of course, fall under the Copyright Act *if* he did in-fact modify their game. Epic Games has no capability of proving any form of modification. Caleb obtained existing cheats from a website with public view, not affiliated with Epic Games, INC, and used those cheats during a game with live stream via YouTube. I may add a multitude of other individuals have and currently are doing this as this letter is being typed.

However, Epic Games INC failed to legally bind underage users with their EULA agreement, which is the contract between the licensor and purchaser, establishing the purchasers right to use the software. This being said, the game itself was in-fact free. No purchase of said game occurred.

Pursuant to State of Delaware Statutory Authority: 6 Delaware Code, Section 4506 (6 Del.C. 4506):

*1.2: Addition of definition of "Minor"*

*"Minor" means a person under the age of eighteen years who has not been court emancipated.*

Caleb has not been court emancipated. Furthermore, according to standardized EULA licensing agreement:

**"Use of Software Applications is available only to persons who can enter in to legally binding contracts under applicable law. If you are a minor, i.e. under the age of 18 years, not competent or otherwise do not have the capacity to enter into a legally binding contract without the consent or assistance of another person, you may use website only under the supervision of a parent or legal guardian, as applicable, who agrees to be bound by this EULA."**

Epic Games failed to acknowledge, prior to the user accepting the EULA agreement by simply clicking yes, a "age range drop down "or "*parental consent drop down*" please see below reference photo:

Dropdown Field Choices

X

*Edit or add field options (one per line)*

Countries	Under 18
U.S. State Abbreviations	18-24
U.S. States	25-34
Age	35-44
Satisfaction	45-54
Importance	55-64
Agreement	65 or Above
	Prefer Not to Answer

Update Field Choices

Age dropdown example:

Please note parental consent was not issued to Caleb Rogers to play this free game produced by Epic Games, INC. Touching on the subject of the game being free, Epic Games INC is claiming profit loss, their attorneys would need to provide a Profit and Loss statement to prove Caleb Rogers live streaming playing their game caused mass profit loss. This is feasibly impossible. It is my belief that due to their lack of ability to curve cheat codes and others from modifying their game, they are using a 14-year-old child as a scape goat to make an example of him. The company is in the process of suing a multitude of players for this game Fortnite. Instead of Epic Games INC suing the websites providing the cheat codes, they are going after the individuals using these codes. News articles are massively abundant:

- <http://www.gamezone.com/news/fortnite-cheaters-sued-for-copyright-infringement-3460227>
- <http://www.ign.com/articles/2017/10/12/epic-games-taking-legal-action-against-fortnite-cheaters>
- <https://www.bleedingcool.com/2017/10/13/epic-games-filed-copyright-lawsuits-fortnite-cheaters/>
- <https://www.bleedingcool.com/2017/10/13/epic-games-filed-copyright-lawsuits-fortnite-cheaters/>

Furthermore, Epic Games, INC has released the defendants name publicly, therefore allowing news articles and different online publications to obtain his name and in turn release additional information. Referencing State of Delaware House Bill No. 64 it is illegal to release under age individuals' personal information by any agencies. Epic Games INC is in complete violation of this as well as other individual websites and news reporting agencies.

In addition, Epic Games INC is requesting any financial gain that the defendant obtained, Caleb Rogers had no income from live streaming him playing the game.

In conclusion, it is my request of your Honor to take into consideration the above-mentioned issues regarding this lawsuit. Caleb is a minor, he is legally incapable of agreeing to terms and conditions, furthermore, they were not read. His parents nor guardians agreed to the terms and conditions that were set forth through the EULA. Epic Games INC did not request his age prior to the EULA agreement, they did not request parental consent, nor did they request an "E-Signature" from their users. This was in-fact a free game. I respectfully request Your Honor to consider dismissal of this case as the infraction does not equate the suing of a minor by a major gaming company.

Respectfully yours,

Lauren A Rogers