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15 UNITED STATES DISTRICT COURT FOR THE
16 NORTHERN DISTRICT OF CALIFORNIA

NC

17 AMANDA LEWIS, an individual,

CV 12 1096
Case No

18 Plaintiff,

COMPLAINT FOR COPYRIGHT
INFRINGEMENT; VOICE
MISAPPROPRIATION; and
QUANTUM MERUIT

19 v.

20 ACTIVISION BLIZZARD, INC, a
21 Delaware Corporation, and BLIZZARD
22 ENTERTAINMENT, INC., a Delaware
23 Corporation,

DEMAND FOR JURY TRIAL

24 Defendants.

BY FAX

1 Plaintiff Amanda Lewis brings this Complaint against defendants Activision
2 Blizzard, Inc. and Blizzard Entertainment, Inc. (collectively, "Blizzard" or
3 "defendants") for damages and injunctive relief under the laws of the United States, as
4 follows:

5 SUMMARY AND PARTIES

6 1. This case is about Blizzard's unlawful and infringing exploitation of Plaintiff
7 Amanda Lewis' voice and creative work in Blizzard's *World of Warcraft* video game.

8 2. Blizzard is a successful video game developer that has produced popular
9 video games such as *Diablo*, *Starcraft*, and its flagship *World of Warcraft*, along with
10 various sequels and expansions thereof.

11 3. Plaintiff Amada Lewis is an individual residing in Santa Rosa, California.

12 4. On information and belief, in July 2008 Activision, Inc. merged with
13 Blizzard Entertainment, Inc., then operated by Vivendi Games, to form Activision
14 Blizzard, Inc.

15 5. On information and belief, defendant Activision Blizzard, Inc. is a
16 corporation organized and existing under the laws of the State of Delaware and has its
17 principle place of business in Santa Monica, California.

18 6. On information and belief, defendant Blizzard Entertainment, Inc. is a
19 corporation organized and existing under the laws of the State of Delaware, is a
20 subsidiary of Activision Blizzard, and has its principle place of business in Santa
21 Monica, California.

22 7. On information and belief, the actions alleged herein to have been undertaken
23 by defendants, were undertaken by each defendant individually, were actions that each
24 defendant caused to occur, were actions that each defendant authorized, controlled,
25 directed, or had the ability to authorize, control or direct, and/or were actions in which
26 each defendant assisted, participated or otherwise encouraged, and are actions for
27 which each defendant is liable. Each defendant aided and abetted the actions of the
28 defendants set forth below, in that each defendant had knowledge of those actions,

1 provided assistance and benefitted from those actions, in whole or in part. Each of the
2 defendants was the agent of each of the remaining defendants, and in doing the things
3 hereinafter alleged, was acting within the course and scope of such agency and with the
4 permission and consent of each and every one of the other defendants.

5 **JURISDICTION AND VENUE**

6 8. This action arises under the copyright laws of the United States, 17 U.S.C. §
7 501, *et seq.* This Court has jurisdiction over the federal causes of action pursuant to 17
8 U.S.C. § 501, 28 U.S.C. §§ 1331 and 1338 and supplemental jurisdiction over other
9 causes of action under 28 U.S.C. § 1337.

10 9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c).

11 10. This Court has personal jurisdiction over defendants, who transact
12 significant business in this District and have committed acts of infringement within this
13 District.

14 **INTRADISTRICT ASSIGNMENT**

15 11. This being an Intellectual Property Action, the Court's Assignment Plan
16 provides for assignment of this Action on a district-wide basis. To the extent this
17 Action may be deemed to have arisen in a particular county within this District, a
18 substantial part of the events or omissions which give rise to claims occurred in San
19 Francisco County.

20 **FACTUAL ALLEGATIONS**

21 12. World of Warcraft ("WoW") is one of the most successful video games ever
22 developed. As of 2010, WoW had over 12 million international subscribers, with each
23 paying an initial purchase fee and a subscription fee (approximately \$20 per month in
24 the United States) to play the game.

25 13. WoW is a massively multiplayer online role-playing game (MMORPG),
26 where players access a shared game world where they can communicate, collaborate,
27 and contend with one another in real time to achieve various game-related objectives.
28 Unlike traditional video games, where players play against the computer or a human

1 opponent on a single physical machine, WoW players connect to game servers over the
2 internet to play. This allows thousands of players to concurrently inhabit a single
3 version of the game world, where they can adopt different roles and develop various
4 specialties useful to themselves and other players.

5 14. WoW is set in a fantasy-based world reminiscent of J.R.R. Tolkien's *Lord*
6 *or the Rings* and is similar in many respects to traditional role playing games such as
7 *Dungeons & Dragons*. Players select a race, such as dwarf, gnome, night elf, or
8 human, and a class, such as warrior, priest, mage, or hunter. By fighting monsters and
9 undertaking various quests, players earn experience and gain skills, abilities, and items
10 to enhance their character. Players begin at level 1 and continue gaining experience
11 until they reach a maximum level (initially level 60, later raised to 70, 80, and 85).

12 15. Once players reach the maximum level, they can participate in additional
13 game activities, such as multi-player raids, level-restricted dungeons, and player vs
14 player arena matches and battlegrounds. Figure 1 is a "screenshot" from WoW.

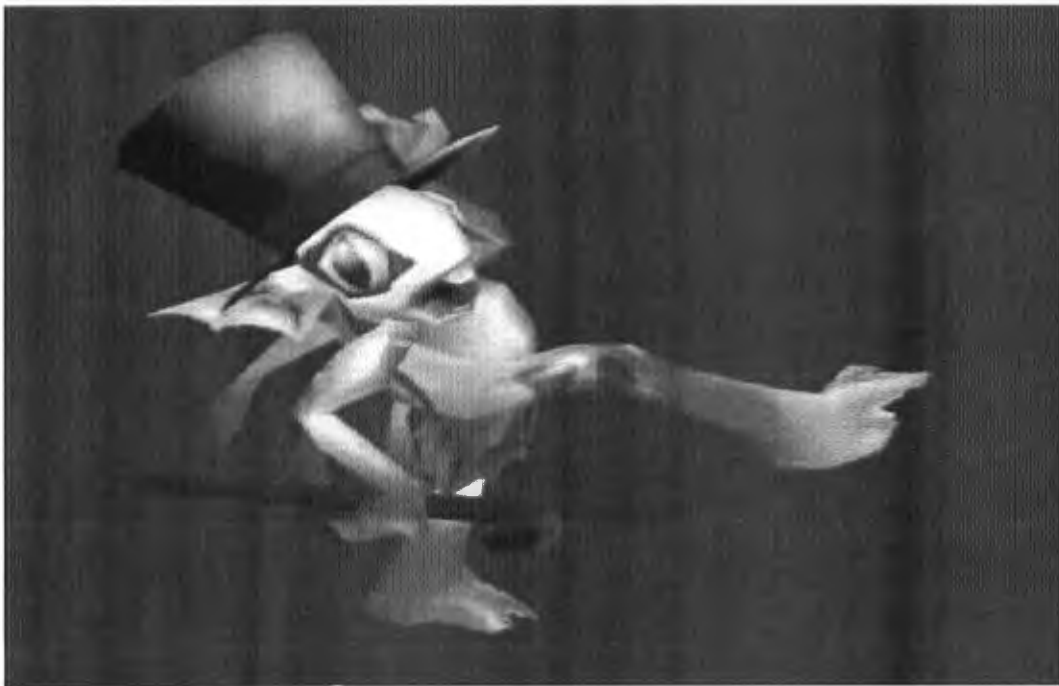


Figure 1. World of Warcraft screenshot.

1 16. Plaintiff Amanda Lewis was employed by Blizzard as a WoW "Game Master," a
2 customer-service position responsible for responding to in-game issues, such as abusive
3 language or players becoming "stuck," or unable to move, in the game.

4 17. While working at Blizzard Ms. Lewis received an email requesting voices
5 for game creatures. Ms. Lewis had previously developed a voice, on her own time and
6 through her own creative efforts, she thought would be appropriate for WoW and
7 offered to demonstrate it. The appealing style and original content of Amanda's vocal
8 work was recognized by Blizzard, which used Amanda's voice and an original song she
9 developed to give life and personality to creatures know as baby murlocs. Murlocs are
10 a type of aquatic humanoid creature common in WoW, and baby murlocs are a friendly
11 and appealing version of murlocs that appear in various quests and are available as
12 special player-owned "pets."

13 18. Providing creative content for WoW was not part of Ms. Lewis' duties as a
14 customer service representative, and Ms. Lewis did not assign any copyright in her
15 music and vocal work to Blizzard.



27 Figure 2. Baby Murloc "Grunty" singing and performing a dance.
28

1 19. Ms. Lewis' baby murloc voice and related vocal and musical content,
2 including a signature baby murloc song, have become an important part of the WoW
3 universe and central to the marketing of the game. Among other things, Blizzard hosts
4 an annual convention, BlizzCon , where thousands of fans of WoW and other Blizzard
5 games gather to socialize, listen to panel discussions, and obtain news and information
6 about WoW and other Blizzard games. Each year Blizzard provides attendees with a
7 "goodie bag," including special in-game items, such as unique pets. (See Figure 3) In
8 addition to their inherent appeal, such pets are status symbols and can be quite valuable
9 on the secondary market for WoW items and characters.

10 20. Since at least November 2005, baby murloc pets employing Ms. Lewis'
11 voice and derivatives thereof have been awarded to BlizzCon attendees as part of
12 Blizzard's marketing and branding strategy. Blizzard has also provided unique baby
13 murloc pets to participants of other WoW-related activities, such as player vs player
14 Arena Tournaments. Blizzard even sells "plush" baby murlocs in its online store. In
15 short, due in significant part to the appeal of Ms. Lewis' creative and vocal work, baby
16 murlocs have become the de facto mascot of the billion dollar enterprise that is WoW.



27 Figure 3. On-line advertisement for the 2011 BlizzCon featuring baby murlocs.

1 21. Ms. Lewis has standing as a result of having filed applications for copyright
2 registration with the Copyright Office for her creative and vocal work with regard to
3 baby murloc vocal expressions and the baby murloc song ("Copyrighted Works"),
4 which have been incorporated into WoW without Amanda's permission. 17 U.S.C. §
5 411(a). These works were conceived by Ms. Lewis on her own time through her own
6 creative effort. Though Ms. Lewis recorded the works when she was a customer
7 service employee at Blizzard, she was not employed to produce creative content,
8 received no additional compensation for her creative work, and did not assign any
9 copyright rights to Blizzard. Blizzard has and continues to use, leverage, and profit
10 from Ms. Lewis' Copyrighted Works without permission.

11 22. Though its actions Blizzard has and continues to violate Ms. Lewis' rights
12 under federal copyright law, California law, and the doctrine of quantum meruit.

13 **FIRST CAUSE OF ACTION**

14 **(Federal Copyright Infringement, 17 U.S.C. § 501)**

15 23. Ms. Lewis repeats, realleges, and incorporates each allegation of the
16 forgoing paragraphs, as though fully set forth in this cause of action.

17 24. At all relevant times, Ms. Lewis has owned all applicable rights, titles, and
18 interests in and to her Copyrighted Works.

19 25. Ms. Lewis has complied in all respects with Title 17 of the United States
20 Code, applied for the exclusive rights and privileges in and to the above referenced
21 copyrights, and is awaiting from the Register of Copyrights the appropriate certificates
22 of registration.

23 26. Defendants have infringed and continue to infringe Ms. Lewis' Copyrighted
24 Works by copying, using, and distributing Ms. Lewis' Copyrighted Works within
25 defendants' World of Warcraft game without the consent of Ms. Lewis and in disregard
26 of Ms. Lewis' exclusive rights under copyright.

1 27. On information and belief, defendants have acted with full knowledge of
2 Plaintiff's rights under copyright without regard for the damage to plaintiff caused by
3 defendants' activities.

4 28. Defendants' use, reproduction, and distribution of the Copyrighted Works
5 has been and is without authorization and without Ms. Lewis' consent.

6 29. Defendants' actions demonstrate an intentional, willful, and malicious intent
7 to infringe upon plaintiff's copyrights resulting in injury to plaintiff.

8 30. Defendants have unlawfully and wrongfully derived, and will continue to
9 derive, income and profits from their infringing acts.

10 31. Plaintiff has no adequate remedy at law. The conduct of Defendants has
11 caused and, if not enjoined, will continue to cause irreparable damage to the rights of
12 Plaintiff.

13 32. As a result of Defendants' wrongful conduct, Plaintiff is entitled to
14 injunctive relief and damages in an amount to be proven at trial.

15 SECOND CAUSE OF ACTION

16 (Unauthorized Use of Voice, Cal. Civil Code § 3344)

17 33. Ms. Lewis repeats, realleges, and incorporates each allegation of the
18 forgoing paragraphs, as though fully set forth in this cause of action.

19 34. Defendants have and continue to use and profit from the use of Ms. Lewis'
20 voice as part of World of Warcraft and for the purpose of promoting World of
21 Warcraft.

22 35. Defendants' use and reproduction of Ms. Lewis' voice in connection with
23 World of Warcraft is and has been without her authorization or consent.

24 36. Defendants have unlawfully and wrongfully derived, and will continue to
25 derive, income and profits from their unauthorized use of Ms. Lewis' voice.

26 37. Plaintiff has been harmed through defendants' use of her voice without her
27 permission or consent

28 38. As a result of defendants' wrongful conduct, Plaintiff is entitled to injunctive
relief and damages in an amount to be proven at trial.

1 **THIRD CAUSE OF ACTION**

2 **(Quantum Meruit)**

3 39. Ms. Lewis repeats, realleges, and incorporates each allegation of the
4 forgoing paragraphs, as though fully set forth in this cause of action.

5 40. Defendants have and continue to use and profit from Ms. Lewis' voice and
6 creative contribution as part of World of Warcraft and for the purpose of promoting
7 World of Warcraft.

8 41. While Ms. Lewis permitted defendants to record her voice, she did not give
9 authorization to use her voice and creative content and variations thereof for World of
10 Warcraft or for the promotion of World of Warcraft.

11 42. Defendants' use and reproduction of Ms. Lewis' voice and creative content
12 in connection with World of Warcraft is and has been without her authorization or
13 consent.

14 43. Defendants have and continue to profit from the commercial exploitation of
15 Ms. Lewis voice and creative content.

16 44. Ms. Lewis is entitled to compensation for the use and benefit defendants
17 have obtained from the uncompensated use of her voice and creative content in
18 connection with World of Warcraft.

19 45. Plaintiff has been harmed through defendants' use of her voice without her
20 permission or consent

21 46. As a result of defendants' wrongful conduct, Plaintiff is entitled to injunctive
22 relief and damages in an amount to be proven at trial.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays for judgment against defendants and for
25 injunctive and monetary relief as follows:

26 1. For an injunction enjoining and restraining defendants and their officers,
27 directors, agents, employees, representatives and all persons or entities acting in
28 concert or participation with defendants, from using, displaying, exhibiting,

1 reproducing, distributing, selling or offering for sale any product or service, including
2 World of Warcraft, which continues to feature any reproduction or copy of plaintiff's
3 Copyrighted Works or infringing derivatives thereof;

4 2. That plaintiff be awarded damages for defendants' copyright infringement
5 based on: (i) defendants' profits derived from their unlawful infringement of plaintiff's
6 copyrighted works and infringing derivatives thereof; or (ii) statutory damages for each
7 act of infringement in an amount provided by law, as set forth in 17 U.S.C. § 504, at
8 Plaintiff's election before the entry of a final judgment, together with prejudgment and
9 post-judgment interest;

10 3. The defendants account for and disgorge to plaintiff profits realized by
11 defendants by reason of defendants' unlawful acts herein alleged and that those
12 disgorged profits be increased as provided by law;

13 4. That the Court award plaintiff costs of suit incurred herein, including
14 attorneys' fees, as provided by the Copyright Act and California law;

15 5. For such other and further relief as the Court may deem proper.

16 **JURY DEMAND**

17 Plaintiffs demand a trial by jury.

18 Dated: March 2, 2012

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21 Alan Engle

22 MEADOR & ENGLE
23 Counsel for Plaintiff
24 Amanda Lewis
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