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Courts for the District of Columbia



OPPENHEIM GROUP

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Case: 1:10-mc-00398
Assigned To : Unassigned
Assign. Date : 6/22/2010
Description: Miscellaneous

Re: Infringements on www.oldiesgames.net

Wild West Domains
14455 North Hayden Road
Suite 226
Scottsdale, AZ 85260

Dear DMCA Agent:

We represent the Entertainment Software Association ("ESA") and its member companies, including but not limited to Warner Bros. Interactive Entertainment, Inc., Take-Two Interactive Software, Inc. and Square Enix, Inc. ESA is a U.S. trade association that represents the intellectual property interests of numerous companies that publish interactive games for video game consoles, personal computers, handheld devices and the Internet. We are authorized to act on behalf of ESA members whose copyright and other intellectual property rights ESA believes to be infringed as described herein.

We are writing to notify you of extensive copyright infringement of video games that is occurring by virtue of the operation of the Internet Website www.oldiesgames.net (the "Website") which is hosted on your ISP. We previously wrote to notify your related entity Go Daddy, which referred us to you. This notice is being provided pursuant to the Digital Millennium Copyright Act and 17 USC § 512 to make you aware of material on your network or system that infringes the exclusive copyright and other rights of one or more ESA members. We demand that you immediately take steps to ensure that the Website does not infringe upon the copyrights of ESA's member companies, including but not limited to by removing or disabling access to the infringing video games. Given the quantity of infringement on the Website, we also request that you take action against the operator of the Website as a "repeat infringer," including terminating the account of the Website operator, if appropriate (see 17 U.S.C. §512(i)). Finally, we

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\$37.00

request that you take action against the operator of the Website to the extent the Website violates your terms of service.

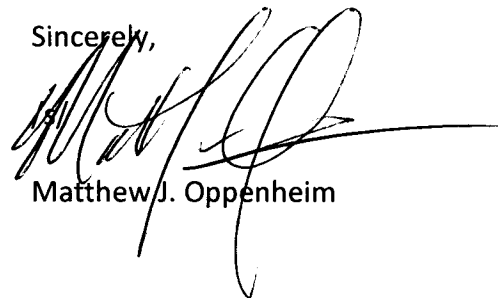
Attached as Exhibit A is a list of some of the video games that are owned or controlled by ESA's members and that are being infringed directly and/or indirectly by the Website. The exhibit describes the url location at which the infringing video games can be found. The exhibit serves as a representative sample of the larger number of infringements on the Website for which you must immediately and permanently take action. This information is sufficient for you to locate the infringing activities and remove or disable access thereto.

We also demand that the Website immediately and permanently cease and desist the widespread and unauthorized use of the ESA members' trademarks and associated inherently distinctive trade dress ("Trademarks") associated with their video games. The use of the ESA members' Trademarks is certain to cause confusion, to cause mistake, and/or to deceive as to the affiliation, connection, or association of the Website with the ESA members, in violation of the Lanham Act (15 U.S.C. §§ 1051, et seq.).

We are providing this notice based on our good faith belief that the distribution of the video games owned by the ESA members via the Website is not authorized by the copyright owners, their agents, or the law. This notification is accurate, and under penalty of perjury, we are authorized to act on behalf of the owners of the exclusive rights that are being infringed. This letter is without prejudice to the rights and remedies of the ESA members' and their affiliates, all of which are expressly reserved.

Thank you for your cooperation and prompt response in this matter.

Sincerely,

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

Matthew J. Oppenheim

Attachment

EXHIBIT A

LEGO Batman

[http://www.oldiesgames.net/nds/nds012/nds-%20Lego%20Batman%20\(USA\).zip](http://www.oldiesgames.net/nds/nds012/nds-%20Lego%20Batman%20(USA).zip)

Final Fantasy Crystal Chronicles: Echoes of Time

[http://www.oldiesgames.net/nds/nds012/nds-%20Final%20Fantasy%20Crystal%20Chronicles%20Echoes%20of%20Time%20\(USA\).zip](http://www.oldiesgames.net/nds/nds012/nds-%20Final%20Fantasy%20Crystal%20Chronicles%20Echoes%20of%20Time%20(USA).zip)

Chinatown Wars

[http://www.oldiesgames.net/nds/nds012/nds-%20Grand%20Theft%20Auto%20Chinatown%20Wars%20\(USA\).zip](http://www.oldiesgames.net/nds/nds012/nds-%20Grand%20Theft%20Auto%20Chinatown%20Wars%20(USA).zip)

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

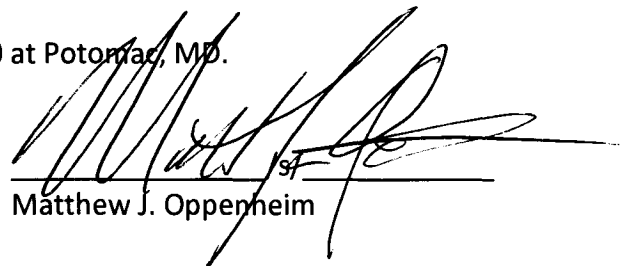
In Re: DMCA Subpoena to GoDaddy for Oldiesgames.net

DECLARATION OF MATTHEW J. OPPENHEIM, ESQ.

I, Matthew J. Oppenheim, declare and testify as follows:

1. I am the principal of The Oppenheim Group LLP and an attorney admitted to practice law in the District of Columbia, among other jurisdictions. I represent the Entertainment Software Association ("ESA") and its member companies, including but not limited to Warner Bros. Interactive Entertainment, Inc., Take-Two Interactive Software, Inc. and Square Enix, Inc. On behalf of the clients described above, I am seeking a subpoena pursuant to 17 U.S.C. §512(i) to identify the operator of www.oldiesgames.net at which my clients' copyrighted works are being infringed. The purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and the information obtained therefrom will only be used for the purpose of protecting rights under 17 U.S.C. et seq.
2. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 21st day of June, 2010 at Potomac, MD.


Matthew J. Oppenheim