

1 FARHAD NOVIAN (SBN 118129)
 farhad@novianlaw.com
 2 MICHAEL O’BRIEN (SBN 277244)
 michaelo@novianlaw.com
 3 ALEXANDER BRENDON GURA (SBN 305096)
 4 gura@novianlaw.com
 5 **NOVIAN & NOVIAN, LLP**
 1801 Century Park East, Suite 1201
 6 Los Angeles, California 90067
 7 Telephone: (310) 553-1222
 Facsimile: (310) 553-0222
 8

9 *Attorneys for Plaintiff TRILLER FIGHT CLUB II LLC*

10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 TRILLER FIGHT CLUB II LLC, a
 13 Delaware limited liability company,

14 Plaintiff,

15 vs.

16
 17 TED ENTERTAINMENT, INC. a
 California corporation; TEDDY FRESH,
 18 INC, a California corporation; ETHAN
 19 KLEIN, an individual; HILA KLEIN, an
 individual; and Does 1-10,
 20

21 Defendants.

CASE NO.: 2:21-cv-03942-JAK-KS

12 **SECOND AMENDED**
 13 **COMPLAINT FOR:**

- 14 1. COPYRIGHT INFRINGEMENT
- 15 2. VICARIOUS COPYRIGHT
- 16 INFRINGEMENT
- 17 3. VIOLATION OF THE FEDERAL
- 18 COMMUNICATIONS ACT:
- 19 47 U.S.C. § 605

20 **JURY TRIAL DEMANDED**

1 Plaintiff Triller Fight Club II LLC, a Delaware limited liability company
2 (“Plaintiff” or “Triller”), hereby complains against Defendants Ted Entertainment,
3 Inc. (“TEI”), Teddy Fresh, Inc. (“Teddy Fresh”), Ethan Klein (“Mr. Klein”), Hila
4 Klein (“Mrs. Klein”), and Does 1-10 (collectively, “Defendants”), alleging as follows:

5 **NATURE OF THIS ACTION**

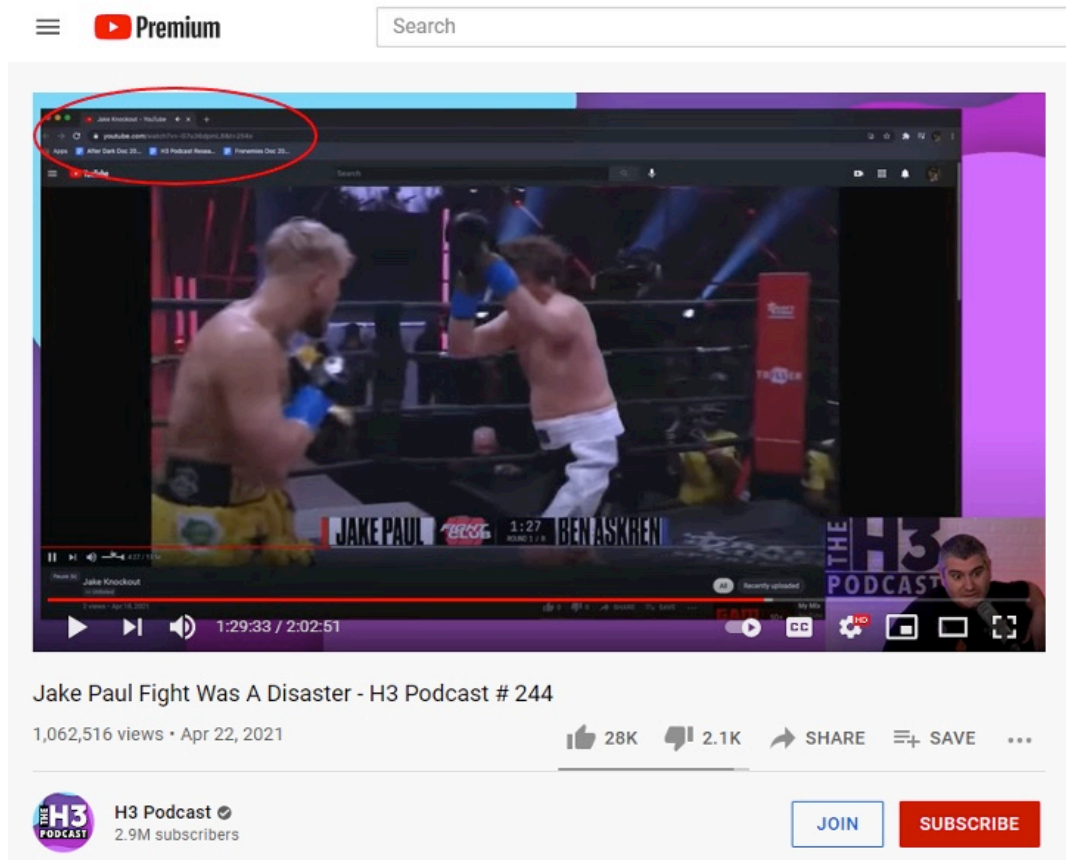
6 1. Plaintiff is the copyright owner and publisher of the Triller Fight Club
7 broadcast of the “Jake Paul vs. Ben Askren” boxing event, including all undercard
8 bouts and the entire television broadcast, exhibited via closed circuit television and via
9 encrypted satellite signal (the “Broadcast”). Plaintiff’s copyright in the Broadcast
10 bears Registration Number PA 2-290-040, became effective on April 30, 2021, and
11 was decided on May 4, 2021. A true and correct copy of Plaintiff’s certificate of
12 registration is attached hereto **Exhibit A**.

13 2. The Broadcast originated via satellite uplink and was subsequently re-
14 transmitted to cable systems and satellite companies via satellite signal and/or
15 retransmitted via satellite signal to licensed content distributors such as Plaintiff’s
16 authorized online platforms. The Broadcast was then made available to consumers for
17 purchase on a pay-per-view basis. Plaintiff’s certificate of registration reflects this
18 limited publication.

19 3. Upon information and belief, Defendants own and operate the YouTube
20 channel located at
21 <https://www.youtube.com/channel/UCLtREJY21xRfCuEKvdki1Kw> (the “YouTube
22 Channel”). Upon information and belief, the H3 Podcast and YouTube Channel earn
23 profits, including via (i) the YouTube Partner Program, (ii) sponsorships from
24 unaffiliated third-party individuals and entities, and (iii) the sale of merchandise
25 through businesses affiliated with Defendants, including, but not limited to, Teddy
26 Fresh. Upon information and belief, Defendants’ profits from their ownership and
27 operation of the YouTube Channel are tied to the number of views the YouTube
28 Channel receives.

1 4. Upon information and belief, Defendants did not purchase the Broadcast,
2 but rather publicly admitted to having unlawfully “bootlegged” or “pirated” the
3 Broadcast.¹

4 5. Upon information and belief, on or about April 22, 2021, without
5 requesting or receiving authorization, Defendants uploaded all or a substantial portion
6 of the Broadcast, in unaltered form, as an “Unlisted” video on YouTube (the “Unlisted
7 Video”), and publicly displayed the URL for the Unlisted Video on the YouTube
8 Channel in Defendants’ video entitled “Jake Paul Fight Was A Disaster – H3 Podcast
9 # 244,” available at <https://youtu.be/bfKPts4BJkA> (the “Distribution Video”). As
10 shown in the screenshot below, the URL for the Unlisted Video first appeared in the
11 Distribution Video at approximately 1:29:29 and remained visible through at least
12 approximately 1:30:58.



28 ¹ See DJ Screwdriver Media Posts (@MediaPostsDJ), Twitter (May 3, 2021, 5:13 p.m.), <https://twitter.com/MediaPostsDJ/status/1389372495749390337?s=20>.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. Upon information and belief, the Distribution Video has been viewed at least 1,000,000 times, and continues to receive additional views with each passing day.

7. Upon information and belief, through its egregious conduct, Defendants unlawfully facilitated, participated, and induced other users to engage in the unauthorized reproduction, adaptation, distribution and public display of Plaintiff’s copyrighted Broadcast.

JURISDICTION AND VENUE

8. The Court has subject matter jurisdiction pursuant to 17 U.S.C. § 101, *et seq.* and 28 U.S.C. § 1331, which states that district courts shall have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States. This Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a), which states that district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to patents, plant variety protection, copyrights and trademarks.

9. Venue is proper in this Court pursuant to 28 U.S.C § 1391(b)(2) because Defendants reside in this judicial district. Alternatively, venue is also proper in this Court pursuant to 28 U.S.C § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this district, and because Defendants’ unlawful actions were directed at this District.

PARTIES

10. Plaintiff is a limited liability company incorporated under the laws of Delaware and having its principal place of business in the State of California.

11. Plaintiff is engaged in the business of distributing its copyrighted materials as defined in 17 U.S.C. § 101, and offering such content, including the Broadcast, for purchase on a pay-per-view basis to its paying customers over the internet or via cable or satellite TV. Plaintiff invests substantial money, time, and effort in advertising, promoting, selling, and licensing programming such as the

1 Broadcast.

2 12. Plaintiff owns the copyrights to the Broadcast. As the exclusive owner
3 of the Copyright in its programing, including but not limited to the Broadcast, Plaintiff
4 possesses the exclusive rights to, *inter alia*, exhibit, distribute, disseminate and
5 perform the Broadcast publicly.

6 13. TEI is a corporation registered to conduct business in the State of
7 California. Upon information and belief, TEI owns and operates, among other things,
8 the so-called H3 Podcast (the “H3 Podcast”) and the YouTube channel located at
9 <https://www.youtube.com/channel/UCLtREJY21xRfCuEKvdki1Kw> (the “YouTube
10 Channel”). Upon information and belief, TEI, through the H3 Podcast and YouTube
11 Channel, earns profits, including via (i) the YouTube Partner Program, (ii)
12 sponsorships from unaffiliated third-party individuals and entities, and (iii) the sale of
13 merchandise through businesses affiliated with Defendants, including, but not limited
14 to, Teddy Fresh.

15 14. Teddy Fresh is a corporation registered to conduct business in the State
16 of California. Upon information and belief, Teddy Fresh is a clothing retailer. The
17 YouTube Channel and/or videos posted to the YouTube Channel contain links to a
18 website owned and/or operated by Teddy Fresh and through which consumers can
19 purchase Teddy Fresh merchandise.

20 15. Mr. Klein is an individual residing in the State of California. Mr. Klein
21 is the Chief Executive Officer of TEI and the Secretary of Teddy Fresh.

22 16. Mrs. Klein is an individual residing in the State of California. Mrs. Klein
23 is the Secretary of TEI, and the Chief Executive Officer, Chief Financial Officers, and
24 sole director of Teddy Fresh.

25 **ALTER EGO ALLEGATIONS**

26 17. Upon information and belief, at all relevant times, there existed a unity of
27 interest between Defendants such that any individuality or separateness between them
28 has ceased. TEI and Teddy Fresh are the alter egos of Mr. Klein and Mrs. Klein in

1 that:

- 2 a. TEI and Teddy Fresh are, and at all relevant times were, mere shells,
3 instrumentalities, and conduits through which Mr. Klein and Mrs.
4 Klein carried on business in the name of TEI and Teddy Fresh, while
5 exercising complete control and dominance over TEI and Teddy
6 Fresh, their business and assets, to such an extent that any
7 individuality or separateness between TEI and Teddy Fresh, on the
8 one hand, and Mr. Klein and Mrs. Klein, on the other, did not exist.
9 TEI and Teddy Fresh share, *inter alia*, corporate officers and directors,
10 as well as corporate offices.
- 11 b. TEI and Teddy Fresh were conceived, intended, and used by Mr. Klein
12 and Mrs. Klein as a device to avoid liability and for the purpose of
13 substituting an undercapitalized entity—namely, TEI and Teddy
14 Fresh—in the place of Mr. Klein and Mrs. Klein. TEI and Teddy
15 Fresh are, and at all times herein mentioned were, so inadequately
16 capitalized that, compared with the business done by Mr. Klein and
17 Mrs. Klein and the risks of loss, their capitalization was illusory and
18 trifling. In addition, many assets of TEI and Teddy Fresh were
19 transferred without adequate consideration to Mr. Klein and Mrs.
20 Klein. Upon information and belief, neither TEI nor Teddy Fresh are
21 insured.
- 22 c. Mr. Klein and Mrs. Klein diverted assets from TEI and Teddy Fresh
23 to themselves to suit their own convenience in carrying out business
24 matters which were and should have been the domain of TEI and
25 Teddy Fresh.
- 26 d. TEI and Teddy Fresh are, and at all times herein mentioned were,
27 controlled, dominated, and operated by Mr. Klein and Mrs. Klein as
28 their alter ego, in that the activities and business of TEI and Teddy

1 Fresh were carried out without annual meetings, and without keeping
2 records or minutes of any proceedings, or maintaining written
3 resolutions.

4 18. Adherence to the fiction of the separate existence of TEI and Teddy
5 Fresh, on the one hand, and Mr. Klein and Mrs. Klein, on the other, would permit an
6 abuse of the corporate privilege and would sanction fraud, promote injustice, and
7 otherwise aid in the commission of unlawful conduct. This is true because, as Plaintiff
8 is informed and believes, at all relevant times, Defendants were commingling assets
9 in a manner that allowed Defendants to utilize and freely transfer those assets amongst
10 themselves. The commingling of assets and unlawful business conduct, as alleged
11 more fully herein, by Defendants was intended, among other things, to allow Mr. Klein
12 and Mrs. Klein to avoid liability to Plaintiff and others.

13 **COUNT ONE**

14 **(Copyright Infringement)**

15 19. Plaintiff hereby realleges, and by this reference incorporates herein, each
16 and every allegation of preceding and subsequent paragraphs as though fully set forth
17 herein.

18 20. Plaintiff is the copyright owner and publisher of the Broadcast. As the
19 copyright owner and publisher of the Broadcast, Plaintiff has the exclusive right to
20 copy, publicly perform and distribute the Broadcast. Plaintiff's rights include, but are
21 not limited to, all moving images and other audio/video content which were
22 broadcasted via encrypted satellite signal.

23 21. The Broadcast originated via satellite uplink and was subsequently
24 retransmitted to cable systems and satellite companies via satellite signal and/or
25 retransmitted via satellite signal to licensed content distributors such as Plaintiff's
26 authorized, online platforms. The Broadcast was then made available to consumers
27 for purchase on a pay-per-view basis.

28 22. Upon information and belief, Defendants did not purchase the Broadcast,

1 but rather publicly admitted to having unlawfully “bootlegged” or “pirated” the
2 Broadcast.²

3 23. Upon inspecting records of customers who lawfully purchased access to
4 the Broadcast, there was no record of Ethan Klein, Hila Klein, the H3 Podcast, or TED
5 Entertainment making a purchase of a license to view the Broadcast.

6 24. Upon information and belief, on or about April 22, 2021, without
7 requesting or receiving authorization, Defendants uploaded to YouTube all or a
8 substantial portion of Broadcast, in unaltered form, as the Unlisted Video, and publicly
9 displayed the URL for the Unlisted Video on the YouTube Channel in the Distribution
10 Video. The URL for the Unlisted Video first appeared in the Distribution Video at
11 approximately 1:29:29 and remained visible through at least approximately 1:30:58.

12 25. Upon information and belief, the Distribution Video has been viewed at
13 least 1,000,000 times, and continues to receive additional views with each passing day.

14 26. Upon information and belief, numerous individuals who had not
15 purchased and did not purchase the Broadcast on a pay-per-view basis were able to,
16 and did, freely view all or a substantial portion of the Broadcast, in unaltered form, via
17 the Unlisted Video.

18 27. Defendants infringed on Plaintiff’s rights by adapting, copying,
19 reproducing, uploading, publicly displaying, and distributing the Broadcast without
20 Plaintiff’s authorization in violation of the Copyright Act, 17 U.S.C. § 501.
21 Defendants’ acts of infringement were willful, in blatant disregard of, and committed
22 with indifference to Plaintiff’s rights.

23 28. Upon information and belief, the H3 Podcast and YouTube Channel have
24 profited from their unlawful conduct alleged herein, including via (i) the YouTube
25 Partner Program, (ii) sponsorships from unaffiliated third-party individuals and
26 entities, and (iii) the sale of merchandise through businesses affiliated with
27 _____

28 ² See DJ Screwdriver Media Posts (@MediaPostsDJ), Twitter (May 3, 2021, 5:13
p.m.), <https://twitter.com/MediaPostsDJ/status/1389372495749390337?s=20>.

1 Defendants, including, but not limited to, Teddy Fresh. Upon information and belief,
2 Defendants would not have realized such profits but for their infringement on
3 Plaintiff's rights. As such, Plaintiff is entitled to disgorgement of Defendants' profits
4 directly and indirectly attributable to Defendants' infringement of the Broadcast, in an
5 amount to be established at trial.

6 **COUNT TWO**

7 **(Vicarious Copyright Infringement)**

8 29. Plaintiff hereby realleges, and by this reference incorporates herein, each
9 and every allegation of preceding and subsequent paragraphs as though fully set forth
10 herein.

11 30. Plaintiff is the copyright owner and publisher of the Broadcast. As the
12 copyright owner and publisher of the Broadcast, Plaintiff has the exclusive right to
13 copy, publicly perform and distribute the Broadcast. Plaintiff's rights include, but are
14 not limited to, all moving images and other audio/video content which were
15 broadcasted via encrypted satellite signal.

16 31. The Broadcast originated via satellite uplink and were subsequently
17 retransmitted to cable systems and satellite companies via satellite signal and/or
18 retransmitted via satellite signal to licensed content distributors such as Plaintiff's
19 authorized, online platforms. The Broadcast was then made available to consumers
20 for purchase on a pay-per-view basis.

21 32. Upon information and belief, on or about April 22, 2021, without
22 requesting or receiving authorization, Defendants uploaded to YouTube all or a
23 substantial portion of Broadcast, in unaltered form, as the Unlisted Video, and publicly
24 displayed the URL for the Unlisted Video on the YouTube Channel in the Distribution
25 Video. The URL for the Unlisted Video first appeared in the Distribution Video at
26 approximately 1:29:29 and remained visible through at least approximately 1:30:58.

27 33. Upon information and belief, the Distribution Video has been viewed at
28 least 1,000,000 times, and continues to receive additional views with each passing day.

1 34. Upon information and belief, numerous individuals who had not
2 purchased and did not purchase the Broadcast on a pay-per-view basis were able to,
3 and did, freely view all or a substantial portion of the Broadcast, in unaltered form, via
4 the Unlisted Video.

5 35. Upon information and belief, Defendants created the Unlisted Video and
6 had the exclusive right and ability to prevent consumers from accessing and viewing
7 the Unlisted Video and thereby infringing on Plaintiff's rights.

8 36. Upon information and belief, the H3 Podcast and YouTube Channel have
9 profited from their unlawful conduct alleged herein, including via (i) the YouTube
10 Partner Program, (ii) sponsorships from unaffiliated third-party individuals and
11 entities, and (iii) the sale of merchandise through businesses affiliated with
12 Defendants, including, but not limited to, Teddy Fresh. Upon information and belief,
13 Defendants would not have realized such profits but for their infringement on
14 Plaintiff's rights. As such, Plaintiff is entitled to disgorgement of Defendants' profits
15 directly and indirectly attributable to Defendants' infringement of the Broadcast, in an
16 amount to be established at trial.

17 **COUNT THREE**

18 **(Violation of the Federal Communications Act, 47 U.S.C. § 605)**

19 37. Plaintiff hereby realleges, and by this reference incorporates herein, each
20 and every allegation of preceding and subsequent paragraphs as though fully set forth
21 herein.

22 38. Plaintiff is the copyright owner and publisher of the Broadcast. As the
23 copyright owner and publisher of the Broadcast, Plaintiff has the exclusive right to
24 copy, publicly perform and distribute the Broadcast. Plaintiff's rights include, but are
25 not limited to, all moving images and other audio/video content which were
26 broadcasted via encrypted satellite signal.

27 39. The Broadcast originated via satellite uplink and were subsequently
28 retransmitted to cable systems and satellite companies via satellite signal and/or

1 retransmitted via satellite signal to licensed content distributors such as Plaintiff's
2 authorized, online platforms. The Broadcast was then made available to consumers
3 for purchase on a pay-per-view basis.

4 40. Consumers who purchased the Broadcast on a pay-per-view basis were
5 expressly and unequivocally advised that the "unauthorized reproduction or
6 distribution of the copyrighted work is illegal."

7 41. Upon information and belief, with full knowledge that the Broadcast was
8 not to be received, distributed, reproduced and or publicly exhibited by individuals
9 unauthorized to do so, Defendants, without authorization from Plaintiff, unlawfully
10 intercepted, received and/or de-scrambled Plaintiff's satellite signal for purposes of
11 direct commercial advantage. Specifically, Defendants unlawfully obtained access to
12 the Broadcast³, and on or about April 22, 2021, without requesting or receiving
13 authorization, Defendants uploaded to YouTube all or a substantial portion of
14 Broadcast, in unaltered form, as the Unlisted Video. Defendants subsequently publicly
15 displayed the URL for the Unlisted Video on the YouTube Channel in the Distribution
16 Video.

17 42. Upon information and belief, the Distribution Video has been viewed at
18 least 1,000,000 times, and continues to receive additional views with each passing day.

19 43. Upon information and belief, numerous individuals who had not
20 purchased and did not purchase the Broadcast on a pay-per-view basis were able to,
21 and did, freely view all or a substantial portion of the Broadcast, in unaltered form, via
22 the Unlisted Video.

23 44. Upon information and belief, the H3 Podcast and YouTube Channel have
24 profited from their unlawful conduct alleged herein, including via (i) the YouTube
25 Partner Program, (ii) sponsorships from unaffiliated third-party individuals and
26 entities, and (iii) the sale of merchandise through businesses affiliated with

27 _____
28 ³ See DJ Screwdriver Media Posts (@MediaPostsDJ), Twitter (May 3, 2021, 5:13
p.m.), <https://twitter.com/MediaPostsDJ/status/1389372495749390337?s=20>.

1 Defendants, including, but not limited to, Teddy Fresh. Upon information and belief,
2 Defendants would not have realized such profits but for their infringement on
3 Plaintiff's rights. As such, Plaintiff is entitled to disgorgement of Defendants' profits
4 directly and indirectly attributable to Defendants' infringement of the Broadcast, in an
5 amount to be established at trial.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

8 **AS TO COUNT ONE:**

9 45. That Defendants and Defendants' employees, representatives, and agents
10 be enjoined from copying, uploading, distributing, selling, or otherwise infringing on
11 Plaintiff's copyright in the Broadcast;

12 46. That Plaintiff be awarded all profits of Defendants plus all losses of
13 Plaintiff, the exact sum to be proven at the time of trial, or statutory damages in the
14 amount of \$150,000 per violation; and

15 47. That an order be issued requiring Defendants to account to Plaintiff for
16 profits attributable to their use of Plaintiff's copyright, in accordance with proof.

17 **AS TO COUNT TWO:**

18 48. That Defendants and Defendants' employees, representatives, and agents
19 be enjoined from copying, uploading, distributing, selling, or otherwise infringing on
20 Plaintiff's copyright in the Broadcast;

21 49. That Plaintiff be awarded all profits of Defendants plus all losses of
22 Plaintiff, the exact sum to be proven at the time of trial, or statutory damages in the
23 amount of \$150,000 per violation; and

24 50. That an order be issued requiring Defendants to account to Plaintiff for
25 profits attributable to their use of Plaintiff's copyright, in accordance with proof.

26 **AS TO COUNT THREE:**

27 51. For statutory penalties in an amount, in the discretion of this Court, of up
28 to the maximum amount of \$110,000.00, for Defendants' willful violations of 47

1 U.S.C. § 605(a).

2 AS TO ALL COUNTS:

3 52. For pre-judgment and post-judgment interest on all damages awarded;

4 53. For attorneys' fees and costs of suit incurred herein according to proof;

5 and

6 54. For such other and further relief as the Court may deem just and proper.

7

8 Dated: July 23, 2021

NOVIAN & NOVIAN, LLP
Attorneys at Law

9

10

By: /s/ Farhad Novian

11

FARHAD NOVIAN

12

MICHAEL O'BRIEN

13

ALEXANDER BRENDON GURA

14

*Attorneys for Plaintiff TRILLER FIGHT
CLUB II LLC*

15

16

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT A

Registration #: PA0002290040
Service Request #: 1-10414848281

Mail Certificate

Latham & Watkins LLP
Julie L. Dalke
650 Town Center Drive, Suite 2000
Costa Mesa, CA 92626 United States

Priority: Special Handling

Application Date: April 30, 2021

Correspondent

Organization Name: Latham & Watkins LLP
Name: Julie L. Dalke
Email: ipdocket@lw.com
Address: 650 Town Center Drive, Suite 2000
Costa Mesa, CA 92626 United States

Registration Number

PA 2-290-040

Effective Date of Registration:

April 30, 2021

Registration Decision Date:

May 04, 2021

Title

Title of Work: Jake Paul vs Ben Askren

Completion/Publication

Year of Completion: 2021

Date of 1st Publication: April 17, 2021

Nation of 1st Publication: United States

Author

- Author:** Triller Fight Club II, LLC
- Author Created:** entire motion picture
- Work made for hire:** Yes
- Domiciled in:** United States

Copyright Claimant

Copyright Claimant: Triller Fight Club II, LLC
2121 Avenue of the Stars Suite 2320, Los Angeles, CA, 90067, United States

Limitation of copyright claim

Material excluded from this claim: preexisting footage, preexisting photograph(s), preexisting music, musical performances

New material included in claim: additional new footage, production as a motion picture

Certification

Name: John Flock

Date: April 30, 2021

Applicant's Tracking Number: 068356-0002

