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6 Valentin Rick, Leonard Bugla, Leon Frisch,
7 Marc-Alexander Richts, Alexander Kleeman,
8 Leon Schlender, Bennet Huch, Pascal Classen,
9 and Remo Loffler

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

12
13 ACTIVISION PUBLISHING, INC., a
Delaware corporation,

14 Plaintiffs,

15 vs.

16 ENGINEOWNING UG, a German
17 corporation, CMM HOLDINGS S.A., a
German corporation, GARNATZ
18 ENTERPRISE LTD., a Belize corporation,
VALENTIN RICK, an individual,
19 LEONARD BUGLA, an individual, LEON
FRISCH, an individual, IGNACIO
20 GAYDUCHENKO, an individual, MARC-
ALEXANDER RICHTS, an individual,
21 ALEXANDER KLEEMAN, an individual,
LEON SCHLENDER, an individual,
22 ERICK PFEIFER, an individual, BENNET
HUCH, an individual, ZAIN JONDAH, an
23 individual, RICKY SZAMEITAT, an
individual, MARCEL BINDEMANN, an
24 individual, REMO LOFFLER, an
individual, MARVIN BAOTIC
25 NEUMEYER, an individual, HENDRIK
SMAAL, an individual, CHARLIE WIEST,
26 an individual, DENNIS REISSLEICH, an
individual, TYLER BYRD, an individual,
27 SIMON MASIAS, an individual,
NICHOLAS JAMES BALDWIN, an
28 individual, ANTONIO MEDIAN, an
individual, REMY CARTIGNY, an

CASE NO. 2:22-CV-00051-MWF

**REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS**

Judge: Hon. Michael W. Fitzgerald
Dept.: 5A

Complaint Filed: January 4, 2022
FAC Filed: September 16, 2022

Hearing Date: March 27, 2023
Hearing Time: 10:00 AM

1 individual, PASCAL CLASSEN, an
2 individual, MANUEL T. SANTIAGO, an
3 individual, and KATERINA DISDLE, an
4 individual, and DOES 1-50, inclusive,

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Defendants.

1 **SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE**

2 Defendants Valentin Rick, Leonard Bugla, Leon Frisch, Marc-Alexander
3 Richts, Alexander Kleeman, Leon Schlender, Bennet Huch, Pascal Classen, Remo
4 Loffler, and Engineowning UG (“Defendants”) respectfully submit this Request for
5 Judicial Notice pursuant to Federal Rule of Evidence 201. Defendants request that the
6 Court take judicial notice of the following facts which are “not subject to reasonable
7 dispute” as they are either “generally known within the territorial jurisdiction of th[is]
8 trial court” or “capable of accurate and ready determination by sources whose
9 accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b).

10 1. Defendants request that the Court take judicial notice of the fact that
11 58.8% of the world’s websites are written in English. *See* Fed. R. Evid. 201(b)(2).
12 This information is publicly available on Statista, an online platform specializing in
13 market and consumer data, which offers statistics and reports, market insights,
14 consumer insights and company insights. The graph showing “Languages most
15 frequently used for web content as of January 2023, by share of websites” can be
16 found at: [https://www.statista.com/statistics/262946/most-common-languages-on-the-](https://www.statista.com/statistics/262946/most-common-languages-on-the-internet/)
17 [internet/](https://www.statista.com/statistics/262946/most-common-languages-on-the-internet/). A true and correct copy of this graph from the Statista website is attached
18 hereto as **Exhibit S**. *Turner v. Samsung Telecommunications Am., LLC*, No.
19 CV1300629MWFVBKX, 2013 WL 12126749, at *2 (C.D. Cal. Nov. 4, 2013) (“It is
20 not uncommon for courts to take judicial notice of factual information found on the
21 world wide web.”); *see also Matthews v. Nat’l Football Council*, 688 F.3d 1107, 1113
22 & n.5 (9th Cir. 2012) (The Ninth Circuit granted a request for judicial notice of
23 statistics available on the NFL’s website.).

24 2. Defendants request that the Court take judicial notice of the fact that
25 Apple Pay is available on six continents. *See* Fed. R. Evid. 201(b)(2). This
26 information is publicly available on Apple’s website and can be found at:
27 <https://support.apple.com/en-us/HT207957>. A true and correct copy of the webpage
28 entitled “Countries and regions that support Apple Pay” is attached hereto as **Exhibit**

1 T. *See Perkins v. LinkedIn Corp.*, 53 F. Supp. 3d 1190, 1204 (N.D. Cal. 2014)
2 (“Proper subjects of judicial notice when ruling on a motion to dismiss include
3 publically (sic) accessible websites[.]”); *see also Minor v. Fedex Off. & Print Servs.,*
4 *Inc.*, 182 F. Supp. 3d 966, 974 (N.D. Cal. 2016).

5 3. Defendants request that the Court take judicial notice of the fact that
6 Apple Pay was available in Germany and the European Union as of June 2019. This
7 information is publicly available on Wikipedia and can be found at:
8 https://en.wikipedia.org/wiki/Apple_Pay. A true and correct copy of the Wikipedia
9 page entitled “Apple Pay” is attached hereto as **Exhibit U**. *See Perkins v. LinkedIn*
10 *Corp.*, 53 F. Supp. 3d 1190, 1204 (N.D. Cal. 2014) (Proper subjects of judicial notice
11 when ruling on a motion to dismiss include publically (sic) accessible
12 websites[.]”); *Io Grp., Inc. v. Veoh Networks, Inc.*, 586 F. Supp. 2d 1132, 1145 n. 8
13 (N.D. Cal. 2008) (“The court takes judicial notice of the Wikipedia definition of ‘IP
14 address[.]’”).

15 4. Defendants request that the Court take judicial notice of the fact that as of
16 2015, marketers could serve ads on Twitter in over 200 different countries and
17 jurisdictions. *See Fed. R. Evid. 201(b)(2)*. This information is publicly available on
18 Twitter’s website at [https://blog.twitter.com/en_us/a/2015/twitter-ads-are-now-](https://blog.twitter.com/en_us/a/2015/twitter-ads-are-now-available-in-over-200-countries-and-territories)
19 [available-in-over-200-countries-and-territories](https://blog.twitter.com/en_us/a/2015/twitter-ads-are-now-available-in-over-200-countries-and-territories). A true and correct copy of the
20 webpage entitled “Twitter Ads are now available in over 200 countries and territories”
21 is attached hereto as **Exhibit V**. *See Perkins v. LinkedIn Corp.*, 53 F. Supp. 3d 1190,
22 1204 (N.D. Cal. 2014) (Proper subjects of judicial notice when ruling on a motion to
23 dismiss include publically (sic) accessible websites[.]”); *see also Unsworth v.*
24 *Musk*, No. 19-MC-80224-JSC, 2019 WL 5550060, at *4 (N.D. Cal. Oct. 28, 2019)
25 (taking judicial notice of Business Insider, BuzzFeed, BBC, and CNN articles).

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