

1 JOHN S. PURCELL (SBN 158969)  
john.purcell@afslaw.com  
2 JAKE GILBERT (SBN 293419)  
jake.gilbert@afslaw.com  
3 **ARENTFOX SCHIFF LLP**  
555 West Fifth Street, 48th Floor  
4 Los Angeles, CA 90013-1065  
Telephone: 213.629.7400  
5 Facsimile: 213.629.7401

6 Attorneys for Plaintiffs  
TAYLOR WHITLEY AND  
7 WTF.INDUSTRIES, LLC

8  
9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11  
12 TAYLOR WHITLEY, and  
WTF.INDUSTRIES, LLC,

13 Plaintiffs,

14 v.

15 CLARE MAGUIRE, JAKE  
16 NYGARD, ANTONIUS  
WIRIADJAJA, DONGLEE HAN,  
17 and DOES 1-10, Inclusive.

18 Defendants.

Case No.

**COMPLAINT FOR**  
**(1) COPYRIGHT INFRINGEMENT;**  
**(2) VICARIOUS AND/OR**  
**CONTRIBUTORY COPYRIGHT**  
**INFRINGEMENT;**  
**(3) NEGLIGENCE**  
**MISREPRESENTATION - HAN;**  
**(4) NEGLIGENCE**  
**MISREPRESENTATION - OTHERS**  
**(5) BREACH OF IMPLIED**  
**CONTRACT;**  
**(6) BREACH OF FIDUCIARY**  
**DUTY;**  
**(7) DISSOLUTION OF IMPLIED**  
**PARTNERSHIP;**  
**(8) UNJUST ENRICHMENT;**  
**(9) CONVERSION;**  
**(10) DEFAMATION; AND**  
**(11) UNFAIR COMPETITION.**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs Taylor Whitley (“Whitley”) and WTF.Industries, LLC  
2 (“WTF.Industries”) (collectively “Plaintiffs”) complain and allege against Clare  
3 Maguire (“Maguire”), Cake Nygard (“Nygard”), Antonius Wiriadjaja (“Wiriadjaja”),  
4 Donglee Han (“Han”), and DOES 1-10 (collectively “Defendants”) as follows:

5 **NATURE OF THE ACTION**

6 1. This action arises from Plaintiff Taylor Whitley’s wrongful ouster from  
7 the digital art community he founded and nurtured, ultimately resulting in the loss of  
8 years of his own work, along with an extensive list of lucrative projects which he laid  
9 the groundwork to create.

10 2. Whitley, in the same vein as other entrepreneurial artists, used his name  
11 and connections in the digital art world to create and sell art using Whitley’s curated  
12 internet community of collectors and collaborators. However, he was betrayed when  
13 several people he chose to include in his community later usurped Whitley’s access  
14 to and control of that community, renamed it, and exploited it for their own pecuniary  
15 gain. This was part of their scheme to convert Whitley’s collectors, fans, and other  
16 artists working on community projects all while infringing Whitley’s intellectual  
17 property, and keeping him and the company he formed from reaping the considerable  
18 financial rewards that flowed from the work and community he created.

19 3. Defendants also appear to have engaged in a campaign of defamation to  
20 further injure Plaintiff’s reputation and presumably to prevent him from competing  
21 with them along with other digital art contacts he has.

22 4. As a result of Defendants’ tortious and wrongful conduct, Whitley and  
23 his clients and collectors lost access to years of collected art and music assets, and  
24 Whitley lost access to confidential business plans and future projects, his client list,  
25 and engagement data. Further, the community that Whitley created lost tremendous  
26 goodwill associated with it by others in the digital art world, and prices associated  
27 with community projects collectively went down. Such conduct can only be  
28 remediated with monetary damages to compensate Plaintiff for his economic losses,

1 payment to compensate him for revenue from projects he was entitled to participate  
2 in or recoup his investment in, and injunctive relief to stop Defendants from  
3 continuing to injure Plaintiffs' good name and that of his representatives and  
4 employees.

5 **THE PARTIES**

6 5. Plaintiff Taylor Whitley is an individual resident of Arizona.

7 6. Plaintiff WTF.Industries LLC is a limited liability company organized  
8 under the laws of the state of Delaware and with its place of operations in Arizona.

9 7. Defendant Clare Maguire, on information and belief, is an individual  
10 residing in England.

11 8. Defendant Jake Nygard, on information and belief, is an individual  
12 residing in Minnesota.

13 9. Defendant Antonius Wiriadjaja, on information and belief, is an  
14 individual residing in New York City, New York.

15 10. Defendant DongLee Han, on information and belief, is an individual  
16 residing in Los Angeles, California.

17 11. The true names and capacities of defendants sued herein as DOES 1  
18 through 10, inclusive, are unknown to Plaintiff, who therefore sues said defendants  
19 by fictitious names. Plaintiff will amend this complaint to allege their true names and  
20 capacities when they are ascertained.

21 **JURISDICTION AND VENUE**

22 9. This action arises in prominent part under the Copyright Act of 1976,  
23 Title 17 U.S.C. §101 *et seq.*

24 10. This Court has federal question jurisdiction over the subject matter and  
25 parties pursuant to 28 U.S.C. §§1331 and 1338(a) and (b). This Court has  
26 supplemental jurisdiction over the remaining causes of act pursuant to 28 U.S.C.  
27 §1367(a) because the other claims are so related to claims in the action within such  
28 original jurisdiction that they form part of the same case or controversy. Further, this

1 Court has jurisdiction under 28 U.S.C. §§1332(a)(1) because there is complete  
2 diversity of citizenship between Plaintiffs and the various Defendants and the amount  
3 in controversy is over \$75,000.

4 11. Plaintiff is informed and believes, and on that basis alleges, that this  
5 Court has personal jurisdiction over Defendants because Plaintiffs and Defendants  
6 have caused digital art products described herein to be advertised, promoted, and sold  
7 in the State of California and this judicial district.

8 12. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because  
9 Defendants' tortious conduct has occurred in this judicial district and a substantial  
10 portion of the events or omissions giving rise to Plaintiff's claims occurred in this  
11 district.

## 12 FACTUAL BACKGROUND

### 13 **PLAINTIFF CREATES A THRIVING ONLINE ARTS COMMUNITY**

14 13. Plaintiff Whitley is a creative artist working in visual, performance, and  
15 digital mediums. He has been a Voisey App featured producer and has spoken at art  
16 conferences such as NFT NYC Conference due to his digital art world renown. His  
17 work has been displayed all over the world including at the Official MF Doom  
18 CryptoVoxel Gallery, the Sino NFT project and Start Art Gallery in Hong Kong, and  
19 at The Global NFT Art Exhibition in Dubai. He has developed thriving social media  
20 accounts including on Instagram (Tayl0rWTF – 6,000 followers, Caked Apes –  
21 14,800 followers), Twitter (Tayl0rWTF – 38,000 followers, Caked Apes – 31,700  
22 followers), and has led Discord groups with thousands of members each.

23 14. Beginning in spring 2021, Whitley began promoting a new online  
24 community for digital artists using his contacts on social media platforms and in the  
25 Non-Fungible Token ("NFT") community<sup>1</sup>. During this time Whitley hosted and  
26

27 <sup>1</sup> NFTs are digital assets that correspond to a unique digital or real world item and  
28 serve as a proof of ownership or bill of sale for that item by describing the item in  
metadata. Transactions involving NFTs are recorded to the same distributed digital  
ledger as common cryptocurrencies.

1 contributed to online social ‘rooms’ on Clubhouse (a social media app where artists,  
2 collectors and other individuals met and spoke about NFTs and the crypto art  
3 economy).

4 15. In June of 2021, Whitley set up a Discord server entitled discord.art (  
5 the “Art Discord”) and purchased a corresponding web domain (<https://discord.art/>).  
6 A Discord “server” is an online community commonly focused on a single topic or  
7 interest, and those servers can contain multiple “channels” which act as subsets for  
8 the overall topic that the server was organized for.

9 16. Discord is an internet platform which provides persistent voice and chat  
10 services, as well as digital distribution via the transferal of media and other computer  
11 files. It has approximately 350 million total registered users, 150 million monthly  
12 active users, and commonly serves as the central organization, marketing, and  
13 communications hub for its users.

14 17. NFT projects commonly use Discord to organize their community of  
15 buyers and other interested parties. Discord serves as the message board for formal  
16 announcements, promotions and giveaways, votes on community issues, and conduit  
17 for other business. Moreover, Discord is where artists and platform can communicate  
18 directly with their collectors.

19 18. Using his existing notoriety as a digital artist and by spending hours on  
20 Clubhouse and the Art Discord, Whitley was quickly able to attract users to the Art  
21 Discord, which had hundreds of users within weeks of launching. Whitley also began  
22 using the Art Discord to promote his own artwork and digital goods for sale. Among  
23 Whitley’s items for sale were his Floppy Disk editions, a collection of digital art and  
24 music assets which others could use in their own projects.

25 19. Through his efforts, Whitley quickly became a prominent NFT artist and  
26 stood at the center of the Art Discord - one of the most important platforms for NFT  
27 artists and their collectors - all before any Defendant became involved.

28 ///

1                   **PLAINTIFF STAFFS THE COMMUNITY AND PLANS FUTURE PROJECTS**

2           20.    After launching the Art Discord, Whitley was contacted by Defendant  
3    Wiriadjaja (using his handle “Foodmasku”). Wiriadjaja asked Whitley if Whitley  
4    would allow him to open up a channel on the Art Discord in order to market  
5    Wiriadjaja’s NFTs, as Wiriadjaja lacked a comparable platform. Whitley agreed and  
6    created the channel.

7           21.    Later in June 2021, as the Art Discord’s needs grew, Whitley hires  
8    Trisha Reda (“Reda”) to act as a community manager for the Art Discord and others  
9    to build a website to accompany the Art Discord and automated moderation tools.  
10   Reda manages social media accounts related to the Art Discord and markets artists  
11   that are on the Art Discord . For the first time, the Art Discord was used to promote  
12   the work of other artists and has a small paid staff to do so.

13           22.    Throughout the next few months, Whitley exhaustively marketed the  
14    Art Discord , the community, and the artists who were now contained within each.  
15    Wiriadjaja helped Whitley promote the Art Discord, and the two grew close.

16           23.    On August 23, 2021, Whitley, feeling the effects of all of his work  
17    marketing and promoting the Art Discord and the community in general – which now  
18    contained thousands of members, decided to take a temporary step back from active  
19    moderation and rest. He transferred “ownership” of the Art Discord to Wiriadjaja in  
20    an effort to relieve his day to day obligations.

21           24.    It is important to note that “owner” in the context of Discord the web-  
22    platform does not reflect legal ownership, or even an intent to alienate one’s rights to  
23    the platform. Instead, the owner has the highest level of access and control of anyone  
24    presently existing on that server. Owners can dole out permissions to other users,  
25    including promoting users all the way up to Administrator, which allows unfettered  
26    access and control to the server, second only to the Owner herself. Administrators  
27    can moderate the chat and spoken word tools, and membership lists, and even change  
28    server settings should anything need changing or fixing. Whitley never intended to

1 leave the Art Discord, and remained instrumental in hiring and promotion decisions  
2 after transferring “ownership.”

3 25. Wiriadjaja agreed, and began maintaining continuity with the  
4 community. Importantly, Whitley did *not* remove from himself any administrative  
5 privileges or control of the Art Discord, he merely transferred the “ownership” to  
6 Wiriadjaja temporarily on the web-platform for the Art Discord and then he gave  
7 Wiriadjaja “Administrator” access to the website. No changes were made as to  
8 ownership or control of the website or any other properties.

9 26. In fact, Whitley directly supervised and led the hiring of 24 people -  
10 Wiriadjaja only recommended a single hire. Whitley is also primarily in charge of  
11 compensating the staff - including Reda, who continued managing the community  
12 and was handsomely rewarded in the form a Mutant Ape NFT (valued at the time  
13 between \$50,000 and \$100,000). Whitley, along with his contributors, began  
14 discussing the possibility of taking the Art Discord, and the community in general,  
15 to the public as a means of increasing the potential scope of the project and  
16 introducing it to new collectors and users.

17 27. By mid-October 2021, there the Art Discord was booming – thousands  
18 of members were contributing to the community and a full staff were in place to  
19 manage. Whitley announced promotional efforts for a number of artists and projects  
20 hosted by the Art Discord, the sales of which would benefit Whitley and Wiriadjaja  
21 and the Art Discord. Wiriadjaja and Whitley agreed that they were “co-creators” of  
22 the Art Discord and that each had played critical roles in its growth and development.

23 28. The Art Discord continued to grow – Defendant Maguire was hired as a  
24 community manager on or about October 19, 2021.

25 29. Throughout November, the Art Discord supported multiple art releases,  
26 new artist channels, and continuing growth in membership, artists and NFT sales,  
27 and excitement for the Art Discord and the group as a whole. At this point,  
28 Wiriadjaja, Maguire, and Whitley were working in concert along with the other staff



1 members to promote the various NFT releases and continue developing the Art  
2 Discord, the community, and the value of each. Defendant Han joined at the end of  
3 November 2021.

4 30. Late in 2021, Whitley formed Plaintiff WTF.Industries to function as a  
5 digital art agency, which would be responsible for developing, marketing, promoting,  
6 and profiting from the sales of digital assets, like NFTs and other collections.  
7 WTF.Industries would take revenue cuts of the projects it supported, whether that  
8 was with the team that Whitley was already working with or third parties who sought  
9 to have institutional support for their releases. Whitley is the sole member of  
10 WTF.Industries.

11 **PLAINTIFFS AND DEFENDANTS LAUNCH THEIR OWN NFT COLLECTION AND**  
12 **PLAINTIFF IS OUSTED FROM HIS ARTS COMMUNITY**

13 31. In line with Whitley’s ambitions, on December 16, 2021, the Art  
14 Discord was rebranded to “WTF Industries”.

15 32. On the same day, Han’s NFT project Pixel Tots launched. Han and  
16 Whitley agreed that Whitley and WTF.Industries would market Pixel Tots for two  
17 months in exchange for 25% of revenue from the initial launch, followed by 60% of  
18 all revenue earned through secondary sales<sup>2</sup> and 60 NFTs from the collection. Despite  
19 this agreement, Whitley has never received any money from the Pixel Tots sale nor  
20 is he aware of WTF.Industries receiving a share. To date hundreds of Pixel Tots NFTs  
21 have been transacted generating tens of thousands of dollars of revenue for the  
22 project.<sup>3</sup>

23 \_\_\_\_\_  
24 <sup>2</sup> NFTs are often bought and transferred using the Ethereum cryptocurrency system.  
25 That system allows for the initial seller to automatically receive a percentage  
26 royalty on subsequent sales of the same NFT. Therefore, creators are incentivized  
to continue marketing to their buyers and collectors, as maintaining high resale  
prices results in creators getting larger royalty payments.

27 <sup>3</sup> Pixel Tot sales take place on the OpenSea NFT sales platform, and sales records  
28 are publicly recorded and available online:  
<https://opensea.io/collection/pixeltots?tab=activity>.



1 33. At the same time, Whitley and Defendant Nygard readied their own  
2 NFT collection for launch entitled Caked Apes. Caked Apes were designed and  
3 created by Whitley and Nygard as a collection of 8,888 NFTs, each representing  
4 unique and randomly generated NFTs which use traits from other NFT projects.  
5 Whitley invested nearly \$300,000 of his own money to launch the product and his  
6 intellectual property.

7 34. Specifically, Whitley created a series of logo designs which he uses to  
8 identify himself and his work to third parties. (“the Subject Design”). Representative  
9 samples can be seen below:



18 35. Whitley and  
19 Defendants put up a website (<https://www.cakedapes.wtf/>), and social media  
20 accounts (<https://twitter.com/CakedApes>, <https://www.instagram.com/CakedApes/>).  
21 The Caked Apes project was put on OpenSea to sell  
22 (<https://opensea.io/collection/cakedapesofficial>) and opened for presale on January  
23 10, 2022. Each of which identified both Whitley and Nygard as creators.

24 36. Whitley and Defendants Maguire, Nygard, and Wiriadjaja agreed that  
25 Whitley was to receive 10% of all revenue generated from Caked Apes primary and  
26 secondary sale royalties, and WTF.Industries was to receive 30% of all Caked Apes  
27 primary sales and 45% of all Caked Apes secondary sale royalties.

28 37. Unbeknownst to Whitley at the time he agreed to the above revenue

1 split, Defendants Maguire, Nygard, and Wiriadjaja created a “multi-signature wallet”  
2 to receive funds derived from the Caked Apes NFT launch and send Whitley the 10%  
3 he was due.<sup>4</sup> However, on information and belief, Defendants Maguire, Nygard, and  
4 Wiriadjaja failed to set the multi-signature wallet to automatically distribute revenue  
5 from the Caked Apes NFT project to a wallet owned by WTF.Industries for its share  
6 of the revenue.

7 38. Since launch, the Caked Apes NFTs have sold out of their original run,  
8 generating an estimated \$1.9 million in primary sale revenue and \$225,000 in  
9 royalties from secondary sales.

10 39. To date, WTF.Industries has received none of the revenue generated by  
11 Caked Apes. On information and belief, all revenue that was not sent to  
12 WTF.Industries either remains in the multi-signature wallet or has been distributed  
13 to and used by Defendants. Neither Whitley nor WTF.Industries has authorized any  
14 expenses be paid with Caked Apes NFT project revenue.

15 40. Once Whitley learned that WTF.Industries had not received any Caked  
16 Apes NFT revenue and that Defendant Maguire had contacted WTF.Industries  
17 accountants to add directors to WTF.Industries, Whitley directed his representatives  
18 to convene a meeting of Whitley and Defendants to resolve any disputes related to  
19 the WTF.Industries brand, the projects, revenue splits, and roles across each.

20 41. Defendants never responded and this meeting never took place.

21 42. On January 28, 2022, Whitley was removed from all social media  
22 accounts related to the Caked Apes NFT project. On January 30, 2022, Whitley was  
23 removed from the Art Discord.

24 43. Whitley uses the Art Discord as his source of revenue and as marketing  
25 for both his projects and as a means to support other artists. The Art Discord contains  
26 significant amounts of Plaintiff’s art and music assets, data and contact information

27 <sup>4</sup> A multi-signature wallet is software used to send and receive cryptocurrencies  
28 whereby at least two authorized individuals must approve each transaction.

1 about the community and collectors, a client list, and his future art project plans -  
2 crucial data for his ability to work as an artist. The Art Discord also contains  
3 communications between Whitley and Defendants, financial records, and other  
4 information at issue here.

5 44. Further, in the time since, social media accounts associated with Nygard  
6 and Maguire and numerous anonymous social media accounts have harassed and  
7 made false and slanderous statements about Whitley to the public, and to specific  
8 prominent individuals and entities in the digital art world. These messages make  
9 plainly false claims about Whitley. Representative examples can be seen below:



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

<  **clare maguire**   
claremaguire 

claremaguire · Instagram  
52K followers · 171 posts  
You don't follow each other on Instagram

**View profile**

Tuesday 5:10 PM

Hi escargot, I do not know you.

Can you tell me what it is I said about you because i know Taylor despises you but I don't know who you are.



Accept message request from clare maguire (**claremaguire**)?

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



**Clare Maguire** @ClareMaguire

Replying to @AkashaCoin and @CakeNygard

The caked apes collection was DMCA'd by **Taylor** Whitley aka **Taylor** wtf because he chose to abuse Cake and an entire community of holders of Caked Apes.

9:35 AM · 3/16/22 · [Twitter for iPhone](#)

---

**1 Retweet 1 Quote Tweet 7 Likes**



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



45. Maguire has previously admitted to Plaintiff that she stood ready to use anonymous social media accounts in other ways, such as to build hype for the Art Discord or its projects, or even for nefarious tasks like harassing social media profiles she does not like. On information and belief, these slanderous messages are made directly by Maguire, by anonymous accounts she controls, or at her behest, and were made to impact Plaintiff’s reputation in the art world and among potential collectors. Reputation is particularly important here, as the value of NFT projects Plaintiff promotes or sells directly are often directly related to his reputation among collectors and among the broader populace who rely upon that reputation (and the scarcity of the desired objects) to lead to high valuations and lucrative resales.

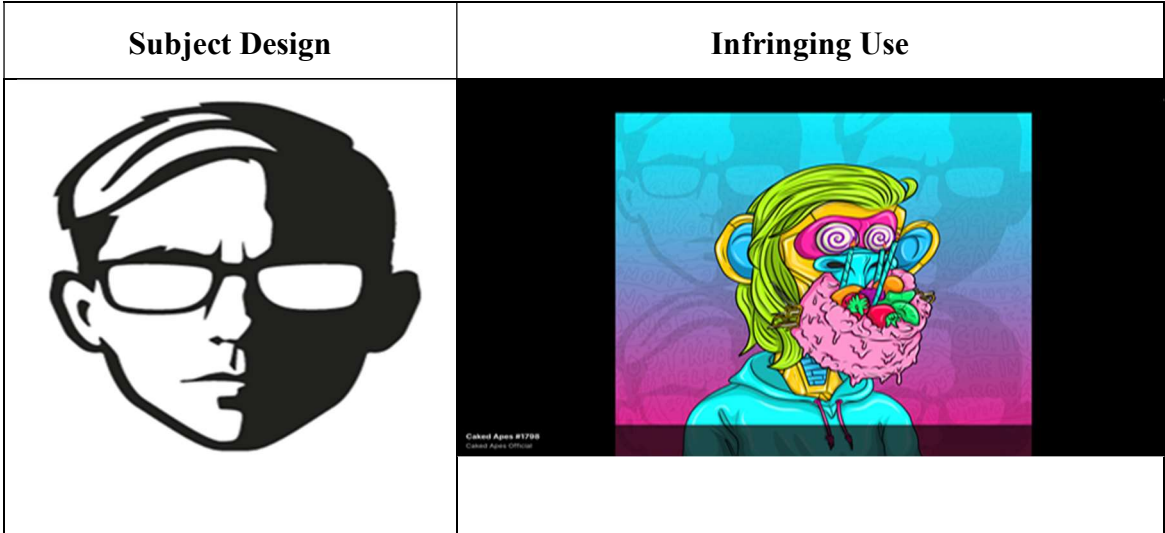
46. Despite all of the above malfeasance, in order to attempt to maintain the

1 sinking value of Plaintiff’s assorted investments, the value of the Art Discord overall,  
2 and the prices of art promoted by the Art Discord, Plaintiff has continued to pay  
3 required maintenance fees for the Art Discord in the hope that he would one day be  
4 able to retain its goodwill and the assets stored therein.

5 47. Whitley has applied for a United States Copyright Registration covering  
6 the Subject Design, identified as application case number 1-1123483811.




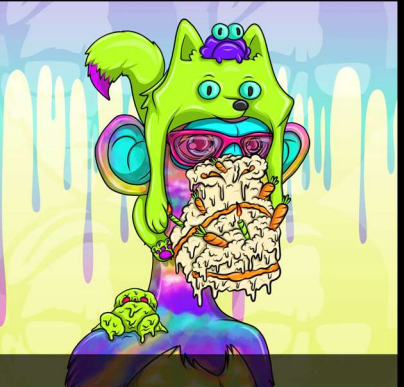
7 48. Many of the Caked Ape NFTs incorporate the Subject Design,  
8 including, but not limited to Caked Ape #787, Caked Ape #5099, and Caked Ape  
9 #1798 seen below, each of which use the Subject Design essentially as a watermark  
10 in the background of the image. Whitley’s authorization for the use of the Subject  
11 Design in the Caked Apes NFT project was contingent on the revenue split to being  
12 paid to him and WTF.Industries, as well his continued involvement with and  
13 management of the Caked Apes NFT project.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28





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

Subject Design	Infringing Use
	 <p data-bbox="829 653 906 680">Caked Apes #5099 Caked Apes Official</p>
	 <p data-bbox="829 1142 906 1169">Caked Apes #787 Caked Apes Official</p>

49. Whitley is informed and believes, and thereon alleges that Defendants have sold Caked Ape NFTs incorporating the Subject Design since Caked Aped NFTs launched on January 10, 2022.

50. Now, Plaintiff seeks judicial intervention into the operation of his potentially lucrative art community in order to recover Plaintiff’s rightful share of proceeds from the Caked Apes NFT project, and for Whitley’s loss of access to the Art Discord and to remedy Defendant’s wrongful acts which have not only injured the value of the community itself, but the individual projects, and Whitley’s very reputation and future involvement in the digital art world.

///  
///

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

**FIRST CLAIM FOR RELIEF**

**(Copyright Infringement against all Defendants, and Each)**

51. Plaintiff incorporates and re-alleges the allegations contained in paragraphs 1-50 of this Complaint as if fully set forth herein.

52. Whitley alleges that Defendants, and each of them, had access to the Subject Design stemming from Whitley’s collaboration and involvement as co-creator of the Caked Apes NFT project.

53. Whitley’s authorization to use the Subject Design was contingent on receiving his agreed upon portion of revenue from the Caked Apes NFT project and WTF.Industries receiving its share, and his ongoing involvement with and management of the Caked Apes NFT project. When WTF.Industries did not receive its agreed-upon share, his authorization was revoked.

54. Due to Defendants’ acts of infringement, Whitley suffered substantial damages to his professional reputation and opportunities.

55. Due to Defendants’ acts of infringement, Whitley has suffered general and special damages in an amount to be established at trial.

56. Due to Defendants’ acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Design. As such, Whitley is entitled to disgorgement of Defendants’ profits directly and indirectly attributable to Defendants’ infringement of Whitley’s rights in the Subject Design in an amount to be established at trial.

**SECOND CLAIM FOR RELIEF**

**(Vicarious and/or Contributory Copyright Infringement against all Defendants, and Each)**

57. Whitley incorporates and re-alleges the allegations contained in paragraphs 1-56 of this Complaint as if fully set forth herein.

58. Whitley is informed and believes and thereon alleges that Defendants

1 knowingly induced, participated in, aided and abetted in, and profited from the illegal  
2 reproduction and/or subsequent sales of NFTs featuring the Subject Design alleged  
3 herein.

4 59. Whitley is informed and believes and thereon alleges that Defendants,  
5 and each of them, are vicariously liable for the infringement alleged herein because  
6 they had the right and ability to supervise the infringing conduct and because they  
7 had a direct financial interest in the infringing conduct.

8 60. By reason of the Defendants', and each of their acts of contributory and  
9 vicarious infringement as alleged above, Whitley has suffered and will continue to  
10 suffer substantial damages to his professional reputation and opportunities in an  
11 amount to be established at trial, as well as additional general and special damages,  
12 in an amount to be established at trial.

13 61. Due to Defendants', and each of their acts of copyright infringement as  
14 alleged herein, Defendants, and each of them, have obtained direct and indirect  
15 profits they would not otherwise have realized but for their infringement of the  
16 Subject Design. As such, Whitley is entitled to disgorgement of Defendants' profits  
17 directly and indirectly attributable to Defendants' infringement of Whitley's rights in  
18 the Subject Design, in an amount to be established at trial.

19 **THIRD CLAIM FOR RELIEF**

20 **(Negligent Misrepresentation against Defendant Han)**

21 62. Whitley incorporates and re-alleges the allegations contained in  
22 paragraphs 1-61 of this Complaint as if fully set forth herein.

23 63. Whitley alleges that, at the time Defendant Han represented to Whitley  
24 that 25% of revenue from the initial launch followed by 60% of all revenue earned  
25 through secondary sales and 60 NFTs would be sent to him, Han did not have  
26 reasonable grounds to believe those representations were true.

27 64. Han's assertions as to the revenue split were material to Whitley's  
28 decision to host the Pixel Tots project on the Art Discord and provide marketing and

1 promotional services for it.

2 65. Whitley did not have knowledge of Han's misrepresentations and  
3 omissions as to the foregoing issues, and reasonably and justifiably relied on her false  
4 and incomplete statements in providing marketing services and the use of the Art  
5 Discord to support the Pixel Tots NFT project.

6 66. As a direct and proximate result of Han's misrepresentations and  
7 omissions, Whitley agreed to, and performed said marketing and promotional  
8 services for the Pixel Tots NFT project, resulting in high sales volumes but  
9 preventing Whitley from engaging with other projects at the same time.

10 67. Whitley, in addition to the unpaid revenue from the Pixel Tots NFT  
11 launch, was damaged in an amount to be proven at trial.

12 **FOURTH CLAIM FOR RELIEF**

13 **(Negligent Misrepresentation against Defendants Maguire, Nygard, and**  
14 **Wiriadjaja)**

15 68. Plaintiffs incorporate and re-allege the allegations contained in  
16 paragraphs 1-67 of this Complaint as if fully set forth herein.

17 69. Whitley alleges that, at the time Defendants Maguire, Nygard, and  
18 Wiriadjaja represented to Whitley that 10% of revenue from the Caked Apes NFT  
19 project (both primary sales and secondary royalties) would be sent to Whitley and  
20 30% of revenue from primary sales of the Caked Apes NFT project would be sent to  
21 WTF.Industries and 45% of secondary sale royalties of the Caked Apes NFT project  
22 would be sent to WTF.Industries, Defendants Maguire, Nygard, and Wiriadjaja did  
23 not have reasonable grounds to believe those representations were true.

24 70. Defendants Maguire, Nygard, and Wiriadjaja's assertions related to the  
25 revenue split were material to Whitley's decision to launch the Caked Apes NFT  
26 project and use his intellectual property for it.

27 71. Whitley did not have knowledge of Defendants Maguire, Nygard, and  
28 Wiriadjaja's misrepresentations and omissions as to the foregoing issues and

1 reasonably and justifiably relied on her false and incomplete statements in agreeing  
2 to launch the Caked Apes NFT project and use his intellectual property for it.

3 72. As a direct and proximate result of Defendants Maguire, Nygard, and  
4 Wiriadjaja’s misrepresentations and omissions, Whitley agreed to use his intellectual  
5 property in and support the launch of the Caked Apes NFT Project, resulting in  
6 enormous sales but preventing Whitley from pursuing other opportunities at the time.

7 73. Whitley was damaged in an amount to be proven at trial.

8 **FIFTH CLAIM FOR RELIEF**

9 **(Breach of Implied Contract against Defendants)**

10 74. Plaintiffs incorporate and re-allege the allegations contained in  
11 paragraphs 1-73 of this Complaint as if fully set forth herein.

12 75. Whitley, WTF.Industries, and Defendants were engaged, collectively,  
13 in a venture to earn profit and share loss. Third parties who had dealings with them  
14 and would have been aware of each’s public social media posts would reasonably  
15 have understood they were engaged in business together – promotion of first the Art  
16 Discord and its artists and projects and later related to the Pixel Tots and Caked Apes  
17 NFT projects. Accordingly and pursuant to California Corporations Code § 16101(9),  
18 Plaintiffs and Defendants were in an implied partnership.

19 76. As such, California Corporations Code § 16103(b) provides a number  
20 of duties which govern the relation of Plaintiffs and Defendants’ implied partnership,  
21 specifically stating that the partnership agreement may not “unreasonably restrict the  
22 right of access to books and records...” and “eliminate the duty of loyalty...” among  
23 other imposed duties.

24 77. Defendants breached the implied partnership agreement by, *inter alia*:

- 25 • Removing Whitley from the Art Discord on January 30, 2022 and  
26 not returning control or reinstating him - preventing Whitley from  
27 accessing his stored client lists, customer engagement data, future  
28 projects, and collected assets;

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

- Removing Whitley from the Caked Apes social media profiles and refusing access;
- Failing to distribute to Whitley his portion of revenue from the Pixel Tots NFT project;
- Failing to distribute to WTF.Industries its portion of revenue from the Caked Apes NFT project.

78. As a proximate cause of Defendants’ breach of the implied partnership agreement, Plaintiff has been damaged in an amount to be proven at trial.

**SIXTH CLAIM FOR RELIEF**

**(Breach of Fiduciary Duty against Defendants)**

79. Plaintiffs incorporates and re-alleges the allegations contained in paragraphs 1-78 of this Complaint as if fully set forth herein.

80. Plaintiffs and Defendants were engaged, collectively, in a venture to earn profit and share loss. Third parties who had dealings with them and would have been aware of each’s public social media posts would reasonably have understood they were engaged in business together. Accordingly, Plaintiffs and Defendants were in an implied partnership.

81. As such, California Corporations Code §§16404(a)-(f) provides a series of duties that are owed between Plaintiffs and Defendants including a duty of care, a duty of loyalty, and an obligation of good faith and fair dealing.

82. Defendants breached these duties by, *inter alia*:

- Removing Whitley from the Art Discord on January 30, 2022 and not returning control or reinstating him - preventing Whitley from accessing his stored client lists, customer engagement data, future projects, and collected assets;
- Removing Whitley from the Caked Apes social media profiles and refusing access;
- Failing to distribute to Whitley his portion of revenue from the Pixel



1           Tots NFT project;

- 2           • Failing to distribute to WTF.Industries its portion of revenue from  
3           the Caked Apes NFT project.

4           83. Defendants are intimately familiar with the Art Discord, the art  
5 community that uses it, the projects that are being developed on it, and how much the  
6 community depends on access to Whitley and Whitley’s assurances as to the value  
7 of the assorted projects. Defendants have each acknowledged how vital Whitley’s  
8 contribution and involvement is because of the general association of the digital art  
9 and NFT world with Whitley.

10          84. Additionally, Defendants’ conduct impacted the Art Discord, which has  
11 significant independent value and future projects associated with it. By preventing  
12 Whitley from accessing the Art Discord, the user community is losing one of the  
13 prime assets they bargained for when they joined or bought any NFTs sold  
14 independently by Whitley. Defendants also have depressed the prices of NFTs sold  
15 by artists promoted by the Art Discord and harmed their resale value, which  
16 negatively impacts WTF.Industries revenues for existing and future projects.  
17 Accordingly, Defendants’ breaches of their fiduciary duties to Plaintiffs have directly  
18 and proximately damaged Plaintiffs in the firm of lost profits, opportunities for future  
19 projects, and other related damages.

20          85. As a direct and proximate cause of Defendants’ conduct, Plaintiffs have  
21 been damaged in an amount to be proven at trial.

22          86. Defendants’ conduct will cause further damages to Plaintiffs until such  
23 time as Defendants honor their fiduciary duties. The longer Whitley is kept locked  
24 out of the Art Discord and away from the community he founded, the more damage  
25 that will be done, both as the prices of community-sold NFTs will be harmed, but  
26 similarly, the reputation and goodwill of the Art Discord and community will be  
27 harmed because part of the rights and benefits of membership are access to Whitley  
28 and his work and without those, the community and Plaintiff’s main collectors will



1 hold him personally responsible.

2 **SEVENTH CLAIM FOR RELIEF**

3 **(Dissolution of Implied Partnership against Defendants)**

4 87. Plaintiffs incorporates and re-alleges the allegations contained in  
5 paragraphs 1-86 of this Complaint as if fully set forth herein.

6 88. Plaintiffs and Defendants were engaged, collectively, in a venture to  
7 earn profit and share loss. Third parties who had dealings with them and would have  
8 been aware of each’s public social media posts would reasonably have understood  
9 they were engaged in business together. Accordingly, Plaintiff and Defendants were  
10 in an implied partnership.

11 89. As such, California Corporations Code §§16405(b) provides a series of  
12 bases on which a partner of an implied partnership may maintain an action against a  
13 partner, including but not limited to “[t]he partner’s right to compel a dissolution and  
14 winding up of the partnership business under Section 16801...” and “[t]he partner’s  
15 right on dissociation to have the partner’s interest in the partnership purchased  
16 pursuant to Section 16701 or 16701.5...”

17 90. Defendants’ actions have unreasonably frustrated the economic purpose  
18 of the implied partnership described herein, and engaged in conduct relating to the  
19 partnership business that makes it not reasonably practicable to carry on the business  
20 in partnership with Defendants. Specifically, by deleting the Art Discord and  
21 preventing the community from accessing Plaintiff, Defendants have prevented the  
22 Art Discord’s community from accessing one of the prime assets they bargained for  
23 when they joined the Art Discord or bought any NFTs sold by Whitley. Defendants  
24 also have depressed the prices of NFTs sold by artists promoted by the Art Discord  
25 and harmed their resale value, which negatively impacts Plaintiffs’ revenues for  
26 existing and future projects. Therefore, it is not otherwise reasonably practicable to  
27 carry on the partnership business.

28 91. Accordingly, Plaintiffs are entitled to dissolution of the partnership and

1 a winding up of its affairs, pursuant to California Corporations Code §16801 *et seq.*  
2 and seek a judicial order for such dissolution to occur.

3 **EIGHTH CLAIM FOR RELIEF**

4 **(Unjust Enrichment against Defendants)**

5 92. Plaintiffs incorporate and re-allege the allegations contained in  
6 paragraphs 1-91 of this Complaint as if fully set forth herein.

7 93. Plaintiffs conferred upon Defendants economic and noneconomic  
8 benefits, in the form of revenue from the sales and resales of the Pixel Tots and Caked  
9 Apes NFT projects, as well as access to the Art Discord, respectively.

10 94. Defendants' financial and other benefits are a direct and proximate  
11 result from their unlawful and inequitable conduct described in this Complaint.

12 95. It would be inequitable and unjust for Defendants to be permitted to  
13 retain any of the unlawful proceeds resulting from their illegal and inequitable  
14 conduct. As alleged in this Complaint, Defendants have been unjustly enriched as a  
15 result of wrongful conduct. Plaintiffs are accordingly entitled to equitable relief,  
16 including restitution and/or disgorgement of all revenues, earnings, profits,  
17 compensation, and benefits which may have been obtained by Defendants as a result  
18 of such practices.

19 **NINTH CLAIM FOR RELIEF**

20 **(Conversion against Defendants)**

21 96. Plaintiffs incorporate and re-allege the allegations contained in  
22 paragraphs 1-95 of this Complaint as if fully set forth herein.

23 97. The revenue from the Pixel Tots and Caked Apes NFT launches that had  
24 been agreed by Plaintiffs and Defendants to go to Plaintiff Whitley or Plaintiff  
25 WTF.Industries was and is Plaintiffs' property.

26 98. Further, the Art Discord and all data contained therein is Plaintiff  
27 Whitley's was and is Plaintiff Whitley's property.

28 99. Defendants intentionally and substantially interfered with Plaintiffs'

1 property by withholding the revenue that was agreed to be Plaintiffs' and Plaintiff's  
2 Discord and the information and data contained therein.

3 100. Plaintiffs did not consent to Defendants taking any of the property  
4 specified in this Complaint for their personal or any other use except as specified  
5 herein.

6 101. Defendants have not returned any of that property to Plaintiffs.

7 102. Plaintiffs have been damaged in an amount to be proven at trial as a  
8 result of Defendants' actions in converting and misappropriating Plaintiffs' property.

9 103. In addition, Plaintiffs' damages are ongoing and increasing due to the  
10 loss of value of goodwill associated with the Art Discord and the lowered ability to  
11 profit off of the NFT community Whitley developed there.

12 **TENTH CLAIM FOR RELIEF**

13 **(Defamation against Maguire and Nygard)**

14 104. Whitley incorporates and re-alleges the allegations contained in  
15 paragraphs 1-103 of this Complaint as if fully set forth herein.

16 105. In making a series of posts on social media, including, but not limited  
17 to on Twitter and the Art Discord that "someone I was asked to help build community  
18 for abused me and tried to kill me[,]” and “The caked apes collection was DMCA’s  
19 by Taylor Whitley aka Taylor wtf because he chose to abuse Cake and an entire  
20 community of holders of Caked Apes” and “he hates all of you” Maguire and Nygard  
21 expressed purportedly factual statements about Whitley and implied that there was a  
22 factual basis to evaluate Whitley’s mental health, friendships, and work.

23 106. On information and belief, Maguire used social media accounts under  
24 other people’s names or identities or using fake identities, or caused other people to  
25 make similar posts and defamatory statements about Whitley on social media and on  
26 the Art Discord.

27 107. On information and belief, Maguire and Nygard intentionally  
28 communicated these specific statements to the public at large and individuals in the

1 NFT community on social media.

2 108. On information and belief, the individuals to whom Maguire and  
3 Nygard sent these messages to or caused messages to be sent to understood these  
4 statements to refer to Whitley, and specifically to mean that Whitley should not be  
5 associated with by others in the NFT community.

6 109. These statements were false. Maguire and Nygard were valued members  
7 of the Art Discord team whose opinion had been eagerly sought throughout its  
8 development and Whitley was unfailingly polite and kind to Maguire and Nygard.  
9 Maguire and Nygard's statements, and those Maguire caused others to make, are  
10 themselves express false statements of fact, and they falsely imply knowledge that  
11 had come from others and was known to people who associate with Whitley. No  
12 factual basis for these statements exist however, and more so, without access to the  
13 Art Discord, Whitley cannot know the extent to which further statements have been  
14 made about him by Maguire or others on her behalf.

15 110. Maguire and Nygard made the above-described defamatory statements  
16 with actual malice – i.e. with knowledge of their falsity, or, alternatively, with a  
17 reckless disregard for their falsity.

18 111. Maguire and Nygard made these statements without privilege or  
19 justification.

20 112. The above-described statements concerning Whitley directly injured  
21 him by diminishing his reputation in his profession and among his peers in the NFT  
22 art world, which has a natural tendency to lower his earnings – much of which are  
23 based on his reputation amongst his peers and NFT collectors.

24 113. The above-described statements convey a defamatory meaning. They  
25 harm Whitley's reputation as to lower it.

26 114. It was Maguire and Nygard's expectation and intent that the defamatory  
27 statements would injure Whitley economically, including by lessening his earnings.

28 115. Whitley has not discovered, and may not be able to discover, the extent

1 to which any lessening of his reputation has occurred as a result of Maguire and  
2 Nygard’s defamatory statements. Whitley may have lost out on the opportunity to  
3 collaborate with other NFT artists, or to market or promote other projects in exchange  
4 for shares of revenue generated – similar to how he worked with Defendants.

5 **ELEVENTH CLAIM FOR RELIEF**

6 **(Violation of Cal. Bus. & Prof. Code §§ 17200 *et seq.* against Defendants)**

7 116. Plaintiff incorporates and re-alleges the allegations contained in  
8 paragraphs 1-115 of this Complaint as if fully set forth herein.

9 117. Defendants, by wrongfully removing Whitley from the Caked Apes  
10 social media accounts and withholding the Art Discord and the revenue generated by  
11 the Pixel Tots and Caked Apes NFT launches, have engaged in unlawful and unfair  
12 business practices that have injured and will continue to injure Plaintiff’s business  
13 and property in violation of Cal. Bus. & Prof. Code §§ 17200 *et seq.*

14 118. Plaintiff has been, and will continue to be, irreparably harmed by  
15 Defendants’ conduct unless Defendants are enjoined by this Court. Plaintiff has no  
16 adequate remedy at law, in that the amount of damage to Plaintiff’s business and  
17 reputation and the diminution of the goodwill associated the Art Discord is difficult  
18 to ascertain with specificity. Plaintiff is therefore entitled to injunctive relief.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, Plaintiff prays for judgment as follows:

- 21 **a)** For judgment in favor of Plaintiffs on each of its claims for relief;  
22 **b)** For injunctive relief; specifically, that Defendants and all of their  
23 officers, agents, servants, representatives, employees, attorneys, parent and  
24 subsidiary corporations, assigns and successors in interest, and all other persons  
25 acting in concert with them be preliminarily and permanently enjoined from (i) acting  
26 on behalf of or in any way representing themselves to be the Art Discord or its  
27 predecessors with Plaintiff’s consent; (ii) withdrawing any funds (whether in US  
28 Dollars or in any cryptocurrency) that were earned as a result of the same of any art

1 project created by members of, or that was supported in any way, by the Art Discord  
2 or its predecessors without Plaintiffs' consent; and (iii) making any statements,  
3 whether anonymously or identified by any individual Defendant's name or in the  
4 name of the Art Discord or its predecessors, that defames Whitley or injures his  
5 reputation in any way;

6 **c)** An order that the implied partnership described herein be dissolved and  
7 all partnership affairs be wound up within 30 days of judgment, including all  
8 partnership records be turned over to Plaintiff and that affairs be settled and  
9 distribution made to the partners in a proportion that will be proven at trial;

10 **d)** An award in favor of Plaintiff and against Defendants for all damages  
11 suffered as a result of Defendants' wrongdoing, in an amount to be proven at trial;

12 **e)** For compensatory and punitive damages in an amount to be proven at  
13 trial;

14 **f)** For disgorgement of Plaintiffs' portion of all revenue obtained from, or  
15 in connection with, the Pixel Tots NFT project and the Caked Apes NFT project on  
16 or after January 1, 2022, and lost profits Plaintiff would have attained had his access  
17 not been deleted;

18 **g)** For attorneys' fees;

19 **h)** For pre-judgment and post-judgment interest;

20 **i)** For costs of this suit; and

21 **j)** For such other relief as the court deems just and proper.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

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

Plaintiffs hereby demand trial by jury on all issues pursuant to Fed. R. of Civ. Proc. 38 and the 7th Amendment to the United States Constitution.

Dated: March 18, 2022

**ARENTFOX SCHIFF LLP**

By: /s/ John S. Purcell  
John S. Purcell  
Jake Gilbert  
Attorneys for Plaintiffs  
TAYLOR WHITLEY and  
WTF.INDUSTRIES, LLC