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11 THE UNITED STATES DISTRICT COURT FOR THE
12 CENTRAL DISTRICT OF CALIFORNIA

13 Kyle Hanagami, an individual,

14 Plaintiff,

15 v.

16 Epic Games, Inc., a North
17 Carolina corporation; and
18 Does 1 through 10, inclusive,

19 Defendants.

Case No. 22-CV-2063

COMPLAINT for:

1. Direct Infringement of Copyright;
2. Contributory Infringement of Copyright;
3. Unfair Competition Under Cal. Bus. & Prof. Code § 17200, et seq.

Demand for Jury Trial

1 Plaintiff Kyle Hanagami (“Plaintiff” or “Hanagami”), by and through his
2 undersigned counsel at Hecht Partners LLP asserts the following claims against
3 Defendant Epic Games, Inc. (“Epic”) and Does 1 through 10 (collectively referred
4 to as “Defendants”), and alleges as follows:

5 I. OVERVIEW

6 1. Hanagami is the author and copyright claimant of Copyright
7 Registration Number PA 2-277-839, which covers the “How Long Choreography”
8 (the “Registered Choreography”), attached hereto as Exhibit A. The Registered
9 Choreography was completed in 2017 and first published by Hanagami on
10 November 11, 2017 (on YouTube.com) as reflected in the Certificate of
11 Registration (the “YouTube Video”). The YouTube Video depicting the Registered
12 Choreography went viral after its release; it currently has nearly 36 million views
13 as of the filing of this complaint.

14 2. Through its unauthorized misappropriation of Hanagami’s popular
15 dance in its video game, Fortnite Battle Royale (“Fortnite”), Epic has unfairly
16 profited from exploiting Hanagami’s Registered Choreography.

17 3. Defendants capitalized on the Registered Choreography’s popularity,
18 particularly with Hanagami’s younger fans, by selling the Registered Choreography
19 as an in-game purchase in Fortnite under the name “It’s Complicated,” which
20 players can buy to customize their avatars for use in the game. This dance was
21 immediately recognized by players as Hanagami’s Registered Choreography.
22 Despite utilizing the Registered Choreography created and popularized by
23 Hanagami, Epic did not credit Hanagami nor seek his consent to use, display,
24 reproduce, sell, or create a derivative work based upon the Registered
25 Choreography.

26 4. Since being released in or around September 2017, Fortnite has
27 become among the most popular video games ever with revenue far more than \$10
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1 billion. Indeed, Fortnite made approximately \$5.1 billion in 2020. As a free-to-play
2 game, Fortnite derives its sales exclusively through purchases from its marketplace
3 that can be found in-game. Players pay real money for their virtual Fortnite
4 characters to have outfits and be able to perform certain moves or dances. One such
5 in-game-purchase that Epic makes available in the marketplace consists entirely of
6 an inch-perfect copy of part of Hanagami's Registered Choreography. Epic should
7 not be able to profit from Hanagami's fame and hard work by its intentional
8 misappropriation of Hanagami's Registered Choreography. Hanagami seeks
9 injunctive relief and damages, including, but not limited to, Epic's profits attributed
10 to its improper use and sale of the Registered Choreography.

11 II. THE PARTIES

12 5. Hanagami resides in Studio City, California.

13 6. Epic is a North Carolina business corporation with its principal place
14 of business at 620 Crossroads Boulevard, Cary, NC 27518. Epic is the creator and
15 developer of the Fortnite video game franchise, which was first released in July
16 2017. Epic has offices in California and is registered as entity number C4262536.

17 7. The true names and identities of the defendants herein sued as Does 1
18 through 10, inclusive, are unknown to Hanagami, who therefore sues those
19 defendants by such fictitious names. When the true names of those defendants have
20 been ascertained, Hanagami will amend this complaint accordingly. Each of the
21 defendants aided and abetted and is responsible in some manner for the occurrences
22 herein alleged, and Hanagami's injuries were proximately caused thereby.
23 Defendants Epic and Does 1 through 10, inclusive, shall collectively be referred to
24 as "Defendants."

25 8. At all times herein mentioned, each of the defendants was acting as an
26 agent, servant, employee or representative of defendants, and, in doing the things
27 alleged in this Complaint, was acting within the course and scope of that agency,
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1 service, employment, or joint venture.

2 III. SUBJECT MATTER JURISDICTION AND VENUE

3 9. The Court has subject matter jurisdiction over this action pursuant to
4 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1332 (diversity), and 28 U.S.C. §
5 1367 (supplemental jurisdiction).

6 10. Venue is proper in this District under A) 28 U.S.C. § 1391(b)(2)
7 (federal question jurisdiction), because a substantial part of the events or omissions
8 giving rise to the claim occurred in this District; and B) 28 U.S.C. §§ 1391(b)(1)
9 and (c) (personal jurisdiction), because all defendants are subject to personal
10 jurisdiction in this State and at least one in this District.

11 IV. FACTUAL BACKGROUND

12 **A. Kyle Hanagami and the Registered Choreography**

13 11. Hanagami an eminent choreographer. Based in Los Angeles, he has
14 become one of the industry’s most sought-after talents across nearly every medium,
15 including world tours, music videos, television and film, live performances,
16 commercials, and social media brand deals. His creativity and unique take on
17 choreography are highly recognizable. Hangami’s work has been utilized by some
18 of the most well-known artists in the world, including Jennifer Lopez, Britney
19 Spears, Justin Beiber, BlackPink, and NSYNC.

20 12. In 2013, Dance Spirit Magazine named Hanagami “Hollywood's
21 hottest up-and-coming choreographer.” Since that time, Hanagami has become one
22 of Hollywood’s most established choreographers.

23 13. Hanagami has been on faculty at three of the top studios in Los
24 Angeles, including the Debbie Reynolds Dance Studio, Movement Lifestyle, and
25 the Edge Performing Arts Center. His classes at those studios were awarded “Best
26 Dance Class” by the Industry Dance Awards. He has also taught masterclasses at
27 Millennium Dance Complex.
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1 14. Outside of the studio, Hanagami has partnered with globally
2 recognized brands like Nike, Disney, Google, Netflix, and Calvin Klein.

3 15. Hanagami has also built an online empire with his numerous viral
4 dance videos, including the YouTube Video featuring the Registered
5 Choreography. He holds the title of YouTube’s most viewed choreography video
6 of all time for his “Shape of You” dance class video, which currently stands at over
7 230 million views. Hanagami’s YouTube reach is at 4.54 million subscribers with
8 over 857 million total video views as of the date of this filing. Aside from
9 YouTube, Kyle Hanagami is one of the most recognizable faces & names in
10 choreography/dance within social media, with over 1.6 million Instagram followers
11 and over 1.3 million TikTok followers.

12 16. Hanagami created the Registered Choreography featured in the
13 YouTube Video titled “CHARLIE PUTH – How Long | Kyle Hanagami
14 Choreography.” (The title references singer Charlie Puth and his song “How
15 Long,” which plays in the background of the video.) The video is available at:
16 <https://www.youtube.com/watch?v=iW2yUrXXRTI>. It was first published on
17 November 11, 2017.

18 17. The Registered Choreography exploded in popularity following the
19 release of the YouTube Video. To date, the video has received nearly 36 million
20 views and the Registered Choreography continues to maintain its popularity.

21 **B. Fortnite: The Most Popular Video Game In the World**

22 18. Even prior to releasing Fortnite, which would become among the most
23 popular and successful video games ever, Epic had already developed two popular
24 video game franchises: Unreal and Gears of War. Since releasing the first Gears of
25 War game in 2005, Epic released several subsequent Gears of War video games,
26 and the franchise has made has made over \$1 billion in total sales.

27 19. In or around 2011, following the release of the third Gears of War
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1 installment, Fortnite began from an Epic internal video game “hackathon,” or a
2 gathering of Epic developers to brainstorm ideas and create games in a short period.
3 Although the Fortnite game was not developed during the hackathon, the idea to
4 merge building games (*i.e.*, Minecraft) and shooter games (*i.e.*, Gears of War or
5 Call of Duty) emerged during the hackathon.

6 20. On or around July 2017, Epic released the initial version of Fortnite as
7 a paid early-access video game. However, by September 2017, after
8 PlayerUnknown’s Battlegrounds—a game of the “battle royale” genre—became a
9 worldwide success, Epic, within two months, added a “battle royale” mode and
10 released Fortnite Battle Royale, a free-to-play battle royale third person shooting
11 game on the Windows, macOS, PlayStation 4 and Xbox One platforms. Epic
12 subsequently released Fortnite on the iOS, Nintendo and Android platforms on
13 April 2, 2018, June 12, 2018, and August 9, 2018, respectively.

14 21. Similar to PlayerUnknown’s Battlegrounds, Fortnite utilizes the
15 “battle royale” format where up to 100 players, alone, in pairs, or groups, compete
16 to be the last player or group alive. Fortnite now includes more than just battle
17 royale combat and building play; Fortnite now provides other entertainment options
18 like concerts. In 2019, an electronic music producer and DJ, Marshmello,
19 performed at Fortnite’s first-ever “virtual” concert at “Pleasant Park,” a virtual
20 location within Fornite. In 2020, the official Fortnite account tweeted that “[o]ver
21 12.3 million concurrent players participated live in Travis Scott’s Astronomical,”
22 which was described as “an all-time record.”

23 22. Epic has created a marketplace for entertainment content that happens
24 to be within Fortnite. As a free-to-play video game, Epic allows players to
25 download and play Fortnite for free. Fortnite is supported by in-game transactions
26 where players can purchase virtual currency, called “Vinderbucks” or “V-Bucks.”
27 The players in turn use V-Bucks to purchase customizations in an electronic
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1 marketplace for their in-game avatars. These customizations include new
2 characters, pickaxe modifications, glider skins, clothes, and emotes (movements or
3 dances). Fortnite also sells “Battle Passes” or additional levels that allow you to
4 unlock skins, gliders, and emotes unique to that Pass. Fortnite offers four pricing
5 levels for purchasing V-Bucks:

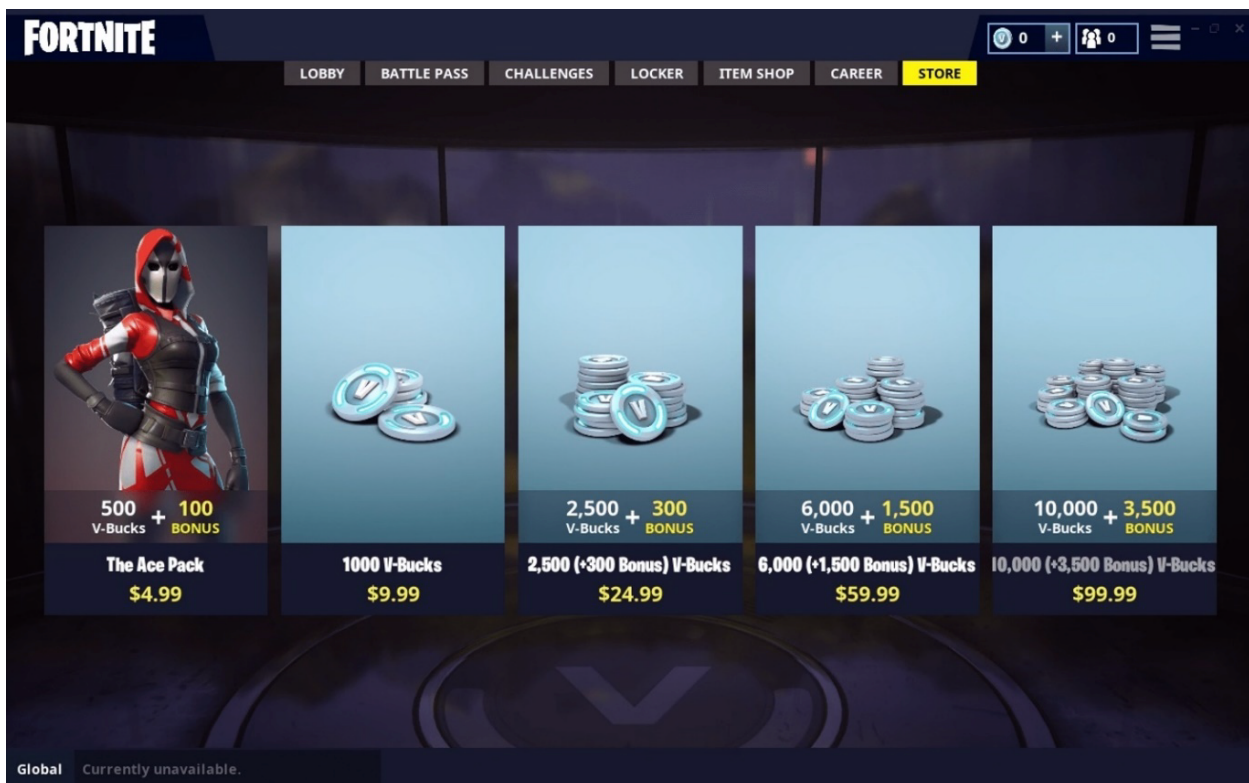
- 6 1) 1,000 V-Bucks for \$9.99;
- 7 2) 2,500 (+300 Bonus) V-Bucks for \$24.99;
- 8 3) 6,000 (+1,500 Bonus) V-Bucks for \$59.99; or
- 9 4) 10,000 (+3,500 Bonus) V-Bucks for \$99.99.

10 23. There are four types of emotes: common emotes, uncommon emotes,
11 rare emotes, and epic emotes. The “rarer” the emote, the more expensive or harder
12 it is to obtain. Uncommon emotes cost 200 V- Bucks. Rare emotes cost 500 V-
13 Bucks. And epic emotes cost 800 V- Bucks.

14 24. To start, Fortnite provides each player with one emote called “Dance
15 Moves,” a common emote, for no cost. Players can then obtain other emotes by
16 purchasing and playing additional levels in Battle Passes (950 V-Bucks each) that
17 come with emotes unique to that Pass, or by purchasing certain emotes directly with
18 V-Bucks. On some occasions, Fortnite sells Battle Pass emotes directly, without
19 requiring the player to purchase the Battle Pass.

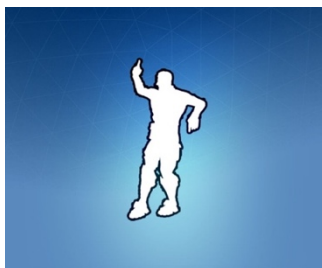
20 25. Emotes are sold in Fortnite’s electronic marketplace. It is like
21 Amazon.com, but it only sells *virtual* products, like emotes, which only work in
22 Fortnite’s “metaverse.” Players can utilize emotes both in the battle royale and in
23 concerts or other activities.

26. As depicted below, players can use U.S. Dollars to purchase virtual currency in the Fortnite electronic storefront:

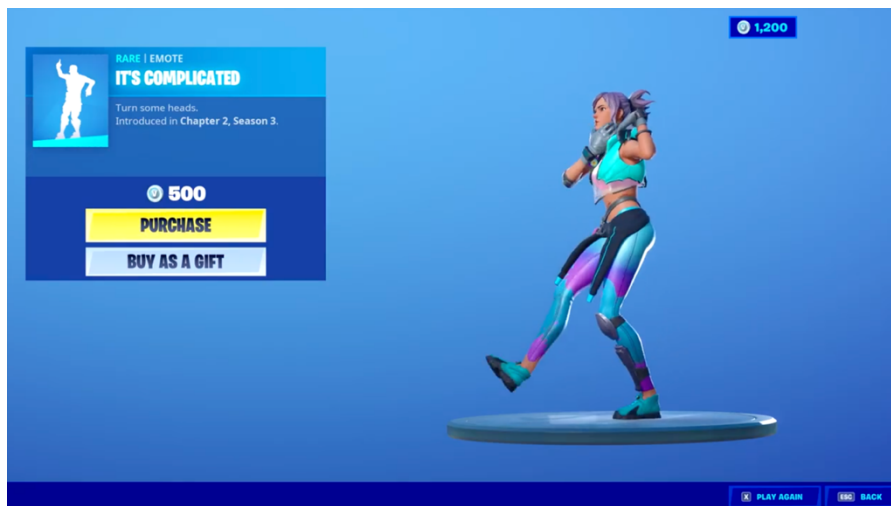


27. The top of the screen above indicates several “tabs” that may be selected by players, including “Battle Pass,” “Item Shop” and “Store.” These features comprise the Fortnite electronic marketplace; they are different than the Fortnite Battle Royale itself, in which players can play the “game.”

28. In the electronic marketplace, players can browse, or purchase, items (like emotes) in the Item Shop or view details about the current Battle Pass available for purchase. Players can select icons that represent virtual items that Epic has made available for purchase. For example, the following icon represented the It’s Complicated dance emote that is at issue here.



1 29. Upon clicking this icon, the emote is demonstrated in the storefront on
2 an avatar (which dances), similar to clothing being displayed on a mannequin.



12 30. After viewing or purchasing items and customizing their avatars,
13 players can proceed to play the battle royale game. When a player's character is
14 victorious, or otherwise, Fortnite permits the player to utilize an emote to convey a
15 reaction. Below is a screenshot of actual gameplay:



During concerts in Fortnite, players are also able to have their avatars perform the

1 emotes that they purchased.

2 31. Emotes are incredibly popular and are fundamental to Fortnite's
3 success. Emotes are purchased, alongside clothing and skins, to personalize a
4 players' Fortnite experience. Emotes have also become popular outside Fortnite and
5 influence popular culture. Professional athletes in soccer and other sports have
6 based their celebrations on dances that are sold in the Fortnite marketplace. Young
7 adults, teenagers, and kids also post videos of themselves on YouTube and social
8 media performing emotes under various hashtags, including #fortnitedance or
9 #fortnitevideos. The original choreographer is not credited for the choreography
10 misappropriated by Epic. Epic thus enjoys all of the commercial benefit of these
11 public performances.

12 32. Upon information and belief, Epic has created emotes by copying and
13 coding dances and movements directly from popular videos, movies, and television
14 shows without consent. Epic does so by either tracing frames directly from the
15 source material (in this case Hanagami's YouTube video) or directing performers
16 to copy the movements from those videos for motion capture and coding.

17 33. Epic has consistently sought to exploit entertainers and
18 choreographers by copying their dances and movements. For example, Epic Donald
19 Faison has accused epic of misappropriating his signature dance seen on the NBC
20 television show Scrubs (named the "Dance Moves" emote), and, most pertinent
21 here, Hanagami's Registered Choreography. Upon information and belief, Epic did
22 not seek consent nor authorization for the use of many of the choreographic
23 movements that is has sold in its online marketplace as emotes over the years.

24 34. In 2018, several lawsuits were filed against Epic in connection with its
25 misappropriation of dances and movement in Fortnite. There was an "outcry on
26 social media," as recognized by Forbes contributor Oliver Herzfeld, who covered
27 the litigations in a Forbes article titled, "Fortnite Sued Over Swiped Dance Move."
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1 The article, which was published on December 11, 2018, concluded that, to a
2 certain extent, the first of the artists to sue Epic, rapper 2 Milly, for
3 misappropriation of his dance, had “already prevailed in the court of public
4 opinion.” The lawsuits alerted the public at large of the importance of copyright
5 protection for choreography, which led choreographers like Hanagami to register
6 the Registered Choreography.

7 35. On information and belief, because of the lawsuits, Epic began to
8 approach some artists about licensing choreography. However, on further
9 information and belief, Epic typically approaches young and/or less sophisticated
10 artists, like those who are catapulted to fame on social media platforms like TikTok,
11 about licensing choreography for pennies on the dollar. Hanagami, a sophisticated
12 businessman and established choreographer who is aware of the value of his
13 choreography generally and the Registered Choreography specifically, was *never*
14 approached by Epic about a license.

15 36. Fortnite has brought Epic overwhelming success and billions of
16 dollars in revenue. The game eclipsed 10 million players merely two weeks after
17 its release; by July 2018, 125 million players were active. In November 2018,
18 Bloomberg announced that Fortnite had 200 million player accounts across all
19 platforms.

20 37. Fortnite’s popularity has translated into record sales for Epic in
21 Fortnite’s Item Shop. Analysts have estimated that since its release, Fortnite has
22 generated between \$1 billion to \$2 billion in revenue through in-game purchases
23 such as emotes. In May 2018, Fortnite broke its own record by generating
24 approximately \$318 million in revenue, the biggest month ever for a video game,
25 let alone a free video game. In fact, nearly 80 million people played Fortnite in
26 August 2018. In large part due to Fortnite’s success, Epic’s estimated valuation rose
27 from about \$825 million to about \$5 billion in 2018. In April 2021, Epic announced
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1 its equity valuation was a staggering \$28.7 billion. Yet despite all that money, Epic
2 is unwilling to pay artists and creators like Hanagami their fair share for blatantly,
3 knowingly, and willfully using their intellectual property.

4 **C. Fortnite’s Unauthorized Use of the Registered Choreography**

5 38. On August 25, 2020, Fortnite released Chapter 2, Season 3 along with
6 the “It’s Complicated” emote. On information and belief, “It’s Complicated” is a
7 reference to the difficulty of the choreography.

8 39. The “It’s Complicated” emote could be purchased for 500 V-Bucks
9 when listed in the Item Shop. If obtained or purchased, the Fortnite player’s avatar
10 can perform the choreography during Fortnite gameplay.

11 40. Epic’s “It’s Complicated” emote contains a portion of Hanagami’s
12 Registered Choreography. Specifically, the emote contains the most recognizable
13 portion of Hanagami’s Registered Choreography, the portion for the hook at the
14 beginning of the chorus of the song, which repeats several times throughout the
15 song. Like the hook of a song, which in this case embodies the title of the song, the
16 hook of a dance is the part that makes the performance catchy and memorable.

17 41. Upon its release, the reaction from many players worldwide was
18 immediate recognition of the “It’s Complicated” emote as embodying the
19 Registered Choreography. Because Epic did not even credit Hanagami, many
20 players likely believed it was Epic’s original creation. For example, the “Seeq”
21 channel on YouTube posted a video on August 25, 2020 titled, “ALL NEW Fortnite
22 Dance Emotes in REAL LIFE 100% SYNCED!! (It's Complicated,
23 Freewheelin'...).” The “It’s Complicated” emote is shown side-by-side with the
24 Registered Choreography in Hanagami’s YouTube Video. The comparison video,
25 which currently has nearly 60,000 views, is available at:
26 <https://www.youtube.com/watch?v=1ezCmAducBg>. The “It’s Complicated”
27 portion of the video begins at the 2:00 minute mark (despite being mis-labeled “Out
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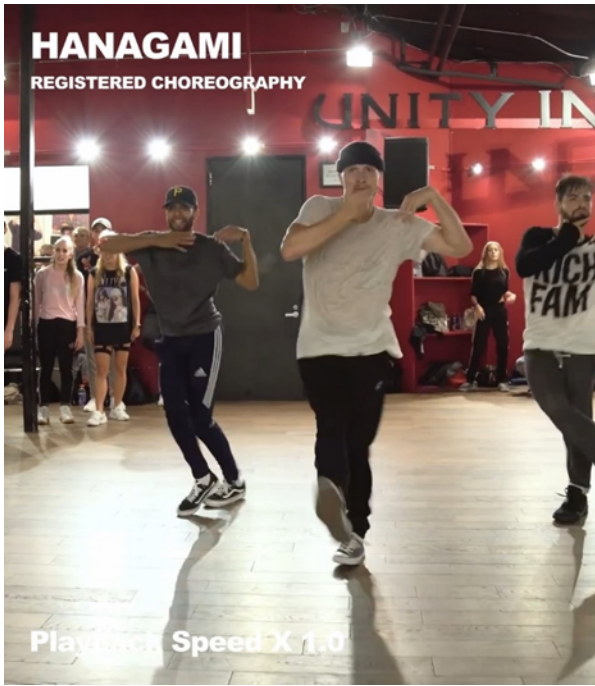
1 West,” this portion of the video shows “It’s Complicated” as referenced in the title
2 of video).

3 42. Upon information and belief, Epic intentionally developed the “It’s
4 Complicated” emote to duplicate the Registered Choreography.

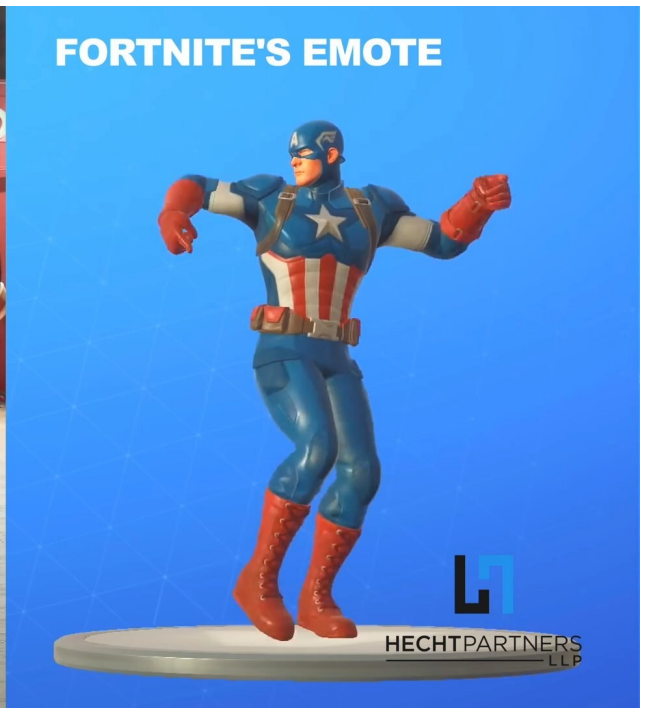
5 43. Epic’s brazen infringement of the Registered Choreography is
6 stunning. A side-by-side comparison reveals the scope of the infringement:



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44. The lower left corner of each image indicates that the relative playback speed of the two videos was not altered (i.e., the tempo is the same in both the Registered Choreography and the emote). Epic's infringing, unauthorized emote duplicates (without limitation) the footwork, movement of the limbs, movement of the hands and fingers, and head and shoulder movement covered by the Registered Choreography.

45. Epic did not seek to obtain Hanagami's authorization or consent for its use of the Registered Choreography for the "It's Complicated" emote.

46. Moreover, Hanagami did not give Epic express or implied consent for its use of the choreography for the "It's Complicated" emote. Epic also did not compensate Hanagami for its use of his Registered Choreography for the "It's Complicated" emote.

47. Upon information and belief, Epic added the "It's Complicated" emote to intentionally exploit the popularity of Hanagami and his Registered Choreography without providing Hanagami any form of compensation.

1 48. Epic profited from its improper misappropriation of the Registered
2 Choreography, *inter alia*: 1) selling the infringing “It’s Complicated” emote
3 directly to players; 2) advertising the “It’s Complicated” emote to attract additional
4 players, including Hanagami’s fans or those persons familiar with the Registered
5 Choreography to play Fortnite and make in-game purchases; 4) staying relevant to
6 its current players to incentivize those players to continue playing Fortnite; 5)
7 impliedly representing that Hanagami consented to Epic’s use of the Registered
8 Choreography; 6) erroneously cause the association of the “It’s Complicated” with
9 the Registered Choreography; 7) creating the false impression that Hanagami
10 endorsed Fortnite; and 8) inducing and/or contributing to Fortnite players’ avatars
11 performing the Registered Choreography.

12 49. Upon information and belief, Epic uses the Registered Choreography,
13 and other dances, to create the false impression that Epic started these dances and
14 crazes or that the artist who created them is endorsing the game. Accordingly, upon
15 information and belief, Epic actively and knowingly directs, causes, induces, and
16 encourages others, including, but not limited to, its players, designers, suppliers,
17 distributors, resellers, software developers, and repair providers, to misappropriate
18 Hanagami’s Registered Choreography.

19 50. Epic can hire its own choreographers and sell dances in its Item Shop
20 that were created by those choreographers. Epic explicitly chose to find a video
21 made by a famous choreographer and lift the most memorable portion of his
22 choreography and sell it. They did this because it provided Epic with a commercial
23 advantage to sell a choreography that was already famous and exceptionally good.

24 51. Hanagami did not consent or approve Epic’s use of his Registered
25 Choreography for the “It’s Complicated” emote. Other prominent artists, including
26 Chancelor Bennett, known as Chance the Rapper, have also publicly disapproved
27 of Epic’s practices, and advocated for Epic sharing profits with the artists that
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1 created the dances Epic has misappropriated.

2 52. Hanagami thus bring this lawsuit to prevent Fortnite from further using
3 his Registered Choreography, and to recover the profits rightfully owed to him.
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5 **FIRST CAUSE OF ACTION**

6 **(For Direct Infringement of Copyright Against All Defendants)**

7 53. Hanagami hereby repeats and realleges the allegations set forth in the
8 preceding paragraphs, above, as though fully set forth herein.

9 54. On or around November 11, 2017, a video titled “CHARLIE PUTH –
10 How Long | Kyle Hanagami Choreography” was published to YouTube where it
11 was able to be accessed by millions of people. The YouTube Video shows the
12 Registered Choreography.

13 55. Hanagami is the undisputed creator of the wildly popular and
14 immediately recognizable Registered Choreography. Hanagami’s video fixed the
15 Registered Choreography in a tangible medium.

16 56. Hanagami applied for a copyright registration on the choreography
17 depicted in the YouTube Video on February 18, 2021, under the title “How Long
18 Choreography.” Hanagami deposited a copy of the YouTube Video with the
19 application. The Copyright Office registered the choreography. Registration No.
20 PA 2-277-839 was granted an effective date of registration of February 20, 2021
21 with a registration decision date of February 22, 2021.

22 57. Defendants have infringed (and may continue to infringe) Hanagami’s
23 Registered Choreography by (1) selling the “It’s Complicated” emote as an in-game
24 purchase that, if purchased, a player can use to make his or her avatar perform
25 during Fortnite gameplay; (2) copying the “It’s Complicated” emote to its servers
26 and/or causing the emote to be copied to other devices for access and performance
27 by players’ avatars; (3) substantially copying the Registered Choreography in
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1 digital form to the Fortnite game; (4) advertising the Registered Choreography in
2 its electronic storefront and promotional materials; and (5) creating the “It’s
3 Complicated” emote as a derivative work of the Registered Choreography using a
4 copy of Hanagami’s YouTube Video.

5 58. Defendants did not seek to obtain Hanagami’s permission for its use
6 of the Registered Choreography for the “It’s Complicated” emote. Nor have
7 Defendants compensated or credited Hanagami for their use of the Registered
8 Choreography.

9 59. Moreover, Defendants actively and knowingly directed, caused,
10 induced, and encouraged others, including, but not limited to, its players, designers,
11 suppliers, distributors, resellers, software developers, and repair providers, to
12 misappropriate Hanagami’s Registered Choreography.

13 60. Defendants have not transformed the Registered Choreography at all;
14 “It’s Complicated” is comprised of the Registered Choreography and it is sold as
15 an individual item.

16 61. Defendants make no commentary or satire with respect to the
17 Registered Choreography, they merely use the choreography for their own profit.

18 62. Defendants used Hanagami’s YouTube video to create the “It’s
19 Complicated” emote knowing full well that it did not belong to Defendants.

20 63. Defendants’ acts of infringement have been willful, intentional, and
21 purposeful, in disregard of and with indifference to Plaintiff’s rights.

22 64. Defendants’ willful and continued unauthorized use of the Registered
23 Choreography for commercial gain has caused and will continue to cause confusion
24 and mistake by leading the public to erroneously associate the “It’s Complicated”
25 emote offered by Epic with the Registered Choreography in violation of 17 U.S.C.
26 §§ 101 et seq.

27 65. As a result of Defendants’ conduct, Hanagami has been damaged by
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1 being precluded from receiving his rightful share of the profits earned by Epic for
2 its improper and unlicensed use of Hanagami’s Registered Choreography in
3 Fortnite.

4 66. Hanagami is entitled to permanent injunctive relief preventing
5 Defendants, and their officers, agents, and employees, and all related persons from
6 further using the Registered Choreography and engaging in other acts in violation
7 of copyright law.

8 67. As a direct and proximate result of Defendants’ infringement of
9 Plaintiff’s copyrights and exclusive rights under copyright, Hanagami is also
10 entitled to recover damages, including attorneys’ fees, and any profits obtained by
11 Defendants as a result of the infringements alleged above, in an amount according
12 to proof to be determined at the time of trial.

13 68. In doing the acts herein alleged, Defendants acted fraudulently,
14 willfully, or with malice, and Hanagami is therefore entitled to punitive damages
15 according to proof at the time of trial.

16 **SECOND CAUSE OF ACTION**

17 **(For Contributory Infringement of Copyright Against All Defendants)**

18 69. Hanagami hereby repeats and realleges the allegations set forth in the
19 preceding paragraphs, above, as though fully set forth herein.

20 70. On or around November 11, 2017, a video titled “CHARLIE PUTH –
21 How Long | Kyle Hanagami Choreography” was published to YouTube where it
22 was able to be accessed by millions of people. The YouTube Video shows the
23 Registered Choreography.

24 71. Hanagami is the undisputed creator of the wildly popular and
25 immediately recognizable Registered Choreography. Hanagami’s video fixed the
26 Registered Choreography in a tangible medium.

27 72. Hanagami applied for a copyright registration on the choreography
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1 depicted in the YouTube Video on February 18, 2021, under the title “How Long
2 Choreography.” Hanagami deposited a copy of the YouTube Video with the
3 application. The Copyright Office registered the choreography within days.
4 Registration No. PA 2-277-839 was granted an effective date of registration of
5 February 20, 2021 with a registration decision date of February 22, 2021.

6 73. Defendants have infringed (and may continue to infringe) Hanagami’s
7 Registered Choreography by (1) selling the “It’s Complicated” emote as an in-game
8 purchase that, if purchased, a player can use to make his or her avatar perform
9 during Fortnite gameplay; (2) copying the “It’s Complicated” emote to its servers
10 and/or causing the emote to be copied to other devices for access and performance
11 by players’ avatars; (3) substantially copying the Registered Choreography in
12 digital form to the Fortnite game; (4) advertising the Registered Choreography in
13 its electronic storefront and promotional materials; and (5) creating the “It’s
14 Complicated” emote as a derivative work of the Registered Choreography.

15 74. By providing the “It’s Complicated” emote necessary for its players to
16 commit copyright infringement, Defendants have and continues to materially
17 contribute to the unauthorized reproductions and distributions by its players of the
18 Registered Choreography.

19 75. Defendants did not seek to obtain Hanagami’s permission for its use
20 of the Registered Choreography for the “It’s Complicated” emote. Nor have
21 Defendants compensated or credited Hanagami for their use of the Registered
22 Choreography.

23 76. Moreover, Defendants actively and knowingly directed, caused,
24 induced, and encouraged others, including, but not limited to, its players, designers,
25 suppliers, distributors, resellers, software developers, and repair providers, to
26 misappropriate Hanagami’s Registered Choreography.

27 77. Defendants’ acts of infringement have been willful, intentional, and
28

1 purposeful, in disregard of and with indifference to Plaintiff’s rights.

2 78. Defendants’ willful and continued unauthorized use of the Registered
3 Choreography for commercial gain has caused and will continue to cause confusion
4 and mistake by leading the public to erroneously associate the “It’s Complicated”
5 emote offered by Epic with the Registered Choreography in violation of 17 U.S.C.
6 §§ 101 et seq.

7 79. As a result of Defendants’ conduct, Hanagami has been damaged by
8 being precluded from receiving his rightful share of the profits earned by Epic for
9 its improper and unlicensed use of Hanagami’s Registered Choreography in
10 Fortnite.\

11 80. Hanagami is entitled to permanent injunctive relief preventing
12 Defendants, and their officers, agents, and employees, and all related persons from
13 further using the Registered Choreography and engaging in other acts in violation
14 of copyright law.

15 81. As a direct and proximate result of Defendants’ infringement of
16 Plaintiff’s copyright and exclusive rights under copyright, Hanagami is also entitled
17 to recover damages, including attorneys’ fees, and any profits obtained by
18 Defendants as a result of the infringements alleged above, in an amount according
19 to proof to be determined at the time of trial.

20 82. In doing the acts herein alleged, Defendants acted fraudulently,
21 willfully, and with malice, and Hanagami is therefore entitled to punitive damages
22 according to proof at the time of trial.

23 **THIRD CAUSE OF ACTION**

24 **(Unfair Competition Under Cal. Bus. & Prof. Code § 17200)**

25 83. Hanagami hereby repeats and realleges the allegations set forth in the
26 preceding paragraphs, above, as though fully set forth herein.

27 84. By misappropriating Hanagami’s dance and through the improper
28

1 copying and use of the Registered Choreography, Defendants have engaged in
2 business acts or practices that constitute unfair competition in violation of Cal. Bus.
3 & Prof. Code. § 17200.

4 85. As a result of Defendants' violations, Defendants have unjustly
5 enriched themselves by: (1) selling the "It's Complicated" emote as an in-game
6 purchase that, if purchased, a player can use to make his or her avatar perform
7 during Fortnite gameplay; (2) copying the "It's Complicated" emote to its servers
8 and/or causing the emote to be copied to other devices for access and performance
9 by players' avatars; (3) substantially copying the Registered Choreography in
10 digital form to the Fortnite game; (4) advertising the Registered Choreography in
11 its electronic storefront and promotional materials; and (5) creating the "It's
12 Complicated" emote as a derivative work of the Registered Choreography.

13 86. As a result of Defendants' conduct, Hanagami has been damaged by
14 being precluded from receiving his rightful share of the profits from selling or
15 licensing his exclusive copyright.

16 87. Hanagami is entitled to permanent injunctive relief preventing
17 Defendants, and their officers, agents, and employees, and all related persons from
18 further using his Registered Choreography.

19 88. Hanagami is also entitled to recover damages, including any profits
20 obtained by Defendants as a result of the infringements alleged above, in an amount
21 according to proof to be determined at the time of trial.

22 **PRAYER FOR RELIEF**

23 As to the First Cause of Action:

- 24 1. For an order restraining Defendants from using, selling, or
25 displaying Hanagami's Registered Choreography in its Fortnite game;
26 2. For an award of damages according to proof;
27 3. For punitive and/or exemplary damages;
28

1 4. For attorney's fees and costs;

2 As to the Second Cause of Action:

3 5. For an order restraining Defendants from using, selling, or displaying
4 Hanagami's copyright in its Fortnite game;

5 6. For an award of damages according to proof;

6 7. For punitive and/or exemplary damages;

7 8. For attorney's fees and costs;

8 As to the Third Cause of Action:

9 9. For an order restraining Defendants from using, selling, or displaying
10 Hanagami's Registered Choreography in its Fortnite game;

11 10. For an award of damages according to proof;

12 11. For punitive and/or exemplary damages;

13 12. For attorneys' fees and costs;

14 As to All Causes of Action:

15 13. For costs of suit; and

16 14. For such other and further relief as the Court may deem proper.

17
18 Dated: March 29, 2022

Respectfully Submitted,

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20 HECHT PARTNERS LLP

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23 By: /s/Kathryn Lee Boyd
24 Attorneys for Plaintiff Kyle Hanagami
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