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14 Attorneys for Plaintiffs
 15 THE TOLKIEN TRUST
 16 THE TOLKIEN ESTATE LTD

17
 18 **IN THE UNITED STATES DISTRICT COURT**
 19 **THE CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**
 20

21 THE TOLKIEN TRUST and
 22 THE TOLKIEN ESTATE
 23 LTD

24 Plaintiffs,

25 v.

26 DEMETRIOUS POLYCHRON,
 27 Defendant.

28 Case No.

**COMPLAINT FOR COPYRIGHT
 INFRINGEMENT**

[DEMAND FOR JURY TRIAL]

1 Plaintiffs, The Tolkien Estate Limited and The Tolkien Trust (collectively, the
2 “Tolkien Estate”), by and through their undersigned attorneys, allege as follows:

3 **INTRODUCTION**

4 1. This action arises out of Defendant Demetrious Polychron’s
5 (“Polychron”) willful and blatant violation of Plaintiffs’ copyright interests in and
6 to the highly acclaimed and internationally renowned *The Lord of the Rings* trilogy
7 authored by Professor J.R.R. Tolkien, including *The Fellowship of the Ring*, *The*
8 *Two Towers*, and *The Return of the King* (the “Tolkien Trilogy”), as well as other of
9 Professor Tolkien’s creative works (the “Tolkien Canon”).

10 2. The Copyright Act encourages creativity by granting to the creator a
11 bundle of rights that includes the right to prepare derivative works. U.S.C. §106. A
12 “derivative work”, as defined in §101, is a work “based upon one or more preexisting
13 works”, to include “any other form in which a work may be recast, transformed, or
14 adapted.”

15 3. As the copyright owners, Professor Tolkien – and now, the Tolkien
16 Estate – have the exclusive right to prepare, authorize, and/or restrict the preparation
17 of derivative works based upon the Tolkien Canon, including the Tolkien Trilogy.

18 4. Despite being fully aware of Plaintiffs’ rights in and to the Tolkien
19 Trilogy, Defendant nevertheless elected to write, publish, market and sell a blatantly
20 infringing derivative sequel to the Tolkien Trilogy entitled *The Fellowship of the*
21 *King* (the “Infringing Work”). In addition to clearly mimicking the title of the first
22 book in the Tolkien Trilogy, the Infringing Work constitutes a blatant, wide-ranging
23 and comprehensive misappropriation of Professor Tolkien’s creative opus. It picks
24 up two decades after the final scene in the Tolkien Trilogy, transposes Professor
25 Tolkien’s fictional universe into an unauthorized sequel by another author, and
26 builds directly on the relationships, characters, and plot elements imagined by
27 Professor Tolkien. Upon close review of its content, the Infringing Work also
28 includes verbatim copying of prose as well as unauthorized exploitation of

1 innumerable independently copyrightable characters, original settings, scenes and
2 plots.

3 5. According to public statements by Defendant, the Infringing Work
4 represents only the first in an infringing sequel series intended to comprise up to six
5 additional derivative works, the second entitled *The Two Trees* (in clear and direct
6 reference to the second book in the Tolkien Trilogy entitled *The Two Towers*), with
7 the remaining six intended to continue to expand on Professor Tolkien’s original
8 work (the “Infringing Series”).

9 6. The Infringing Work is currently being offered for sale on various
10 online platforms in the United States for \$17.99 - \$26.99 a copy.

11 7. Since its initial publication, J.R.R. Tolkien and later the Tolkien Estate
12 have only authorized limited derivative works based upon the Tolkien Canon
13 (including the Amazon Studios original series, *The Lord of the Rings: The Rings of*
14 *Power* (the “Amazon Series”). Neither Professor Tolkien nor the Tolkien Estate has
15 ever authorized any written sequels to the Tolkien Trilogy. Not only was the
16 Infringing Work unauthorized, but the Tolkien Estate had already expressly refused
17 the Defendant’s request to publish any work of this nature, in keeping with its
18 longstanding policy.

19 8. Plaintiffs attempted to engage in substantive dialogue with Defendant
20 prior to filing this lawsuit. After Plaintiffs sent their first “cease and desist” letter,
21 Defendant responded directly to Plaintiffs – without Plaintiffs’ counsel on copy –
22 with a diatribe that attempted to contextualize the creation of the Infringing Work as
23 “loving homage” to Professor Tolkien, but expressly conceded that the Infringing
24 Work is a sequel. *See Exhibit A, at Page 2* (“it never occurred to me that everybody
25 did not want and would not rejoice, if someone was actually able to successfully
26 write a worthy sequel to “The Lord Of The Rings” ... the most epic and beloved
27 work I have ever read.”).

28

1 9. Plaintiffs’ counsel then made numerous attempts to schedule a call with
 2 Defendant to discuss discontinuing sales of the Infringing Work, but such calls were
 3 consistently delayed due to what Defendant claimed to be a serious illness. Despite
 4 claims of being “floridly symptomatic with the flu” and bedridden on doctor’s
 5 orders, Defendant was nevertheless well enough in the interim to seek, retain, and
 6 instruct counsel to file a frivolous lawsuit against Plaintiffs and other defendants for
 7 purported copyright infringement of Defendant’s Infringing Work by the Amazon
 8 Series, which is currently pending before this court. *Polychron v. Bezos et al.*, 23-
 9 cv-02831-SVW-E (C.D. Cal. 2023).

10 10. In light of Defendant’s flagrant behavior, the Tolkien Estate must of
 11 necessity bring this claim seeking redress for the unauthorized and unlawful
 12 publication and exploitation of the Infringing Work under the Copyright Act of
 13 1976, 17 U.S.C. §§ 101 and 106.

14 **THE PARTIES**

15 11. The Tolkien Estate Limited is the legal body that holds and manages
 16 the intellectual property of the late Professor J.R.R. Tolkien, author of the
 17 internationally renowned Tolkien Trilogy as well as many other creative works of
 18 art and literature. Its principal place of business is Prama House, 267 Banbury Road,
 19 Oxford OX2 7HT, United Kingdom. The Tolkien Estate Limited is, and was at all
 20 times material herein, engaged in the business of managing and preserving the
 21 entirety of Professor Tolkien’s literary and artistic legacy, including managing the
 22 copyrights in and to the works that make up the Tolkien Canon and licensing the
 23 rights to create derivative works based on the Tolkien Canon to third parties for
 24 authorized exploitation.

25 12. The Tolkien Trust is a charity, registered with the Charity Commission
 26 for England and Wales, and with a principal place of business at 267 Banbury Road,
 27 Oxford OX2 7HT, United Kingdom. It is a charitable company which makes grants
 28 to a wide range of causes, including those focused on alleviating poverty and social,

1 educational and healthcare disadvantage, and on environmental concerns and the
2 arts. The Tolkien Trust holds a beneficial ownership with respect to the copyright
3 interests in the Tolkien Trilogy.

4 13. Upon information and belief, Demetrious Polychron is an author and
5 resident of Los Angeles, California, who holds himself out as owner and publisher
6 of Fractal Books, with its principal place of business at 2450 Colorado Avenue,
7 Santa Monica, California, 90404. Defendant’s books, including the Infringing Work,
8 are available for sale on the “Fractal Books” website
9 (<https://www.fractalbooks.com/product/the-fellowship-of-the-king/>), as well as
10 other online retail vendors and stores. Upon information and belief, “Fractal Books”
11 is not a registered business entity in the State of California or elsewhere and is not
12 registered as a Fictional Business Name in Los Angeles County or any neighboring
13 county.

14 **JURISDICTION AND VENUE**

15 14. This Court has subject matter jurisdiction over Plaintiffs’ federal claims
16 pursuant to 28 U.S.C. §§ 1331 and 1338 because they arise under the Copyright Act.

17 15. Personal jurisdiction over Defendant is proper because Defendant is
18 domiciled, and (to the extent relevant) his “Fractal Books” business is
19 headquartered, in the State of California.

20 16. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and
21 1400(a) as a substantial part of the events or omissions giving rise to the claim
22 occurred, and the Defendant resides or may be found, in this judicial district.

23 **STATEMENT OF FACTS**

24 17. The Tolkien Estate is the owner and copyright proprietor, as successor-
25 in-interest, of the Tolkien Trilogy and the body of works comprising the Tolkien
26 Canon. The Tolkien Trilogy comprises three original creative works of literature
27 written by the late author Professor J.R.R. Tolkien: *The Fellowship of the Ring*, *The*
28

1 *Two Towers*, and *The Return of the King*. Other important works in the Tolkien
2 Canon that tell the story of Middle-earth are *The Hobbit* and *The Silmarillion*.

3 18. The Tolkien Estate has been extremely selective in granting licenses to
4 create authorized derivatives in order to protect the integrity of the Tolkien Canon.
5 As Professor Tolkien himself elected never to publish a written sequel to the Tolkien
6 Trilogy, the Tolkien Estate has honored his legacy by generally refraining from
7 granting or licensing this right to third parties. As such, the limited authorized
8 derivative works that the Tolkien Estate has authorized, such as the 2001-03 film
9 series, the Amazon Series, and various video games and other adaptations, have been
10 carefully chosen by the Tolkien Estate for the purpose of reaching new generations
11 of fans worldwide and helping maintain the enduring popularity of Tolkien's
12 original literary works.

13 19. It is difficult to overstate the cultural impact of the Tolkien Canon, and
14 in particular the Tolkien Trilogy, on modern literature and popular culture. The
15 Tolkien Trilogy is an epic fantasy masterpiece and literary phenomenon. It is widely
16 regarded as the greatest work of literary fantasy ever written. It popularized an entire
17 new genre of literature and is studied extensively in academia. Just as one measure
18 of its importance, as recently as 2019, a panel of writers, critics and curators
19 sponsored by the BBC News chose the Tolkien Trilogy as one of the 100 greatest
20 books of all time. Similar polls have found the Tolkien Trilogy to be among the most
21 popular and influential novels in the English language.

22 20. The Tolkien Trilogy tells the story of a fellowship of unlikely heroes in
23 the Tolkien-created universe of Middle-earth. Long ago, the Dark Lord Sauron
24 forged a "Ring of Power" to control Middle-earth, but the Ring was stolen and
25 thought to be lost forever. Many years later, the Ring ends up in the possession of
26 an unassuming hobbit named Bilbo Baggins, who bequeaths the ring to his young
27 nephew, Frodo. Together with his friends Samwise Gamgee, Pippin Took, and
28

1 Merry Brandybuck, Frodo must journey across Middle-earth to the only place the
2 Ring can be destroyed, Mount Doom in Mordor, and to defeat Sauron.

3 21. Over the course of the Tolkien Trilogy, Frodo and his allies – hobbits
4 Sam, Pippin and Merry; the wizard (or Maiar) Gandalf; the men Boromir and
5 Aragorn; the elf Legolas; and the dwarf Gimli, accept the dangerous task of carrying
6 the Ring back to Sauron’s country. Together, they face a series of close calls and
7 misadventures until finally succeeding in their perilous quest. Tolkien’s Middle-
8 earth is populated not only by humans, hobbits, Wizards, Elves and Dwarves, but
9 also by Ents, Trolls, Orcs, Nazgûl, Balrogs, and Barrow-wights, and many other
10 imagined beings, each of which have distinct physical characteristics, ancestral
11 roots, dialects, legends, and habits that are typically described in great detail in the
12 Tolkien Canon.

13 22. The history and chronology of Middle-earth is a creative magnum opus
14 unto itself, spanning numerous ancient eras, mythologies, and destructions and
15 rebirths of various civilizations across Professor Tolkien’s fictional world. So
16 expansive and elaborate is Middle-earth that Professor Tolkien’s son, Christopher
17 Tolkien, published a 12-volume series of books to collect and analyze his father’s
18 conception of Middle-earth and its various peoples, languages, and history, with
19 each such volume comprising hundreds of pages.

20 23. The first book in the Tolkien Trilogy, *The Fellowship of the Ring*, was
21 first published in 1954, followed that same year by *The Two Towers*, and followed
22 shortly thereafter in the following year by *The Return of the King*. Since the release
23 of the first book in 1954, the Tolkien Trilogy has been a tremendous popular and
24 critical success, estimated to have been translated into 57 languages and with over
25 150 million copies sold.

26 24. The themes, plot, setting, characters, mood, pace, sequence of events,
27 and dialogue in the Tolkien Trilogy are all Professor Tolkien’s original creative
28 work, the copyrights to which are now held by the Tolkien Estate. Plaintiffs hold

1 valid and subsisting copyright interests in, and U.S copyright registrations for, the
2 entire Tolkien Canon, including *The Hobbit* (Reg. No. TX 4-374-803); the three
3 volumes comprising The Tolkien Trilogy, *i.e. The Fellowship of the Ring* (Reg. Nos.
4 Ai 4273 and RE 121-069), *The Two Towers* (Reg. Nos. Ai 4465 and RE 121-070)
5 and *The Return of the King* (Reg. No. TX 4-281-409); and *The Silmarillion* (Reg.
6 Nos. AF 46501 and RE 961- 370).

7 25. Upon information and belief, on or around 2017, Defendant Polychron
8 began to create the Infringing Work and conceived of the Infringing Series.

9 26. On or around November 21, 2017, Defendant sent a letter to the
10 grandson of J.R.R. Tolkien, Simon Tolkien, expounding on his admiration for the
11 Tolkien Trilogy and admitting that he had been writing an unauthorized sequel. *See*
12 Nov. 21, 2017 letter to Simon Tolkien, attached hereto as Exhibit B. In this letter,
13 Defendant states that he had read the Tolkien Trilogy repeatedly “until the spines
14 gave out” and says that he has been “writing the obvious pitch-perfect sequel to ‘The
15 Lord of the Rings. I know I shouldn’t have, but I really didn’t have a choice.” To
16 do so, he explained that his goal was “to stick as close to canon as I could.”

17 27. On or around November 7, 2019, Defendant retained counsel to contact
18 Plaintiffs regarding a potential collaboration with him on the publication of such
19 sequel. Plaintiffs replied by counsel that the Tolkien Estate did not wish to grant the
20 rights to any third party to publish a sequel to the Tolkien Trilogy, noting that The
21 Tolkien Estate had long maintained a policy of not licensing other writers to create
22 sequels or extensions to Tolkien’s famous works.

23 28. Nevertheless, on or around December 24, 2019, Defendant sent a
24 follow up letter to Simon Tolkien alongside a copy of the manuscript of the
25 Infringing Work, stating: “When I first started writing, I had no plan nor any real
26 knowledge of what I was getting myself into. I only knew that I loved this world and
27 it seemed to me the Holy Grail of fantasy adventure; the thing that everyone wanted
28 someone to do: to write the sequel to The Lord Of The Rings”, [but] “now that it’s

1 written, I'm not sure what to do with it [...] I have zero interest in infringing on your
2 rights; the rights of the Estate, [but] I cannot conceive of deleting this manuscript.”
3 See December 24, 2019, letter to Simon Tolkien, attached hereto as Exhibit C.
4 Further, he wrote: “I truly cannot imagine, anyone else alive in the world who is
5 capable of taking the foundation your grandfather wrote and expanding upon it as
6 beautifully and imaginatively as I have [...] I know it is conceivable to change all
7 the names and publish these books by myself as something else[...],” however, “[i]t
8 almost feels like a death. I do not have it in me to do that.” Simon Tolkien did not
9 read the manuscript and instead mailed it back to Defendant in a self-addressed
10 stamped envelope which the Defendant had provided.

11 29. On information and belief, and despite his declared aversion to
12 infringing the rights of the Estate, Defendant nevertheless began selling and
13 advertising for sale the Infringing Work on the “Fractal Books” website and other
14 online platforms.

15 30. Plaintiffs first learned that the Infringing Work was being offered for
16 sale on the “Fractal Books” website on March 7, 2023. The promotional copy for the
17 Infringing Work makes clear that the work is a derivative sequel purporting to pick
18 up after the events of *The Fellowship of the Ring*, stating in part:

19 *Elanor, daughter of Samwise, is nervous the night before*
20 *her debutante party in the Shire. In the 22nd year of the*
21 *reign of the High King Elessar the Blue Wizards return*
22 *from out of the East bearing perilous news: the rest of the*
23 *Rings of Power have been found and they are in deadly*
24 *danger. Thus begins the War of the Rings to End All Wars*
25 *of the Rings. Before it is over Elves, Hobbits, Dwarves,*
26 *Men and magical races long forgotten or never seen*
27 *before will join the Quest for Celebrimbor’s originals and*
28 *the last of Sauron’s corrupted Rings of Power.*

1 Samwise Gamgee is one of the major protagonists in the Tolkien Trilogy, as is High
2 King Elessar (also known as Aragorn or Strider). Both are fully realized (and
3 beloved) literary characters fleshed out by Professor Tolkien in great detail through
4 descriptions, dialogue and action. Sauron, the primary antagonist in the Tolkien
5 Trilogy, is also drawn in extensive detail. Celebrimbor, too, is a major character
6 within the Tolkien Canon. With respect to Elanor, the main protagonist in the
7 Infringing Work, at the close of the third book in the Tolkien Trilogy, *The Return of*
8 *the King*, Professor Tolkien describes Samwise returning home to Bag End to his
9 wife and daughter: “And Rose drew him in, and set him in his chair, and put little
10 Elanor upon his lap. And he drew a deep breath. ‘Well, I’m back,’ he said.” The
11 Infringing Work simply picks up two decades after this scene, making it the very
12 definition of a sequel.

13 31. A review of the Infringing Work in full demonstrates that Defendant’s
14 own descriptions of his novel are entirely accurate: the novel is without question an
15 unauthorized sequel. Moreover, the extent of copying found in the Infringing Work
16 is nothing short of egregious, as it incorporates an astonishingly wide range of
17 copyright-protected elements from the Tolkien Canon. These include, but are not
18 limited to: verbatim copying of at least 15 poems or other passages from the Tolkien
19 Trilogy; the use of Middle-earth and dozens of settings described in detail in the
20 Tolkien Trilogy as settings in which scenes in the Infringing Work take place;
21 inclusion of *hundreds* of original and distinctive characters from the Tolkien Trilogy
22 including major characters that are central to the story being told such as Samwise,
23 Aragorn, Arwen, Tom Bombadil, Goldberry, Legolas, Gimli, Treebeard, Galadriel,
24 Elrond, and others; inclusion of new characters that are barely-disguised versions of
25 Professor Tolkien’s characters, such as the wizard Alatar (a character Professor
26 Tolkien introduced and described as a Blue Wizard, and whom Defendant has
27 adapted into a stand-in for Gandalf); and a recycling of the entire plot premise of the
28 Tolkien Trilogy, such as a coming of age event at Bag End that is interrupted by

1 news of yet another powerful ring, causing a group of hobbits to flee for their lives
2 and then undertake a perilous journey across Middle-earth with a band of diverse
3 allied beings to end the threat of the rings, visiting many of the key locations
4 described in the Tolkien Trilogy. Without question, the total concept and feel of the
5 works is substantially similar.

6 32. A non-exhaustive summary of the substantial similarities in creative
7 expression as between the respective works based upon a review of the manuscript
8 of the Infringing Work include:

9 a. PLOT, SCENES, AND SEQUENCE OF
10 EVENTS

11 33. The plot of the Tolkien Trilogy follows a group of reluctant heroes from
12 the fantasy world of Middle-earth in a war against the Dark Lord Sauron. Just to
13 recap the first portion of *The Fellowship of the Ring* (the first book in the Tolkien
14 Trilogy), on the eve of his thirty-third birthday in the Shire, his “coming of age”
15 date, Frodo is gifted an ancient Ring, thought lost for centuries, that is in fact the
16 ruling ring of the Dark Lord Sauron. Frodo later flees his home at Bag End in
17 Hobbiton, prompted by the wizard Gandalf who reveals that the Ring is being hunted
18 by nine Nazgûl (Ring-Wraiths), and Frodo initially is joined by his hobbit friends
19 Samwise Gamgee, Pippin, and Merry. At one point, the hobbits take a short cut
20 through the Old Forest, where Frodo is saved from a living tree by the ancient and
21 enigmatic Tom Bombadil, and the hobbits spend time in his home, which he shares
22 with his wife Goldberry. Before they leave, Tom teaches them a rhyme that they can
23 use to summon him if they are in danger (and which they use soon thereafter when
24 trapped by a malevolent spirit). Later, the hobbits arrive at the town of Bree, and
25 lodge at The Prancing Pony, an inn tended by owner Barliman Butterbur. There they
26 meet a “strange-looking weather-beaten man” in a “travel-stained cloak” that is later
27 revealed to be the future king, Aragorn, who helps them escape Bree when the evil
28 forces attack. After another encounter with the Nazgûl at the hill called Weathertop,

1 where Frodo is wounded by a cursed blade, the companions must race to reach the
2 shelter of Rivendell, presided over by Elrond, where the “Fellowship of the Ring”
3 will assemble to take the One Ring to Mordor to destroy it.

4 34. The plot of the Infringing Work follows Samwise Gamgee as well as
5 his oldest daughter Elanor, first introduced by Professor Tolkien in the last chapter
6 of the Tolkien Trilogy, with additional information about her provided in an
7 appendix. Here, too, on the eve of a poignant birthday (Elanor’s society debut), a
8 wizard, Alatar, comes to the Shire. Alatar is one of the brethren of Gandalf and is in
9 dire need of hobbit assistance as the existence of more rings of power has been
10 brought to light, and which place Middle-earth in great danger. In a scene derivative
11 of Gandalf’s visit to Frodo at the start of the Tolkien Trilogy, Alatar recruits a
12 reluctant Sam and his wife Rosie to help, but Elanor too impulsively decides to
13 assist, leading to two groups of hobbits fleeing the Shire – Sam and his wife Rosie
14 in one group, and Elanor and two friends in the other group. Sam and Rosie are
15 chased by “Orcelven” (an apparent combination of two of Professor Tolkien’s
16 created races: Orcs and Elves) on the road and flee into the Old Forest, where they
17 are saved from a confrontation with the Orcelven leader by Tom Bombadil after
18 Rosie chants the summoning rhyme from Professor Tolkien’s work; Sam and Rosie
19 then spend the night with Bombadil and Goldberry before eventually making their
20 way to Bree, where they rejoin Elanor, Alatar and Elanor’s friends. Elanor and her
21 friends – staying at The Prancing Pony and attended by Barliman Butterbur – have
22 now made the acquaintance of a mysterious “grim young man in a long grey cloak,”
23 who turns out to be Crown Prince Eldarion, Aragorn’s son. In a scene almost
24 identical to the scene in the Tolkien Trilogy in which the hobbits meet Aragorn,
25 Eldarion confides in them and then forms a “Fellowship of the King” with the goal
26 of gathering the remaining rings and using them to defeat the enemy. (Later, a new
27 group of nine Nazgûl, created by a corrupted Elf, Glorfindel, attack Elrond’s sons at
28 Weathertop.)

1 35. In addition to this remarkable duplication of central plot and structure
2 just in the first 70 pages of the Infringing Work, there are many other duplicative
3 and derivative plotlines and scenes throughout Defendant’s novel, too many to
4 catalog here. Perhaps most glaringly, throughout the book Defendant simply repeats
5 narratives set forth in the Tolkien Trilogy and other portions of the Tolkien Canon,
6 paraphrasing the original stories and in some cases tweaking them for his own
7 purposes. For example, Defendant expansively repeats the narrative in the last
8 chapter of the Tolkien Trilogy (“The Grey Havens”); repeats the stories of the flight
9 to the Ford of Bruinen and the destruction of the One Ring (and other plot points
10 from the Tolkien Trilogy) from the perspective of Glorfindel; and retells substantial
11 portions of Professor Tolkien’s stories from the Second Age of Middle-earth
12 concerning Galadriel, Aldarion, Gil-Galad, Celebrimbor, Elrond and others. In
13 countless other instances, Defendant recaps portions of narratives from the Tolkien
14 Canon.
15

16 b. SETTINGS

17 36. The works in the Tolkien Canon, including the Tolkien Trilogy, are set
18 on Arda, an imagined version of Earth originally containing several continents
19 including Aman, Middle-earth and Numenor. Most of the works in the Tolkien
20 Canon, such as *The Hobbit* and the Tolkien Trilogy, are set in the Third Age, after
21 Aman was removed from Arda and Numenor was destroyed, and thus such works
22 generally take place on Middle-earth; however, some narratives are set in the Second
23 Age, in a 3,441-year period during which the civilization of Numenor rises and falls,
24 and the Dark Lord Sauron tricks the Elves into creating the Rings of Power. Sauron
25 is defeated for the first time at the end of the Second Age, and the Third Age
26 culminates in Sauron’s rise and final defeat with the destruction of the One Ring.
27 After Sauron’s defeat, Aragorn is crowned as King Elessar.
28

1 37. Locations in Middle-earth are brought to life through maps and
2 storytelling in the Tolkien Canon, with hundreds of locales described in exquisite
3 detail. In the first novel in the trilogy, *The Fellowship of the Ring*, the narrative is
4 focused on the northwestern portion of Middle-earth, specifically the region
5 stretching from the Shire to Rivendell at the edge of the Misty Mountains, all within
6 the region of Eriador in the Kingdom of Arnor. The action then shifts to the
7 Fellowship's trek through and under the Misty Mountains and to Lothlorien, and
8 down the River Anduin. Professor Tolkien crafted his descriptions of the Shire in
9 particular with great care, the details of which (including its history and geography)
10 are found not just in the text, but in extensive appendices. The home of Bilbo and
11 Frodo Baggins, and later Samwise Gamgee, at Bag End, is described in loving detail
12 across *The Hobbit* and the Tolkien Trilogy, as are the rolling hills and fields of the
13 surrounding countryside, the nearby Old Forest, the house of Tom Bombadil, the
14 village of Bree and its inn, The Prancing Pony. From Bree, the hobbits travel
15 through the Midgewater Marshes to Weathertop, where they are attacked; from
16 there, they take the East Road and cross the Last Bridge, before Frodo's mad race
17 with Glorfindel to the Ford of Bruinen, and the Hobbits' entrance into Rivendell.
18 Even locations that do not play a major role in the primary narratives of *The Hobbit*
19 and the Tolkien Trilogy often are described with some detail either in the text of
20 those works or elsewhere in the Tolkien Canon, and the whole of Middle-earth is
21 described in Professor Tolkien's maps.

22 38. The Infringing Work is set in the same Middle-earth. It picks up in The
23 Shire, in Hobbiton and specifically at Bag End two decades following the events of
24 the Tolkien Trilogy saga, in the 22nd year of the reign of the High King Elessar. The
25 main action proceeds to the countryside east of Hobbiton, then through the Old
26 Forest (and Tom Bombadil's home there) and on to the village of Bree and The
27 Prancing Pony. Major events occur at Weathertop and in Rivendell. Moreover, over
28 the course of the Infringing Work, Defendant sets action in, or at least mentions,

1 literally hundreds of settings from The Tolkien Trilogy, in order to firmly place his
2 narrative within the fictional universe created by Professor Tolkien. In the first two
3 paragraphs of the Infringing Work alone, he mentions the Shire, Hobbiton,
4 Bucklebury, Tuckborough, the Four Farthings, Bag End, Bree, Arnor, Gondor,
5 Tookland, Buckland, and the Brandywine Bridge. This is but the tip of the iceberg,
6 as the entirety of the Infringing Novel traverses a substantial portion of the
7 geography and history of Middle-earth and other settings crafted by Professor
8 Tolkien.

9 39. Moreover, Defendant's derivative version of Middle-earth lacks the
10 deeply detailed descriptive language of the original that helped make the Tolkien
11 Trilogy the revered classic that it is today. Small wonder: He simply provides bare
12 sketches of the descriptions already created by Professor Tolkien and asks his
13 readers to infer the breadth of Tolkien's creations just by virtue of naming them.
14 When Defendant does describe a setting, he often just mimics Tolkien's own
15 language or makes a minimal effort to tweak it. As examples, when he first describes
16 the garden at Bag End, he writes: "Late afternoon sunshine flooded the meadows of
17 the Hill with a pleasant glow. Bright blossoming snap-dragons, sunflowers and
18 nasturtiums filled the open fields and covered the green turf walls of Bag End."
19 Compare this to the original in Professor Tolkien's *The Fellowship of the Ring*,
20 where Professor Tolkien writes: "The late afternoon was bright and peaceful. The
21 flowers glowed red and golden: snap-dragons and sunflowers, and nasturtiums
22 trailing all over the turf walls and peeping in at the round windows."

23 40. As another example, while Professor Tolkien provides multiple
24 descriptions of the countryside between Hobbiton and Bree, Defendant offers
25 simplistic, skeletal versions and again relies on the reader's familiarity with
26 Professor Tolkien's work to help call to mind richer, more complete settings: "They
27 crossed the Brandywine Bridge and reached the threefold split in the King's Road,
28 where the East Road continued to Bree. The High Hay Parkway crossed it going

1 south, following The Hedge. This marked the border between Buckland and the Old
2 Forest. The Buckland Highway wound south towards Brandy Hall, Crickhollow,
3 Bucklebury and Standelf.” As Sam and Rosie near the Old Forest, the woods are
4 described in the barest of terms drawing on Tolkien’s underlying works: “Beyond
5 the fields to the south, the edge of trees grew thicker and darker, marking the entrance
6 to the Old Forest.”; “The dark eaves of the Old Forest rose like sentinels before
7 them.”; and “When they reached the top of the hill, a low valley opened before
8 them.” Inside the Old Forest, Defendant’s descriptions remain minimal and wholly
9 derivative: “They galloped through the narrowing gaps between trees and rode
10 deeper into the forest, passing many a moonlit grove.” As Sam and Rosie approach
11 Tom Bombadil’s house, Defendant includes a bit more detail (but, as shown below,
12 only by paraphrasing the original): “In time, a mist rose up about them and the
13 sounds of gurgling streams came closer. Reaching a low waterfall, it poured down
14 over close-fitted flag stones set just above the waterline. They rode over the tops and
15 came to a field of grass grown short, as if it had been mowed. The hedges along their
16 upward sloping path grew into themselves as if clipped. It led up a gently sloping
17 hill and ended at a grassy knoll.”

18 41. In *The Fellowship of the Ring*, by contrast, the Old Forest is first
19 described at some length by the character Merry. Then, as the hobbits approach the
20 Old Forest, Professor Tolkien describes it in detail: “The hobbits now left the tunnel-
21 gate and rode across the wide hollow. On the far side was a faint path leading up on
22 to the floor of the Forest, a hundred yards and more beyond the Hedge; but it
23 vanished as soon as it brought them under the trees. Looking back they could see the
24 dark line of the Hedge through the stems of trees that were already thick about them.
25 Looking ahead they could see only tree-trunks of innumerable sizes and shapes:
26 straight or bent, twisted, leaning, squat or slender, smooth or gnarled and branched;
27 and all the stems were green or grey with moss and slimy, shaggy growths.” The
28 description continues, highlighting the forest’s potential danger: “They picked a way

1 among the trees, and their ponies plodded along, carefully avoiding the many
2 writhing and interlacing roots. There was no undergrowth. The ground was rising
3 steadily, and as they went forward it seemed that the trees became taller, darker, and
4 thicker. There was no sound, except an occasional drip of moisture falling through
5 the still leaves. For the moment there was no whispering or movement among the
6 branches; but they all got an uncomfortable feeling that they were being watched
7 with disapproval, deepening to dislike and even enmity.” Finally, Professor Tolkien
8 describes the approach to Tom Bombadil’s house: “Just as they felt their feet slowing
9 down to a standstill, they noticed that the ground was gently rising. The water began
10 to murmur. In the darkness they caught the white glimmer of foam, where the river
11 flowed over a short fall. Then suddenly the trees came to an end and the mists were
12 left behind. They stepped out from the Forest and found a wide sweep of grass
13 welling up before them. The river, now small and swift, was leaping merrily down
14 to meet them, glinting here and there in the light of the stars, which were already
15 shining in the sky. The grass under their feet was smooth and short, as if it had been
16 mown or shaven. The eaves of the Forest behind were clipped, and trim as a hedge.
17 The path was now plain before them, well-tended and bordered with stone. It wound
18 up on to the top of a grassy knoll, now grey under the pale starry night; and there,
19 still high above them on a further slope, they saw the twinkling lights of a house.
20 Down again the path went, and then up again, up a long smooth hillside of turf,
21 towards the light.”

22 42. Defendant’s slavish reliance on Tolkien’s descriptions, and the limited
23 nature of his own, serve to highlight the entirely derivative nature of the Infringing
24 Work.

25 c. CHARACTERS

26 43. Many of the main characters in the Tolkien Canon are so carefully
27 drawn and fully realized that they are subject to independent copyright protection
28 under applicable law. Characters such as Samwise Gamgee, Goldberry and Tom

1 Bombadil, Aragorn and Arwen, Legolas and Gimli, Galadriel, Barliman Butturbur,
2 Elrond, Sauron and others are given distinctive physical as well as conceptual
3 qualities; are sufficiently delineated to be recognizable as the same characters
4 wherever they appear and display consistent, identifiable character traits and
5 attributes; and are especially distinctive and contain some unique elements of
6 expression. Indeed, Professor Tolkien's main characters have become some of the
7 most cherished characters in literature, precisely because of the author's great skill
8 in bringing his characters to vivid life, complete with complex backstories and
9 motivation.

10 44. The lead characters of the Infringing Work are either lifted entirely
11 from the Tolkien Trilogy or fleshed out from characters identified in the Tolkien
12 Trilogy as the next generation of hobbits and humans. Characters such as such as
13 Samwise and Rosie Gamgee, Goldberry and Tom Bombadil, Aragorn and Arwen,
14 Legolas and Gimli, Elassar, Galadriel, Barliman Butterbur, Elrond, Sauron and
15 others are literally the same as those in the Tolkien Trilogy and appropriated in their
16 entirety in the Infringing Work. Defendant again relies on the reader's familiarity
17 with these fully rendered characters from Professor Tolkien's works, or at most
18 provides nominal, derivative descriptions of his own.

19 45. For example, the character Samwise Gamgee is one of the main
20 protagonists in the Tolkien Trilogy, and one of the main protagonists in the
21 Infringing Work. Samwise, as portrayed by Professor Tolkien, is the amalgamation
22 of hundreds of pages of dialogue, action, and physical description; he progresses
23 from a mere gardener and friend of Frodo to a celebrated hero, all without sacrificing
24 his humility and love for the quiet life in The Shire. Over and over again in his
25 Infringing Work, Defendant revisits Sam's prior narratives from the Tolkien Trilogy,
26 beginning with having Sam and his family living in Bag End as Professor Tolkien
27 described occurring at the end of the Tolkien Trilogy. But further examples abound.
28 For instance, one character describes Sam's role in Middle-earth history, which

1 summarizes the climactic sequent in the trilogy: “But in Mordor where the
2 corrupting power of the evil spell Sauron wove was at its peak, Sam had the Ring on
3 his finger and he transcended even that. Our histories teach he displayed this
4 selflessness long before and consistently.” Or, in Sam’s own words in the Infringing
5 Work: “Frodo and me, we cheated death on our way to Mount Doom a dozen times”
6 and “[i]t was [Gwaihir] who carried me, with Gandalf on his back. He may have
7 been after Mr. Frodo, but it was me he grabbed. It was me he carried off the volcano.”
8 This is true for all of the main characters borrowed from the Tolkien Canon – even
9 where Defendant does not re-describe them physically, he lifts their fictional stories
10 from the underlying works and refers to those narratives freely throughout his
11 derivative work.

12 46. Further, Defendant takes *hundreds* of other characters from the Tolkien
13 Canon, including the Tolkien Trilogy, and populates his Infringing Work with them.
14 In the four-page prologue alone, Defendant mentions nearly 40 characters from the
15 Tolkien Canon. Some of these characters, such as Celebrimbor and Aldarion, have
16 extensive backstories in Professor Tolkien’s works. Some, such as Elanor, Theo,
17 Fastred and Eldarion are characters invented by Professor Tolkien as the children of
18 main characters from the Tolkien Trilogy, whose life stories are provided in the
19 Tolkien Trilogy’s appendices in summary form (although as noted Elanor appears
20 as an infant in the main text). Defendant merely plucks these character names and
21 their stories from Professor Tolkien’s text and sets them in motion in his infringing
22 sequel.

23 d. MOOD AND PACE

24 47. The Tolkien Trilogy, set at the end of the Third Age of Middle-earth
25 and at the dawn of the Fourth Age, is an epic adventure that contains a palpable,
26 constant element of fear and suspense, as the heroes face many perils and must battle
27 through them using their wits, their respective strengths and talents, and their fierce
28 determination to succeed for the greater good. Yet the novels are also pervaded with

1 a sense of wistfulness and melancholy, as many characters are aware that their roles
2 in Middle-earth are concluding, and that no matter the outcome of the war,
3 momentous changes are coming. As the Fellowship crosses the various lands of
4 Middle-earth, there is a deep sense of the past being present, with the weight of
5 thousands of years of history making itself felt in the locations and through the
6 experiences of the long-lived races that populate the fictional world. However, the
7 Tolkien Trilogy also contains a strong, and eventually triumphant, strain of
8 hopefulness that leads to the promise of the new Age. In all, the novels move at a
9 fairly rapid pace in the manner of an adventure quest, with action sequences
10 occurring throughout, with the characters having breaks for rest along the way,
11 although these decrease as the Tolkien Trilogy nears its climax and the stakes
12 become most dire.

13 48. The Infringing Work nominally is set at the beginning of the Fourth
14 Age, but the mood is little different, if at all, from the mood in the Tolkien Trilogy,
15 due primarily to the fact that Defendant essentially recreates many of the key plot
16 points and gives the heroes a similar task. Rather than spending much time
17 envisioning the new Age, Defendant reverts to the same mood of nostalgia as in the
18 Tolkien Trilogy, especially as the Infringing Work features Middle-earth beings
19 associated more with earlier Ages, such as elves and wizards, in central roles. The
20 Infringing Work also aspires to be an epic adventure, such that it has a similar sense
21 of peril and suspense, and moves at a similarly rapid pace as compared with the
22 Tolkien Trilogy (with the exception that the Infringing Work contains long stretches
23 of narrative exposition delivered by characters that – likely unintentionally – create
24 awkward breaks in the pace and suspense of the proceedings).

25 e. THEMES

26 49. Some of the core themes expressed in the works in the Tolkien Canon,
27 and especially the Tolkien Trilogy, include the triumph of good over evil; the acts
28 of creation and destruction; the corrupting influence of power; “the ennoblement of

1 the ignoble” (Professor Tolkien’s phrase); the strength of friendship; the cyclical
2 nature of history; and the rise of industrialization and the loss of man’s connection
3 to the natural world. These are expressed in concrete ways through, for instance, the
4 forging of the nine rings and One Ring, and the later destruction of the One Ring
5 and its corrupting power, along with Sauron and his minions; the elevation of humble
6 hobbits to the role of heroes; the bonds of the Fellowship; the revitalization of Sauron
7 after his defeat in the Second Age; and the desecration of Fangorn Forest, Isengard
8 and later The Shire by Saruman in the service of his own interests and creation of
9 the machines of war. Professor Tolkien memorably describes the defilement of
10 Isengard: “Once it had been green and filled with avenues, and groves of fruitful
11 trees, watered by streams that flowed from the mountains to a lake. But no green
12 thing grew there in the latter days of Saruman. The roads were paved with stone-
13 flags, dark and hard Many houses there were, chambers, halls, and passages,
14 cut and tunnelled back into the walls upon their inner side, so that all the open circle
15 was overlooked by countless windows and dark doors. Thousands could dwell there,
16 workers, servants, slaves, and warriors with great store of arms; wolves were fed and
17 stabled in deep dens beneath. The plain, too, was bored and delved. Shafts were
18 driven deep into the ground; their upper ends were covered by low mounds and
19 domes of stone, so that in the moonlight the Ring of Isengard looked like a graveyard
20 of unquiet dead. For the ground trembled. The shafts ran down by many slopes and
21 spiral stairs to caverns far under; there Saruman had treasuries, store-houses,
22 armouries, smithies, and great furnaces. Iron wheels revolved there endlessly, and
23 hammers thudded. At night plumes of vapour steamed from the vents, lit from
24 beneath with red light, or blue, or venomous green.”

25 50. As the Infringing Work is set fully in Professor Tolkien’s fictional
26 universe, it repeats many of these same themes and their unique expression by
27 Professor Tolkien. The book revolves around a new fellowship of hobbit and human
28 friends of somewhat humble origins who rise from their quiet lives to overcome evil.

1 The creation and destruction of rings of power, and their corrupting influence, again
2 take a central place in the Infringing Work, and lead to the destruction or desecration
3 of key locations from the Tolkien Trilogy such as The Prancing Pony and Rivendell.
4 With respect to Rivendell, the Infringing Work explains its desecration in a manner
5 that imitates, inartfully, Professor Tolkien’s more fulsome descriptions: “Most of
6 the forests and trees had been felled. What were once open fields full of wildflowers
7 were now croplands under plow. Roads and bridges filled the valley floor,
8 connecting the segmented and fenced parcels. A small city had been built of hastily
9 assembled and ugly wooden barracks. There were kitchens, stables, latrines,
10 armories, forges, training grounds and many more buildings: everything a great army
11 of Men needed to become a marauding force of conquerors. Their refuse polluted
12 the land. Gone were the pristine forests of what had once been one of the fairest
13 places in Middle-earth.”

14 51. By virtue of retelling a similar story beginning with hobbits fleeing Bag
15 End and following a similar path as in the Tolkien Trilogy, Defendant also (perhaps
16 unwittingly, and not in the way Professor Tolkien likely would have intended)
17 creates the appearance of a cyclical history.

18 f. VERBATIM COPYING AND CLOSE
19 PARAPHRASING

20 52. On Page vi of the Infringing Work, Defendant lists 17 passages and
21 quotations lifted directly from the Tolkien Canon, although the author of two of
22 those passages is listed as “Tolkien/Polychron,” apparently in reference to the fact
23 that the passage is an altered version of the original. These lifted passages total over
24 1400 words, by Defendant’s own count.

25 53. Defendant even repurposes chapter titles from the Tolkien Trilogy for
26 many of his chapter titles, with slight alterations. Thus Professor Tolkien’s chapter
27 entitled “A Long-Expected Party” becomes, in the Infringing Work, “The Night
28 Before A Party”; “The Shadow of the Past” becomes “The Shadow Of The Future”;

1 “The Breaking of the Fellowship” becomes “The Sundering Of The Gardeners”;
2 “The Road to Isengard” becomes “On The Road To Gondor”; “The Grey Havens”
3 becomes “Betrayal At The Havens; “At the Sign of The Prancing Pony” becomes
4 “The Fall Of The Prancing Pony”; “The Riders of Rohan” becomes “The Daughters
5 of Rohan”; “The Council of Elrond” becomes “The Council Of Glorfindel”; and
6 “Many Meetings” becomes “An Unexpected Meeting” (or “Secret Meetings”,
7 another chapter in the Infringing Work).

8 54. Finally, Defendant also copies or paraphrases other language from the
9 Tolkien Canon. For example, a well-known and beloved moment in *The Hobbit*
10 occurs when Bilbo, at the end of the Battle of the Five Armies, sees the giant eagles
11 approaching: “*The Eagles! The Eagles*” he shouted. “*The Eagles are coming!*”
12 Later, in the third novel of the Tolkien Trilogy, *The Return of the King*, Gandalf
13 picks up this same refrain when the eagles arrive at the conclusive battle against
14 Sauron. In the Infringing Work, it is a Tower guard who repeats this line verbatim.
15 Defendant also has incorporated other unique phrasings and language from Professor
16 Tolkien into the Infringing Work, for example “the scouring of the Shire” and “thrice
17 worthy and beloved Barliman” (in the Infringing Work altered to “thrice noble
18 Barliman”). Again, these are but examples of such verbatim and paraphrased uses.

19 55. Defendant has publicly conceded these similarities in marketing
20 materials for his Infringing Work, such as where he states that “the canon of the
21 Legendarium has been scrupulously followed” and that elements of his book are
22 “indistinguishable in origin and spirit from the originals.” See
23 [https://www.fractalbooks.com/story/story-behind-the-book-the-fellowship-of-the-](https://www.fractalbooks.com/story/story-behind-the-book-the-fellowship-of-the-king/)
24 [king/](https://www.fractalbooks.com/story/story-behind-the-book-the-fellowship-of-the-king/)

25 56. Reviews of the Infringing Work on online retailer sites also make clear
26 that readers recognize that the Infringing Work is an unauthorized derivative work.
27 See <https://www.goodreads.com/en/book/show/78667911#CommunityReviews>
28

1 (first three reviews below) and [https://www.barnesandnoble.com/w/the-fellowship-
of-the-king-demetrious-polychron/1142895065](https://www.barnesandnoble.com/w/the-fellowship-
2 of-the-king-demetrious-polychron/1142895065) (last two reviews below):

- 3 • *I read a part of the preview on Amazon before it was taken down,
4 and for those of you who are curious, this ~~book~~ atrocity of a fanfic
5 basically copies the LotR books sentence for sentence (e.g. fitting
6 Bilbo's birthday party in FotR as "Elanor's debutante party"). I don't
7 think Demetrious Polychron would be a terrible writer in all
8 situations, but in this situation, when he is literally copying entire
9 characters, plots, and worldbuilding from Tolkien, it is truly awful.*
- 10 • *This is literally bad LOTR fanfiction that you are trying to profit off
11 of. Have some originality, mate. Hope you're gonna have enough
12 money to cover the cost of all those lawsuits you're gonna be
13 embroiled in.*
- 14 • *Got to love plagiarized work that is turned into a book to profit off
15 of someone else's hard work *sarcasm**
- 16 • *Derivative fanfic garbage – an unauthorized “sequel” to Lord of the
17 Rings that the author would have you believe is an original work.
18 It's not. It's junk.*
- 19 • *All of the material has been lifted from Tolkien or other writers and
20 has been slightly modified, in the laziest way possible. The book is
21 also just terrible.*
- 22 • *A friend of mine lent me this book to see what I thought about it as
23 a lifetime Tolkien fan. I had to put it down but I did skim the rest of
24 the book. A lot of the characters are straight from Tolkien's Middle
25 Earth with minor changes and some of the details are from several
26 other fantasy writers. I was not impressed at all, and I cannot
27 recommend this in good faith.*

28

1 57. In light of the above, there is no question that the Infringing Work
2 constitutes an unauthorized and blatantly infringing derivative sequel to the Tolkien
3 Trilogy that also copies protectable elements from other works in the Tolkien Canon
4 such as *The Hobbit* and *The Silmarillion*, both in content and by Defendant's own
5 admission.

6 58. As a result, on March 14, Plaintiffs asked their U.S. counsel to write a
7 cease and desist letter to Defendant, notifying Defendant that the Infringing Work
8 was in clear violation of Plaintiffs' rights and requiring that Defendant, *inter alia*,
9 immediately remove the Infringing Work from his website, Fractal Books; that he
10 immediately cause the Infringing Work to be removed from other third party retailers
11 where it was available for sale or dissemination; and that he permanently destroy all
12 copies of the Infringing Work, including the unpublished works in the Infringing
13 Series.

14 59. On March 15, Defendant affirmed that he had received the cease-and-
15 desist letter and would provide a substantive response by March 21.

16 60. On March 21, Defendant sent a 5,000-word email to officers of The
17 Tolkien Estate Limited and The Tolkien Trust, omitting Plaintiffs' counsel. The
18 letter, attached hereto as Exhibit A, denies that the creation of the Infringing Work
19 was "copyright infringement" and instead recasts his efforts as a "loving homage"
20 to Professor Tolkien. "Although many have tried in the past to write sequels to
21 Tolkien's work", he writes, "[n]one of them come anywhere near to sticking as
22 closely as I have to Canon while successfully writing an epic and entertaining story."
23 In that same letter, he refers to his "imaginative expansion of your IP." He also
24 offers that Tolkien Estate can "retake control of JRRT's IP across every medium
25 with [*the Infringing Work*] 'The War Of The Rings.'", and that "Discovery/Warner-
26 Brothers will be offering to pay you *billions* to begin film production" if only
27 Plaintiffs were to "accept the blessings of TWOTR in the spirit it was conceived."
28

1 61. On March 30, counsel for the Tolkien Estate wrote again to Defendant,
2 reiterating that it is the Estate’s longstanding policy not to entertain requests to create
3 sequels to the Tolkien Trilogy. Counsel appealed to Defendant as a supporter of
4 Professor Tolkien and the Tolkien Trilogy to cease commercialization of the
5 unauthorized sequel as a first step towards respecting the wishes of the Tolkien
6 Estate. In an effort to avoid more formal action, counsel for Plaintiffs proposed a
7 call to discuss the matter.

8 62. Over the next ten days, counsel for Plaintiffs tried repeatedly to
9 schedule a call with Defendant to resolve the dispute. Repeatedly, Defendant
10 cancelled or postponed such calls, claiming that he was suffering from a serious
11 illness, was bedridden on doctor’s orders, and was physically unable to
12 communicate. The latest of these efforts was on April 14, when Defendant cancelled
13 the scheduled call with notification to Plaintiffs’ counsel that he was in a “significant
14 amount of pain” and unable to speak.

15 63. Plaintiffs were therefore surprised to discover that, on the same day
16 Defendant claimed to be physically incapable of correspondence, Defendant had in
17 fact filed a lawsuit in this District Court against the Tolkien Estate and others
18 alleging that the parties had infringed *Defendant’s* purported copyright in and to the
19 Infringing Work in connection with the authorized derivative of the Amazon Series,
20 and claiming damages in the amount of \$250,000,000. *See Polychron v. Bezos, et*
21 *al.*, 23-cv-02831 (C.D. Cal. 2023).

22 64. On April 25, 2023, counsel for the Tolkien Estate sent Defendant’s
23 counsel a communication reiterating the Tolkien Estate’s demands set forth in the
24 March 14, 2023 letter, and noting that the lawsuit that Defendant had filed was
25 frivolous, in particular because “[i]t is well settled that unauthorized derivative
26 works are not afforded any copyright protection, because they unlawfully infringe
27 the exclusive rights of the original author,” *citing* 17 U.S.C. § 106 and *Anderson v.*
28 *Stallone*, 1989 WL 206431 (C.D. Cal. April 26, 1989).

1 65. Counsel for Defendant responded on May 1, 2023, stating that
2 “[n]either your mischaracterizations of my client’s statements about his desire to
3 have the book accepted by the Tolkien Estate as related to The Lord of the Rings,
4 nor my client’s use of characters or ideas from that series invalidate his copyright”
5 and that the Infringing Work is “an original story created from unprotectable ideas.”

6 66. Defendant’s inexplicable refusal to cease sales of his clearly infringing
7 Work; his unreasonable delay tactics; and his filing of a baseless and wasteful
8 lawsuit, make clear that Defendant has no intention of ceasing his willful,
9 egregiously infringing behavior. Plaintiffs therefore bring this lawsuit seeking
10 injunctive relief and damages they have suffered as a result of Defendant’s activities.

11 **CLAIM FOR RELIEF**

12 **(COPYRIGHT INFRINGEMENT (17 U.S.C. §§101 and 106 *et seq.*))**

13 67. Plaintiffs re-allege each and every allegation set forth in Paragraphs 1
14 through 66, inclusive, and incorporate them by reference.

15 68. Plaintiffs are currently and at all relevant times the sole proprietor of all
16 right, title and interest in and to the copyrights in and to the works in the Tolkien
17 Canon, including the Tolkien Trilogy, all of which are original works originally
18 authored by Professor J.R.R. Tolkien.

19 69. Under 17 U.S.C. § 106, Plaintiffs own the exclusive rights to reproduce
20 the works in the Tolkien Canon, including the Tolkien Trilogy, to distribute copies
21 of those works to the public, to publicly perform and display those works, and to
22 make, or authorize third parties to make, derivative works based on those works.

23 70. Plaintiffs also hold a copyright interest in certain of the characters
24 portrayed in the Tolkien Canon, including the Tolkien Trilogy.

25 71. Plaintiffs have never authorized Defendant to reproduce, distribute,
26 perform, or display all or any part of the Tolkien Canon, including the Tolkien
27 Trilogy, or to make derivative works therefrom.
28

1 72. It is indisputable that Defendant had direct access to the Tolkien Canon,
2 including the Tolkien Trilogy, as an admitted superfan of Professor Tolkien’s oeuvre
3 who has read the Tolkien Trilogy until the book’s “spines gave out” and has
4 conceded that he has adhered to canon as closely as possible.

5 73. The Infringing Work is a self-described “sequel” to the Tolkien Trilogy
6 that includes verbatim copying of substantial passages, as well as duplication of plot,
7 themes, structure, dialogue, mood, settings, pace, characters, and sequences of
8 events from Professor Tolkien’s original works. In particular, the Infringing Work
9 copies multiple original, unique and delineated characters that Defendant lifts lock,
10 stock and barrel from the Tolkien Trilogy (retaining the names, histories,
11 relationships, physical descriptions, conceptual attributes, and personal experiences
12 of these characters as set forth in the original works), places these characters into the
13 exact same fictional locations originally created by Professor Tolkien, and sets such
14 characters into motion along similar narrative journeys as in the original works. This
15 constitutes wholesale misappropriation of significant elements of Professor
16 Tolkien’s creative expression and highly developed, copyright-protected characters,
17 including (but in no way limited to) Samwise and Rosie Gamgee, Goldberry, Tom
18 Bombadil, Aragorn, Arwen, Legolas, Gimli, Elessar, Galadriel, Barliman Butterbur,
19 Elrond, Sauron, and many, many other inhabitants of Professor Tolkien’s vast
20 creative universe.

21 74. By his own admission, both publicly and in correspondence with the
22 Tolkien Estate, Defendant knowingly created an unauthorized sequel that
23 appropriates significant elements of protected expression from the Tolkien Canon,
24 including in particular the Tolkien Trilogy, and is currently capitalizing on the
25 popularity of that expression by continuing to offer his Infringing Work for sale on
26 multiple platforms.

27 75. By his actions above, Defendant has willfully infringed and will
28 continue to infringe Plaintiffs copyright in and to the Tolkien Trilogy. Plaintiffs hold

1 the exclusive right to create, or authorize others to create, derivative works based on
2 the Tolkien Trilogy. They have not authorized Defendant to create the Infringing
3 Work, which he has admitted is a sequel and which is explicitly based on and derived
4 directly from the Tolkien Trilogy by placing Tolkien’s copyrighted characters and
5 other protected elements into the fictional world of Middle-earth. Further, he has
6 invoked the Tolkien Trilogy in the titles and in marketing the Infringing Work as a
7 sequel, for the purposes of capitalizing – for a sale price of \$17.99 to \$26.99 per
8 copy – on Plaintiffs’ existing intellectual property with a built-in fanbase.

9 76. Plaintiffs are entitled to an injunction restraining Defendant, his agents
10 and employees, and all persons acting in concert or participation with him, from
11 engaging in any further such acts in violation of the Copyright Act.

12 77. Plaintiffs are further entitled to recover from Defendant the damages,
13 including attorneys’ fees, they have sustained and will sustain, and any gains, profits
14 and advantages obtained by Defendant as a result of his acts of infringement as
15 alleged above. At present, the amount of such damages, gains, profits and advantages
16 cannot be fully ascertained by Plaintiffs, but will be established according to proof
17 at trial. Plaintiffs are also entitled to recover, in the alternative, statutory damages
18 for Defendant's willful infringement of their intellectual property.

19 PRAYER FOR RELIEF

20 WHEREFORE, Plaintiffs pray that this Court grant judgment in favor of Plaintiffs
21 and against Defendant as follows:

22 1. Preliminarily and permanently enjoining Defendant and his agents,
23 servants, and employees and all those in active concert or participation with him,
24 from the unauthorized distribution and/or reproduction of the Infringing Work and
25 the Infringing Series;

26 2. Awarding Plaintiffs actual damages or statutory damages, in an amount
27 to be determined at trial;

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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury in this action.

Respectfully submitted,

KLARIS LAW PLLC
JASSY VICK

By: /s/ Kevin Vick
Kevin Vick

Attorneys for Plaintiffs
THE TOLKIEN ESTATE LIMITED
THE TOLKIEN TRUST