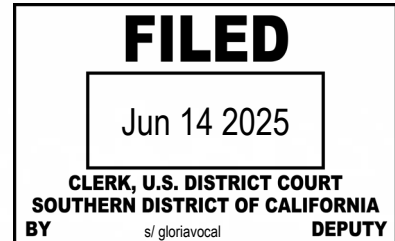


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DAYBREAK GAME COMPANY LLC



**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

DAYBREAK GAME COMPANY
LLC,

Plaintiff,

v.

KRISTOPHER TAKAHASHI,
ALEXANDER TAYLOR, and DOES
1-20, inclusive,

Defendants.

**CONFIDENTIAL – ~~FILED UNDER~~
SEAL**

Case No. '25CV1489 BAS BLM

COMPLAINT FOR:

**COPYRIGHT
INFRINGEMENT, VIOLATION
OF THE DMCA, TRADEMARK
DILUTION, UNFAIR
COMPETITION, BREACH OF
CONTRACT, AND UNJUST
ENRICHMENT**

1 Plaintiff Daybreak Game Company LLC (“Plaintiff” or “Daybreak”), by and
2 through the undersigned counsel, alleges as follows, upon actual knowledge with
3 respect to itself and its own acts, and upon information and belief as to all other
4 matters.

5 INTRODUCTION

6 1. This action arises from Defendants’ systematic and ongoing
7 infringement of Plaintiff’s valuable intellectual property rights in the iconic
8 EverQuest franchise. Defendants have created, operated, and promoted an
9 unauthorized EverQuest emulator called “The Heroes’ Journey” (“THJ”) that
10 brazenly copies Daybreak’s copyrighted game content, circumvents Daybreak’s
11 technological protection measures, dilutes Daybreak’s famous EVERQUEST mark,
12 and generates revenue through a thinly-disguised “donation” system. THJ requires
13 users to download and modify Daybreak’s legitimate EverQuest client software, then
14 redirects players to Defendants’ unauthorized servers where players can access
15 substantially identical copies of Daybreak’s copyrighted characters, environments,
16 storylines, and game mechanics. Defendants aggressively have promoted THJ across
17 social media platforms, gaming forums, and video channels, consistently marketing
18 THJ as an enhanced “EverQuest experience” to attract players away from Daybreak’s
19 legitimate EverQuest service. This ongoing infringement already has caused
20 substantial irreparable harm to Daybreak through loss of control over its intellectual
21 property, dilution of its valuable EVERQUEST mark, siphoning of legitimate
22 EverQuest players, and lost revenue. Plaintiff seeks emergency injunctive relief to
23 immediately halt Defendants’ infringing activities, as well as permanent injunctive
24 relief, monetary damages, and other appropriate remedies because Defendants’
25 conduct threatens the integrity and sustainability of Daybreak’s core business and
26 valuable intellectual property rights, and monetary damages alone cannot remedy the
27 ongoing erosion of Daybreak’s market position and trademark rights.
28

THE PARTIES, JURISDICTION, AND VENUE

2. Plaintiff, Daybreak Game Company LLC, is a Delaware limited liability company with its principal place of business in San Diego, California

3. Daybreak owns the EverQuest intellectual property, including but not limited to all copyrights and trademarks associated with the EverQuest franchise.

4. Defendants are individuals who have collaborated to create, develop, distribute, and promote the unauthorized and illegal EverQuest emulator called “The Heroes’ Journey”:

a. Defendant Kristopher Takahashi, also known by the alias “Aporia,” is the primary game producer of THJ. Aporia has been the main voice of THJ in interviews, Discord communications, and promotional videos. Mr. Takahashi directly has contributed to the development of THJ’s core functionality and has actively promoted THJ;

b. Defendant Alexander Taylor, also known by the alias “Catapultam-Habeo,” is a lead developer of THJ responsible for significant code contributions to the project. Catapultam-Habeo also actively has been promoting THJ along with Aporia through online forums and interviews.

5. Defendants DOES 1-20 are individuals whose identities are currently unknown to Plaintiff but who have materially contributed to the development, distribution, or promotion of THJ. They include individuals who have contributed code to the project, assisted in its distribution, participated in its administration, engage in promotion activities, or otherwise, acting along and in concert, facilitated its infringing activities.

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the Copyright Act, 17 U.S.C. §§ 101 *et seq.*, the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, and the Digital Millennium Copyright Act, 17 U.S.C. §§ 1201 *et seq.*

1 7. This Court has supplemental jurisdiction over Plaintiff's state law claims
2 pursuant to 28 U.S.C. § 1367(a) because they are so related to Plaintiff's federal
3 claims that the state law claims form part of the same case or controversy.

4 8. This Court has personal jurisdiction over Defendants because:

5 a. Defendants agreed to personal jurisdiction in this District when
6 they accessed and used the EverQuest software subject to Daybreak's End User
7 License Agreement ("EULA"), attached hereto as Exhibit A, which explicitly states:
8 "Both parties submit to personal jurisdiction in California and further agree that any
9 cause of action relating to this Agreement shall be brought in the County of San
10 Diego, State of California (if under State law) or the Southern District of California
11 (if under federal law)." This forum selection clause is enforceable and establishes
12 personal jurisdiction over Defendants.

13 b. Defendants purposefully have directed their activities toward
14 California and this District by, among other things, operating an interactive website
15 accessible to California residents, and actively soliciting users located in California;

16 c. Defendants have caused harm that they knew would be felt in
17 California, where Daybreak is headquartered and where Daybreak owns and manages
18 the EverQuest intellectual property;

19 d. Defendants have knowingly and intentionally infringed the
20 intellectual property owned by a California company, thereby expressly aiming their
21 conduct at California; and

22 e. Upon information and belief, Defendants have received
23 substantial monetary compensation through their "donation" system from users
24 located in California, demonstrating purposeful availment of the benefits and
25 protections of California law and creating sufficient minimum contacts with this
26 forum.

27 f. The exercise of jurisdiction over Defendants is reasonable and
28 comports with fair play and substantial justice.

1 9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and
2 1400(a) because:

3 a. Defendants consented to venue in this District through their
4 agreement to Daybreak's EULA, which designates the Southern District of
5 California as a forum for any cause of action relating to the Agreement;

6 b. A substantial part of the events giving rise to Plaintiff's claims
7 occurred in this District, including the development and ownership of Plaintiff's
8 intellectual property at issue;

9 c. Plaintiff is headquartered in this District and has suffered harm in
10 this District; and

11 d. Defendants are subject to personal jurisdiction in this District.

12 10. To the extent any Defendants are foreign entities or individuals not
13 resident in the United States, venue is also proper under 28 U.S.C. § 1391(c)(3), which
14 provides that a defendant not resident in the United States may be sued in any judicial
15 district.

16 **FACTUAL BACKGROUND**

17 **A. EverQuest's Groundbreaking Success**

18 11. EverQuest is one of the most commercially successful and culturally
19 influential massively multiplayer online role-playing games ("MMORPG") in gaming
20 history.

21 12. Since its release in 1999, EverQuest has become a cultural phenomenon
22 and cornerstone of the MMORPG genre.

23 13. EverQuest's rich fantasy world of Norrath has captivated millions of
24 players worldwide, fostering deep emotional connections and creating lasting
25 experiences across generations of gamers. This meticulously crafted universe is
26 populated with original and distinctive characters, creatures, locations, and storylines
27 that have become well-known and highly valued intellectual property.
28

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1 14. Daybreak has continuously developed and supported EverQuest through
2 the release of numerous expansion packs that introduced new gameplay mechanics,
3 character classes, races, items, and challenges, contributing to the extraordinary
4 longevity of the EverQuest experience. This consistent dedication to quality and
5 innovation has attracted and retained one of the most passionate and dedicated player
6 communities in gaming history, some of whom have played EverQuest for decades.

7 15. The impact of EverQuest also extends far beyond entertainment value,
8 as the game has fostered profound human connections resulting in many real-world
9 friendships, relationships, and even marriages between players who first met in
10 Norrath.

11 16. The remarkable commercial success of EverQuest over the past twenty-
12 five years, coupled with its profound cultural impact on the MMORPG landscape and
13 the broader gaming industry, underscores the immense value and widespread
14 recognition of Daybreak's EverQuest intellectual property.

15 **B. EverQuest's Development and IP**

16 17. EverQuest originally was developed by Verant Interactive and released
17 by Sony in 1999.

18 18. In 2015, Sony Online Entertainment LLC, which included the EverQuest
19 development team and all rights in the EverQuest game franchise and related IP,
20 including all rights detailed in the EULA, was acquired by a private buyer and
21 renamed Daybreak Game Company LLC.

22 19. As the current owner and guardian of the EverQuest legacy, Daybreak
23 holds the intellectual property rights to the copyrights to the EverQuest game's
24 intricate code, distinctive artwork, memorable characters, rich storylines and all other
25 creative elements that make Norrath special, unique, and original. Daybreak's
26 EverQuest is protected by numerous registered copyrights, including those listed in
27
28

the chart below:

Title	Reg. No.
EverQuest.	PA0000933147
EverQuest.	TX0004879520
EverQuest. (map)	VA0001015154
Everquest, the ruins of Kunark.	PA0001001701
EverqQuest : the scars of velious	PA0001077985
EverQuest, shadows of Luclin.	PA0001084803
EverQuest : Planes of Power.	PA0001245922
EverQuest Planes of Power: Prima's official strategy guide	TX0005635557
EverQuest: the ruins of Kunark/written by Brad McQuaid and Jim Lee	TX0005493741
Everquest: transformation/writer, Devin Grayson; artist Philip S. Tan	TX0005593463
EverQuest : Lost Dungeons of Norrath.	PA0001246135
EverQuest online adventures.	PA0001245921
EverQuest online adventures : Frontiers.	PA0001246134
EverQuest : the legacy of Ykesha.	PA0001246139
EverQuest : Gates of Discord.	PA0001256065
Omens of war.	PA0001256081
EverQuest atlas : the maps of Myrist / compiled by Maelin Starpyre.	TX0006058975
EverQuest role-playing game: player's handbook	TX0006052320
Everquest : dragons of Norrath.	PA0001259127
The Shadows of Luclin	VAU000529434
EverQuest: Rain of Fear (<i>Client-Side Code 2013</i>)	PA0002533309
EverQuest Franchise Primer	TX0002490913
Encyclopedia Norrathica – A complete and unabridged compilation of historical, geographical and theological writings of the world of EverQuest.	TX0002491692
Norrathica - An edited compilation of historical, geographical and theological writings on the world	TX0002490919
EverQuest: Rain of Fear (<i>Client-Side Code 2012</i>)	PA0002533846
EverQuest: Rain of Fear - Server-Side Code	PA0002533847
Cazic-Thule (1999)	Case No. 1-14932662144
Cazic-Thule (2010)	Case No. 1-14932585291
Lord Nagafen (1999)	Case No. 1-14932585581
Lord Nagafen (2006)	Case No. 1-14932585548
Lady Vox (1999)	Case No. 1-

	14932572631
Lady Vox (2006)	Case No. 1-14932572631
Innoruuk	Case No. 1-14932585515

Copies of the above referenced registrations are attached hereto as Exhibit B.

20. Daybreak also maintains trademark protection for the iconic EverQuest name, its expansion packs and related marks, which have become synonymous with a groundbreaking online gaming experience, including those listed in the chart below:

Trademark	U.S. Reg. No.	Goods & Services (Int'l Class)	First Use
EVERQUEST	2520693	Metal key chains and pewter figurines (006); Non-metal key chains and figurines made of plastic (020)	Nov. 1, 2000
EVERQUEST	2137911	Computer and video game software (028)	June 16, 1997
EVERQUEST	2507594	Operating a real time, role playing game for others over global and local area computer networks (041)	March 16, 1999
EVERQUEST EVOLUTION	2952622	Computer game software and video game software (009); Operating a real time game for others over computer networks (041)	Aug. 18, 2003
EVERQUEST II DESTINY OF VELIOUS	4026845	Computer game software and video game software; providing downloadable multiplayer, role playing, real time computer and video game software via an online website for entertainment purposes (009); Entertainment services, namely, operating a multiplayer, role playing, real time game for others via the Internet and local area computer networks (041)	Feb. 22, 2011
EVERQUEST HOUSE OF THULE	4026846	Computer game software and video game software; providing	Oct. 12, 2010

		downloadable multiplayer, role playing, real time computer and video game software via an online website for entertainment purposes (009);	
		Entertainment services, namely, operating a multiplayer, role playing, real time game for others via the Internet and local area computer networks (041)	
EVERQUEST: THE RUINS OF KUNARK	2562334	Operating a real time, role playing game for others over global and local area computer networks (041)	April 24, 2000

Copies of the above referenced registrations are attached hereto as Exhibit C.

21. Among its registered trademarks, Daybreak owns U.S. Trademark Registration No. 2507594 for EVERQUEST, which registered on November 13, 2001, for “operating a real time, role playing game for others over global and local area computer networks.” *See* Ex. C. This registration is valid and subsisting. Daybreak has used the EVERQUEST mark continuously in interstate commerce since 1999, and the mark has achieved widespread recognition and fame among consumers in the United States as a designation of source for massively multiplayer online role-playing games and related entertainment services.

22. To preserve the integrity of the EverQuest world and continue supporting its dedicated community, the authentic EverQuest experience remains accessible exclusively through official channels, including Daybreak’s subscription service and authorized game servers that ensure every player has a high quality experience.

23. With the development, distribution, and promotion of THJ, Defendants have implemented a reverse-engineered server-side EverQuest infrastructure and created an unauthorized access point to Norrath and a modified, derivative game experience that relies entirely on Daybreak’s intellectual property.

24. Through the development and distribution of THJ, Defendants’ conduct

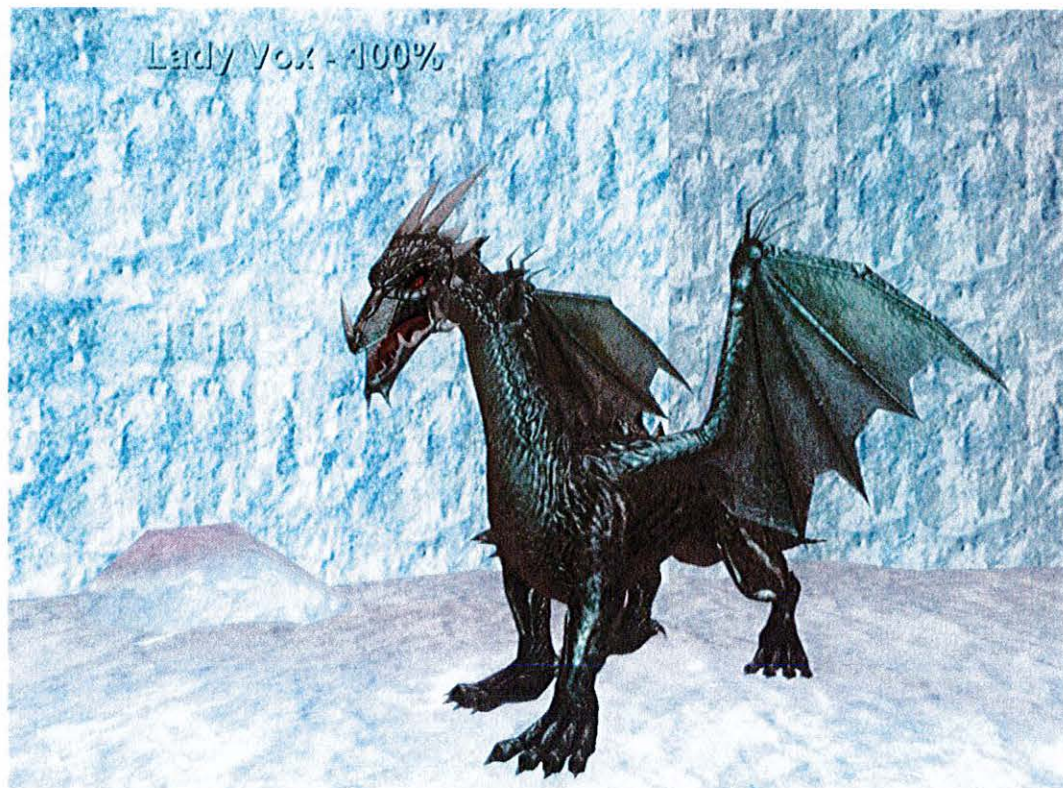
1 has caused and is continuing to cause irreparable harm to Daybreak by undermining
2 the exclusivity of its intellectual property, diverting customers, and eroding consumer
3 confidence in the authenticity of the EverQuest experience. This ongoing harm to the
4 EverQuest franchise cannot be remedied solely by monetary damages.

5 **C. EverQuest's Iconic Characters**

6 25. For nearly 30 years, Daybreak has created numerous iconic characters
7 that have become central to the EverQuest experience. These characters are
8 distinctive, original, and integral to the EverQuest experience. The EverQuest
9 characters are unique, original visual designs with backstories, abilities, and roles
10 existing in the game world of Norrath. Among the most significant are the following
11 four characters ("Iconic EverQuest Characters"):

12 a. Lady Vox – An ancient ice-blue dragon and one of EverQuest's
13 most recognizable antagonists, first introduced in the original 1999 release. Lady Vox
14 represents one of the Game's original epic encounters. Her distinctive visual design—
15 featuring a massive white dragon form with unique scale patterns and anatomical
16 features—and her specific combat abilities and lore are original creative works
17 developed by the EverQuest game team and owned by Plaintiff. Lady Vox has
18 appeared in multiple EverQuest expansions and has been featured prominently in
19 marketing materials, merchandise, and promotional content, enhancing her
20 recognition and commercial value.

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b. Lord Nagafen – A legendary red dragon who serves as a counterpart to Lady Vox and one of the original high-level challenges in EverQuest. Lord Nagafen, like Lady Vox, represents a pinnacle achievement for players to confront. His distinctive visual design as a massive red dragon with unique physical characteristics and his specific combat abilities and lore are original creative works. Lord Nagafen has appeared throughout the game’s history in multiple contexts and has been featured in merchandise and promotional materials, demonstrating his substantial commercial value to Plaintiff.

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c. Innoruuk - Known as the “Prince of Hate” and one of the most powerful evil deities in the EverQuest pantheon. Also introduced in the original 1999 release, Innoruuk features a highly distinctive visual design as a tall, menacing deity with horns, crimson skin, and unique ceremonial attire that visually differentiates him from generic fantasy villains. His domain, the Plane of Hate, represents one of EverQuest’s most challenging and iconic raid zones, featuring distinctive and original architecture and visual elements designed specifically to reflect his malevolent nature. Innoruuk has been featured prominently in official EverQuest novels, strategy guides, comic books, and promotional materials, further enhancing his recognition and substantial commercial value to Plaintiff.

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d. Cazic-Thule – Known as “The Faceless” and “Lord of Fear,” Cazic-Thule is one of the most important deity figures in the EverQuest pantheon. This character features an original, distinctive, and recognizable visual design as a towering, reptilian deity with multiple arms and a unique head design. Cazic-Thule plays a central role in the Game’s lore and mythology, with an extensive backstory that has been developed across numerous EverQuest game expansions. His distinctive appearance, abilities, and role in the EverQuest world represent substantial creative investment by Plaintiff and significant commercial value.



26. The Iconic EverQuest Characters, *inter alia*, are not generic fantasy tropes, but distinctive, fully-realized creative works protected under U.S. copyright law. The original visual designs, storylines, combat mechanics, and in-game roles of The Iconic EverQuest Characters are the result of substantial creative investment.

27. The Iconic EverQuest Characters have acquired substantial commercial value through their prominent feature in:

- a. Multiple EverQuest game expansions released over more than twenty years;
- b. Official EverQuest merchandise including figurines, artwork, clothing, and collectibles;
- c. Strategy guides, lore books, and other official publications;
- d. Marketing and promotional materials used to advertise EverQuest and its expansions; and
- e. Community events and conventions where these characters are

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1 featured prominently.

2 28. The Iconic EverQuest Characters are recognizable symbols of the
3 EverQuest brand and drive player engagement and retention. Players often subscribe
4 to EverQuest specifically to experience encounters with these characters, representing
5 direct revenue for Plaintiff.

6 29. THJ directly appropriates these valuable character properties by
7 incorporating identical or substantially similar versions of the Iconic EverQuest
8 Characters and numerous other distinctive EverQuest characters. Screenshots, videos,
9 and promotional materials for THJ prominently feature EverQuest characters,
10 demonstrating Defendants' unauthorized use of Plaintiff's intellectual property for
11 Defendants' commercial advantage.

12 **D. THJ Emulator's Unauthorized Activities**

13 30. THJ has engaged in systematic and deliberate copyright and trademark
14 infringement through the following activities:

15 a. Altering critical client-side (on the player's computer) game files
16 to redirect server communication from official Daybreak servers to unauthorized THJ
17 emulator servers. Specifically, THJ modifies the "eqhost.txt" file, which contains
18 server connection parameters and causes the client-side files to communicate with a
19 server that controls the authentication process;

20 b. Bypassing Daybreak's account authentication system, which
21 ordinarily requires:

- 22 i. Creation of a valid Daybreak Account through Daybreak's
23 official website;
- 24 ii. Authentication of that account through Daybreak's secure
25 login servers;
- 26 iii. Verification of an active subscription or appropriate account
27 status;
- 28 iv. Communication with Daybreak's authentication servers to

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- 1 validate access permissions; and
- 2 v. Ongoing verification of account credentials throughout the
- 3 gaming session;
- 4 c. Creating promotional materials for THJ that present the EverQuest
- 5 characters, environments, and gameplay systems as if they
- 6 originated with Defendants rather than Daybreak;
- 7 d. Making statements suggesting that THJ's content was created
- 8 through Defendants' independent efforts;
- 9 d. Replacing certain splash screens and user interface elements while
- 10 deliberately preserving others that contain Daybreak's copyrighted imagery and
- 11 registered trademarks;
- 12 e. Modifying the main login screen to display "The Heroes'
- 13 Journey" branding alongside retained EverQuest logo elements, making consumer
- 14 confusion likely regarding the origin of the software;
- 15 f. Altering loading screens that display Daybreak's copyright
- 16 notices, thereby removing critical legal information regarding intellectual property
- 17 ownership; and
- 18 g. Implementing patches to bypass Daybreak's authentication
- 19 systems and digital rights management protections.

20 **E. THJ's Unauthorized Server Emulation**

- 21 31. The THJ project has developed server emulation software that:
- 22 a. Replicates proprietary server-side code and protocols developed
 - 23 by the EverQuest team;
 - 24 b. Works in conjunction with the THJ client, the software application
 - 25 that runs on a player's personal computer, to recreate Daybreak's copyrighted game
 - 26 world and experience, including zones, non-player characters, quests, items, and
 - 27 dialogue from the EverQuest Rain of Fear ("RoF") expansion;
 - 28 c. Implements modified versions of the EverQuest game mechanics,

1 progression systems, and character development features;

2 d. Utilizes and causes the display of Daybreak's protected EverQuest
3 characters, locations, and storylines without authorization; and

4 e. Integrates substantial portions of Daybreak's copyrighted content
5 while making unauthorized modifications to create an alternative game experience.

6 **F. THJ's Specific File Modifications to the RoF Game Install**

7 32. Technical analysis of the THJ installer and associated software reveals
8 the following specific unauthorized modifications to Daybreak's copyrighted
9 material, specifically THJ:

10 a. Extracted, modified, and recompiled with altered parameters data
11 files containing quest scripts (.qst) affecting in-game progression and rewards;

12 b. Modified to alter the original game experience designed by
13 Daybreak of non-player character definitions and behavior scripts;

14 c. Modified zone information files (.zon files) containing
15 environmental data, spawn locations, and navigation meshes from their original state;

16 d. Altered item databases to modify the attributes, availability, and
17 acquisition methods of in-game items;

18 e. Reverse-engineered and modified client-server communication
19 protocols to communicate with unauthorized servers; and

20 f. Circumvented through unauthorized modifications to client files
21 that point the client software to non-authorized account authentication mechanisms.

22 **G. Development and Distribution of THJ**

23 33. At least the following GitHub repositories are associated with THJ:

24 a. <https://github.com/The-Heroes-Journey-EQEMU/Server> - A
25 public repository forked from EQEmu/Server containing the core server code for THJ.
26 It has 14,313 commits and was last updated on June 7, 2025. This repository contains
27 the fundamental emulator code that powers the THJ server, including the
28 multiclassing functionality that alters it from standard EverQuest.

b. <https://github.com/The-Heroes-Journey-EQEMU/quests> - A public repository containing scripts for the quest system in THJ. This repository has 25 commits and was last updated on June 7, 2025. These scripts control NPC behaviors, quest rewards, and gameplay mechanics specific to THJ.

c. <https://github.com/The-Heroes-Journey-EQEMU/eqemupatcher> - A public repository forked from xackery/eqemupatcher containing the code for the file comparison and patching utility. This repository has 647 commits and was last updated on June 4, 2025. This tool modifies the legitimate EverQuest client to connect to THJ servers.

d. <https://github.com/The-Heroes-Journey-EQEMU/thj-patcher> - A custom patcher specifically for THJ using Windows Presentation Foundation (WPF). This patcher includes hardcoded values for server connections, such as the storage URL “<https://patch.heroesjourneyemu.com/rof/>” and is designed to make installation simpler for users than the standard eqemupatcher.

e. <https://github.com/The-Heroes-Journey-EQEMU/thj-launcher> - A launcher utility for THJ that provides a streamlined way to start the game. The repository’s README explicitly credits “The Heroes Journey Dev Team - Aporia and Catapultam” and gives “Special thanks to Drake for the support,” directly identifying the primary contributors.

f. <https://github.com/The-Heroes-Journey-EQEMU/thj-wiki> - A public repository for the THJ Wiki content, which was last updated on June 7, 2025.

g. <https://github.com/The-Heroes-Journey-EQEMU/eqdb> - A public repository forked from mifisher324/eqdb for the EverQuest Database specific to THJ, last updated on June 8, 2025. This repository contains database structures and content specific to THJ.

h. <https://github.com/The-Heroes-Journey-EQEMU/maps> - A public repository forked from wayfarershaven/maps containing map data for THJ.

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1 i. <https://github.com/The-Heroes-Journey-EQEMU/downloadeqrof>
2 - A public repository forked from xackery/downloadeqrof. “downloadeqrof” is
3 designed to simplify the process of downloading the Steam Rain of Fear 2 EverQuest
4 client.

5 34. Based on analysis of these GitHub repositories and other public sources
6 associated with THJ, the primary contributors to the development of THJ include, but
7 are not limited to:

8 a. Mr. Takahashi as the project leader and primary administrator of
9 THJ. The THJ website specifically identifies Aporia as a member of “The Heroes
10 Journey Dev Team” along with Mr. Taylor. Mr. Takahashi’s pseudonym, “Aporia”
11 also is referenced on the THJ Wiki as an administrative contact for users who need
12 exemptions to the IP limit rule.

13 b. Mr. Taylor, under his pseudonym “catapultam-habeo,” who has
14 made significant contributions to the core server functionality, including
15 multiclassing mechanics and character progression systems. Mr. Taylor also has
16 contributed to quest scripts for zones such as Bastion of Thunder and Plane of
17 Torment, and has co-authored updates to the THJ in-game storytelling tool. Evidence
18 of these contributions can be found in commits to the THJ Server repository and the
19 quests_public repository.

20 c. Additional contributors whose identities remain unknown to
21 Plaintiff who include individuals that have made various contributions to THJ
22 repositories including installer improvements and gameplay enhancements. These
23 individuals, identified as DOES 1-20, have facilitated the unauthorized development
24 and promotion of THJ through code contributions, administrative support, and
25 community outreach activities documented in public forums and GitHub commit logs.

26 35. Defendants coordinated their development efforts through Discord
27 servers, GitHub issue tracking, and other communication channels to create, test, and
28 deploy THJ.

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1 36. THJ officially launched on or about October 25, 2024, as evidenced by
2 announcements on various social media platforms including Reddit and Discord and
3 videos on YouTube.

4 37. The first public announcement of THJ appeared on the EQEmulator
5 Forum, at eqemulator.org/forums/showthread.php?t=44193 on October 10, 2024,
6 where user “Aeventh” posted, “I am excited to announce The Heroes’ Journey, a
7 three-year labor of love aimed at creating an incredible solo/duo EQ experience.”

8 38. “Aeventh” is a pseudonym for Mr. Takahashi.

9 39. Following the initial announcement, promotional activity for THJ
10 increased significantly. A comprehensive timeline of public promotional activities
11 includes:

12 a. October 29, 2024: ResetEra gaming forum post titled “Play 3
13 classes in 1 on new EQEmu server, The Heroes’ Journey launches Nov. 1st” posted at
14 [https://www.resetera.com/threads/play-3-classes-in-1-on-new-eqemu-server-the-](https://www.resetera.com/threads/play-3-classes-in-1-on-new-eqemu-server-the-heroes-journey-launches-nov-1st.1022376/)
15 [heroes-journey-launches-nov-1st.1022376/](https://www.resetera.com/threads/play-3-classes-in-1-on-new-eqemu-server-the-heroes-journey-launches-nov-1st.1022376/). This post promoted THJ’s upcoming
16 launch and explicitly described it as an “EQEmu server” that allows players to “Pick
17 any three classes on one character.”

18 b. November 1, 2024: Fires of Heaven gaming community forum
19 announcement titled “The Heroes Journey (Multiclass EQemu Progression Server)”
20 posted at [https://www.firesofheaven.org/threads/the-heroes-journey-multiclass-](https://www.firesofheaven.org/threads/the-heroes-journey-multiclass-eqemu-progression-server.15510/)
21 [eqemu-progression-server.15510/](https://www.firesofheaven.org/threads/the-heroes-journey-multiclass-eqemu-progression-server.15510/). This announcement promoted THJ’s launch day
22 with direct links to [heroesjourneyemu.com](https://www.firesofheaven.org/threads/the-heroes-journey-multiclass-eqemu-progression-server.15510/) and THJ’s Discord server, generating
23 significant ongoing discussion across multiple forum pages.

24 c. November 25, 2024: YouTube instructional video, uploaded by
25 content creator “Broken Stoic,” titled “The Heroes Journey, Comprehensive Beginner
26 Guide,” which has received approximately 30,803 views to date. This video explicitly
27 promoted THJ as an EverQuest emulator while demonstrating gameplay featuring
28 recognizable EverQuest characters and environments.

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1 d. February 8, 2025: Gaming review article titled “The Heroes
2 Journey: Redefining EverQuest with Unmatched Power and Fun” published on Futura
3 Feed gaming website at [https://futurafeed.com/the-heroes-journey-redefining-](https://futurafeed.com/the-heroes-journey-redefining-everquest/)
4 [everquest/](https://futurafeed.com/the-heroes-journey-redefining-everquest/). This article explicitly describes THJ as “a bold reimagining of the classic
5 [EverQuest] game” and consistently markets THJ as providing an enhanced
6 “EverQuest experience.”

7 e. February 15, 2025: YouTube installation tutorial titled
8 “EverQuest ‘The Heroes Journey’ Client Installation Guide” uploaded by Broken
9 Stoic, garnering approximately 13,758 views. This tutorial provides detailed
10 instructions for downloading and modifying the legitimate EverQuest client to
11 connect to THJ servers.

12 f. March 8, 2025: YouTube livestream titled “Q&A w/ Aporia,
13 Varietyvoid and Jeff Butler (3/8/25)” hosted by Broken Stoic, featuring a live
14 question-and-answer session between THJ players and the primary THJ developers.

15 g. Operation of a dedicated Discord server with 22,911 members to
16 date, serving as the central community hub for THJ players and the primary source
17 for game updates.

18 h. Ongoing promotional discussions across EverQuest-related
19 forums, including active threads on EQEmulator Forums such as discussions at
20 <https://www.eqemulator.org/forums/showthread.php?t=44212> and gameplay
21 questions at <https://www.eqemulator.org/forums/showthread.php?t=44287>.

22 40. THJ consistently and explicitly refers to EverQuest by name throughout
23 its supporting marketing materials. While the main heroesjourneyemu.com landing
24 page strategically avoids direct mentions of the EVERQUEST mark, THJ’s official
25 wiki (wiki.heroesjourneyemu.com) makes numerous explicit references to
26 EverQuest. The wiki, which serves as the primary instructional documentation for
27 users, consistently refers to THJ as being “based on EverQuest” and providing an
28 “EverQuest” experience. This systematic pattern of using Daybreak’s EVERQUEST

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1 mark to promote THJ demonstrates a deliberate strategy to market THJ as an
2 alternative EverQuest experience while maintaining plausible deniability on its main
3 promotional page.

4 **H. The THJ Installation Process and Its Relationship with EQEmu**

5 41. THJ requires users to install and run a specific version of the EverQuest
6 client, specifically the EverQuest client included in the Rain of Fear game expansion,
7 which is typically obtained through Daybreak's EverQuest Depot on Steam. THJ's
8 official installation guide on its wiki explicitly directs users to "Search for EverQuest
9 in the top-right search bar" on Steam, instructing them to download Daybreak's
10 copyrighted client files as the foundation for running THJ.

11 42. The THJ installer, developed and distributed by Defendants, guides users
12 through a process that includes:

13 a. Directing users to purchase or download the legitimate EverQuest
14 client from Steam's EverQuest Depot using explicit instructions that identify the
15 product by the EVERQUEST mark;

16 b. Downloading and installing additional files created by
17 Defendants;

18 c. Modifying the legitimate EverQuest client files to connect to
19 Defendants' unauthorized servers rather than Daybreak's official servers; and

20 d. Altering critical game files to bypass authentication mechanisms
21 designed to ensure users connect only to authorized servers.

22 43. The modifications made by the THJ installer include, but are not limited
23 to:

24 a. Modifications to the login process to redirect users to THJ servers
25 or other non-Daybreak servers; and

26 b. Modifications to EverQuest character data structures to enable
27 unauthorized character creation and progression.

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1 44. These modifications constitute unauthorized derivative works of
2 Daybreak's copyrighted software and circumvent technological measures
3 implemented by Daybreak to authenticate access to its copyrighted works.

4 45. THJ is built upon the foundation of the EQEmu Server project, an open-
5 source project that attempts to recreate EverQuest server functionality.

6 46. While EQEmu itself raises separate intellectual property concerns, THJ
7 goes significantly further in its infringement by:

8 a. Actively promoting itself as an EverQuest replacement using
9 Daybreak's EVERQUEST mark;

10 b. Directly modifying Daybreak's copyrighted client software;

11 c. Creating a simplified installation process specifically designed to
12 make unauthorized access to EverQuest content easier for the casual user; and

13 d. Enhancing and expanding upon EQEmu's functionality to create
14 an unauthorized derivative EverQuest experience.

15 **I. Ongoing Operations and Commercial Impact**

16 47. Since its launch, THJ has attracted a substantial community of users,
17 which is not surprising – and even flattering for Plaintiff - given the unmatched
18 popularity of EverQuest over the decades.

19 48. Based on server population data, analysis of Discord server membership,
20 and sustained community engagement across multiple platforms, Plaintiff estimates
21 that THJ has approximately 20,000 active users.

22 49. Defendants continue to operate, maintain, and promote THJ through
23 regular updates, community engagement, and ongoing development. Recent GitHub
24 commits show continued active development of the project, including:

25 a. <https://github.com/The-Heroes-Journey-EQEMU/quests>; Last
26 Updated – June 7, 2025;

27 b. <https://github.com/The-Heroes-Journey-EQEMU/Server>; Last
28 Updated – June 7, 2025;

1 c. <https://github.com/The-Heroes-Journey-EQEMU/eqemupatcher>;
2 Last Updated – June 4, 2025; and

3 d. <https://github.com/The-Heroes-Journey-EQEMU/thj-launcher>;
4 Last Updated – April 10, 2025.

5 50. Defendants have established a sophisticated commercial revenue model
6 thinly disguised as a “donation” system that directly generates income from their
7 unauthorized use of Daybreak’s intellectual property. This monetization scheme
8 operates through multiple channels:

9 a. Defendants solicit financial contributions through a prominent
10 “Donate” button on the THJ website (heroesjourneyemu.com) (discussed herein),
11 offering in-game benefits in direct exchange for monetary payments;

12 b. Contributors who make financial payments receive digital items
13 called “Echoes of Memory,” which function as a premium currency within THJ;

14 c. These “Echoes of Memory” can be exchanged for valuable in-
15 game items, cosmetic enhancements, and character benefits that provide material
16 advantages within the game;

17 51. Defendants have received financial benefits through their monetization system,
18 directly profiting from their unauthorized use of Plaintiff’s intellectual property.

19 52. The THJ website at “heroesjourneyemu.com” serves as the central hub
20 for distribution of the unauthorized emulator. The THJ website prominently displays
21 EverQuest imagery and content while promoting the THJ game that directly competes
22 with Daybreak’s legitimate service. The THJ website includes detailed installation
23 instructions that specifically direct users to obtain and modify Daybreak’s
24 copyrighted EverQuest client software as a prerequisite for using the unauthorized
25 emulator.

26 53. While the main website strategically avoids direct mention of EverQuest,
27 the THJ wiki specifically identifies THJ as “a multiclass, no box progression server
28 based on EverQuest.” The wiki contains numerous explicit references to EverQuest,

1 including statements like: “Welcome to The Heroes’ Journey (THJ). This guide is for
2 anyone whether you are brand new to Everquest (EQ), an EQ Veteran or a casual EQ
3 Emu player.” These explicit associations with Daybreak’s trademarks are designed to
4 attract EverQuest players and promote THJ as a “new spin” on the EverQuest
5 experience, directly competing with Daybreak’s legitimate service.

6 54. The THJ website and associated wiki contains numerous explicit
7 references to EverQuest, including but not limited to:

- 8 a. Specific mention of “original EverQuest”;
- 9 b. Comparison pages titled “Live-vs-THJ” that explicitly compare
10 THJ to EverQuest;
- 11 c. Installation instructions that specifically direct users to download
12 the EverQuest client, including Steam console commands to obtain specifically
13 identified EverQuest files; and
- 14 d. New player guides that explicitly frame THJ as an EverQuest
15 experience for “EQ Veterans” and “EQ Emu players.”

16 55. The THJ emulator’s unauthorized use of Daybreak’s intellectual
17 property has resulted in:

- 18 a. Diversion of potential and current customers from legitimate
19 EverQuest services to unauthorized services;
- 20 b. Dilution of Daybreak’s valuable EVERQUEST mark through
21 unauthorized use;
- 22 c. Diminished control over its intellectual property;
- 23 d. Damage to Daybreak’s reputation and goodwill through
24 association with an unauthorized and potentially unstable product; and
- 25 e. e. Financial harm to Daybreak through lost revenue.

26 56. The THJ emulator creates the false impression of legitimacy by
27 incorporating substantial portions of Daybreak’s original content while making
28

1 modifications designed to present itself as a unique entity and alternative to the
2 EverQuest product.

3 57. Defendants have knowingly and intentionally engaged in these
4 infringing activities with full awareness of Daybreak's exclusive rights in and to the
5 EverQuest intellectual property.

6 **J. Circumvention of Technical Protection Measures**

7 58. The THJ emulator specifically circumvents technological measures that
8 effectively control access to Daybreak's copyrighted works by:

9 a. Bypassing authentication systems designed to verify legitimate
10 access to EverQuest content;

11 b. Modifying client files to connect to unauthorized servers rather
12 than Daybreak's official servers; and

13 c. Altering the content of game files that normally would prevent
14 connection to unauthorized servers.

15 59. These circumvention activities violate the anti-circumvention provisions
16 of the Digital Millennium Copyright Act, 17 U.S.C. § 1201.

17 60. The modifications within the THJ emulator specifically are designed and
18 marketed for the purpose of providing unauthorized access to Daybreak's copyrighted
19 EverQuest content, constituting a violation of Daybreak's exclusive rights.

20 **K. EverQuest EULA**

21 61. All legitimate users of EverQuest are bound by the EULA which
22 explicitly prohibits, among other things:

23 a. Reverse engineering, decompiling, or disassembling the
24 EverQuest software;

25 b. Creating or using unauthorized server emulation software;

26 c. Modifying the game client; and

27 d. Using the EverQuest software in any way not expressly authorized
28 by Daybreak.

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1 62. Specifically, the relevant provisions of the EULA state:

2 a. “You may not use any third party software to modify the Software
3 to change Game play” (Ex. A ¶ 9);

4 b. “You may not create, facilitate, host, link to or provide any other
5 means through which the Game may be played by others, such as through server
6 emulators.” *Id.* ¶ 9; and

7 c. “You may not copy (except to make one necessary back-up copy),
8 distribute, sell, auction, rent, lease, loan, modify or create derivative works, adapt,
9 translate, perform, display, sublicense or transfer all or any portion of the Software.”
10 *Id.* ¶ 7.

11 63. By developing, distributing, and promoting THJ, Defendants have not
12 only violated these provisions themselves but actively have induced and encouraged
13 others to breach the EULA.

14 64. The THJ Installer application offered on the THJ website automates the
15 circumvention of Daybreak’s technical protection measures by modifying the
16 EverQuest client and directing it to connect to unauthorized servers. The application
17 is an easy-to-use tool that results in users breaching the EULA and infringing
18 Plaintiff’s intellectual property rights.

19 **L. Intellectual Property Registrations**

20 65. Daybreak’s EverQuest is protected by numerous federally registered
21 copyrights, including but not limited to those identified in Exhibit B.

22 66. Defendants’ unauthorized use of Daybreak’s intellectual property
23 includes, but is not limited to:

24 a. Copying and using substantial portions of Daybreak’s copyrighted
25 game code;

26 b. Creating unauthorized derivative works based on Daybreak’s
27 copyrighted content; and
28

1 c. Utilizing Daybreak's copyrighted characters, environments,
2 storylines, and other creative elements.

3 67. The EVERQUEST mark is famous and distinctive.

4 **M. Harm to Daybreak**

5 68. Defendants' unauthorized creation, development, and distribution of
6 THJ has caused and continues to cause substantial harm to Daybreak, including but
7 not limited to:

8 a. Dilution of the distinctive quality of the EVERQUEST Mark,
9 which Daybreak has carefully cultivated and protected for over two decades through
10 consistent brand management and quality control;

11 b. Loss of control over the quality and content of services provided
12 under the EVERQUEST mark, as Defendants operate without Daybreak's rigorous
13 quality assurance processes, security protocols, or content moderation systems;

14 c. Interference with Daybreak's business relationships with
15 authentic EverQuest users through the diversion of active players from official servers
16 to THJ's unauthorized server;

17 d. Negative impact on Daybreak's ability to successfully launch and
18 maintain new official progression servers due to decreased player participation caused
19 by THJ's competing unauthorized service; and

20 e. Damage to Daybreak's reputation and goodwill through
21 association with an unauthorized service that operates outside Daybreak's established
22 standards for game balance, security, and player conduct; and

23 f. Direct diversion of potential revenue, including lost subscription
24 fees and in-game purchases from users who would otherwise be paying customers of
25 Daybreak's legitimate EverQuest service.

26 69. Defendants' actions have been willful and deliberate, with full
27 knowledge of Daybreak's rights in and to EverQuest and the EVERQUEST mark.
28

FIRST CLAIM FOR RELIEF

Direct Copyright Infringement 17 U.S.C. § 101 *et seq.*

70. Daybreak repeats and realleges each and every allegation contained in paragraphs 1 through 69 as if fully set forth herein.

71. Daybreak is the owner of valid and subsisting copyrights in EverQuest, including those listed in Exhibit B, which protect the original expression in the EverQuest software code, visual elements, characters, environments, storylines, and other creative content.

72. Daybreak's copyrighted works contain wholly original material that constitutes copyrightable subject matter under the laws of the United States.

73. Daybreak has complied with all statutory formalities and requirements to register and maintain its copyrights in EverQuest.

74. Without Daybreak's authorization, Defendants have copied, modified, distributed, displayed, and created derivative works based on Daybreak's copyrighted works by:

a. Copying substantial portions of Daybreak's game code and content;

b. Creating unauthorized server software that works in conjunction with Defendant's unauthorized modification to Daybreak's client software to reproduce Plaintiff's game mechanics, content, and the EverQuest experience;

c. Modifying Daybreak's client software;

d. Displaying Daybreak's copyrighted visual elements;

e. Reproducing Plaintiff's distinctive characters, including the Iconic EverQuest Characters, with identical or substantially similar visual designs, abilities, behaviors, and backstories; and

f. Replicating specific encounters, dialogues, and narrative elements associated with Daybreak's proprietary characters.

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1 75. Under the EULA, Paragraph 8, Plaintiff explicitly retains “all rights, title
2 and interest, including, without limitation, ownership of all intellectual property rights
3 relating to or residing in the Disc, the Software and the Game, all copies thereof, and
4 all game character data in connection therewith.” The EULA further specifies that
5 users “have not and will not acquire or obtain any intellectual property or other rights,
6 including any right of exploitation, of any kind in or to the Disc, the Software or the
7 Game.”

8 76. Defendants’ actions constitute direct copyright infringement of
9 Defendant’s exclusive rights under 17 U.S.C. § 106.

10 77. Defendants’ infringement of Daybreak’s copyrights has been willful,
11 intentional, and purposeful, in disregard of Daybreak’s rights.

12 78. As a direct and proximate result of Defendants’ infringement, Daybreak
13 has suffered and will continue to suffer monetary damages in an amount to be proven
14 at trial.

15 79. Pursuant to 17 U.S.C. § 504(b), Daybreak is entitled to recover from
16 Defendants the damages it has sustained and will sustain, as well as any gains, profits,
17 and advantages obtained by Defendants as a result of their acts of infringement, or, at
18 Daybreak’s election, statutory damages pursuant to pursuant to 17 U.S.C. § 504(c),
19 as well as its attorneys’ fees and costs pursuant to 17 U.S.C. § 505.

20 80. As a result of Defendants’ infringement, Daybreak has suffered and will
21 continue to suffer irreparable harm for which monetary damages are inadequate.
22 Unless restrained by this Court, Defendants will continue to infringe Daybreak’s
23 copyrights. Pursuant to 17 U.S.C. §502, Daybreak is entitled to preliminary and
24 permanent injunctive relief prohibiting further infringement.

25 **SECOND CLAIM FOR RELIEF**

26 **Copyright Infringement by Inducement**

27 81. Daybreak repeats and realleges each and every allegation contained in
28 paragraphs 1 through 69 as if fully set forth herein

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82. THJ users engage in direct copyright infringement by reproducing, and accessing unauthorized copies of Daybreak's copyrighted EverQuest content.

83. Defendants have intentionally induced third-party infringement of Daybreak's exclusive rights under 17 U.S.C. §106 developing, distributing, and promoting THJ with the objective and practical effect of encouraging users to access, copy, and play unauthorized versions of EverQuest. This inducement includes:

a. Hosting and disseminating modified game files that bypass access controls;

b. Providing detailed installation guides and tools instructing users to circumvent Daybreak's account and server authentication protocols; and

c. Marketing THJ as a substitute for the official EverQuest experience, thereby inciting users to violate Daybreak's copyright rights.

84. Defendants' inducement of copyright infringement is willful and intentional.

85. As a direct and proximate result of Defendants' inducement of infringement, Daybreak has suffered and will continue to suffer damages in an amount to be proven at trial.

86. Daybreak is suffering ongoing irreparable harm because Defendants' conduct facilitates widespread infringement at scale, depriving Daybreak of control over the use and distribution of its proprietary content and undermining its licensing model. This loss of control over digital distribution and the erosion of loyalty cannot be fully remedied by monetary damages.

THIRD CLAIM FOR RELIEF

Violation of the Digital Millenium Copyright Act, 17 U.S.C. § 1201

87. Daybreak repeats and realleges each and every allegation contained in paragraphs 1 through 69 as if fully set forth herein

88. Daybreak employs technological protection measures ("TPMs") under 17 U.S.C. §1201(a) that effectively control access to EverQuest. These TPMs include,

1 but are not limited to, authentication protocols and access controls that restrict the use
2 of EverQuest client software without communicating to an official EverQuest server.

3 89. The THJ emulator and associated software circumvent these
4 technological measures by:

- 5 a. Alerting eqhost.txt to reroute server connections;
6 b. Removing splash screens that include copyright notices; and
7 c. Distributing an installer that automates client-side circumvention
8 of the account authorization protocols.

9 90. These actions constitute violations of the anti-circumvention provisions
10 of the Digital Millennium Copyright Act, 17 U.S.C. § 1201.

11 91. Defendants' circumvention activities were willful and were undertaken
12 with knowledge that such activities were prohibited by law.

13 92. As a direct and proximate result of Defendants' DMCA violations,
14 Defendant has suffered and will continue to suffer monetary damages in an amount
15 to be proven at trial.

16 93. Plaintiff is entitled to recover either actual damages and any additional
17 profits of the violator, or statutory damages, as well as its attorneys' fees and costs
18 pursuant to 17 U.S.C. § 1203.

19 94. Defendants' circumvention of Daybreak's TPMs effectively nullify
20 Daybreak's ability to control access to its EverQuest IP and enforce its EULA. This
21 irreparable harm cannot be undone, justifying injunctive relief.

22 **FOURTH CLAIM FOR RELIEF**

23 **Trademark Dilution, 15 U.S.C. § 1125(c)**

24 95. Plaintiff repeats and realleges each and every allegation contained in
25 paragraphs 1 through 69 as if fully set forth herein.

26 96. Plaintiff's EVERQUEST mark (Reg. No. 2507594) is inherently
27 distinctive and widely recognized by the general consuming public of the United
28 States, qualifying as a "famous mark" under 15 U.S.C. § 1125(c). The EVERQUEST

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1 mark has been in continuous use for over twenty years, is registered on the Principal
2 Register, has achieved “incontestable” status under 15 U.S.C. § 1065 and has been
3 the subject of substantial advertising and promotion, and represents one of the most
4 well-known MMORPGs in the United States.

5 97. Defendants’ use of the EVERQUEST mark began after the Mark became
6 famous.

7 98. Defendants’ unauthorized use of the EVERQUEST mark in connection
8 with THJ is likely to cause dilution by blurring by impairing the distinctiveness of
9 Daybreak's famous EVERQUEST mark.

10 99. Defendants’ unauthorized use of the EVERQUEST mark in connection
11 with THJ also is likely to cause dilution by tarnishment, as THJ lacks the quality
12 control, security measures, and professional management of authentic EverQuest
13 products.

14 100. Defendants willfully intended to trade on Plaintiff’s reputation and to
15 cause dilution of the famous EVERQUEST mark.

16 101. As a direct and proximate result of Defendants’ conduct, Plaintiff has
17 suffered and will continue to suffer monetary damages in an amount to be proven at
18 trial.

19 102. Plaintiff is entitled to injunctive relief, as well as damages, profits, and
20 costs pursuant to 15 U.S.C. § 1125(c).

21 **FIFTH CLAIM FOR RELIEF**

22 **Federal Unfair Competition, 15 U.S.C. § 1125(a)**

23 103. Plaintiff repeats and realleges each and every allegation contained in
24 paragraphs 1 through 69 as if fully set forth herein.

25 104. Defendants have engaged in unfair competition in violation of 15 U.S.C.
26 § 1125(a) through multiple acts, including but not limited to:

27 a. *False Designation of Origin:* Using the EVERQUEST mark and
28 similar designations in connection with THJ, thereby creating a false designation of

1 origin and false and misleading representation that is likely to cause confusion,
2 mistake, or deception as to the affiliation, connection, or association of THJ with
3 Daybreak, or as to the origin, sponsorship, or approval of THJ by Daybreak;

4 b. *Reverse Passing Off*: Removing or obscuring Daybreak's marks
5 from EverQuest content incorporated into THJ and presenting that content as the own
6 creation of THJ or as unaffiliated with Daybreak, including:

7 i. Removing or altering Daybreak's copyright notices and
8 attributions from EverQuest content reproduced in THJ;

9 ii. Creating promotional materials for THJ that present
10 EverQuest's characters, environments, and gameplay systems as if they
11 originated with Defendants rather than Daybreak;

12 iii. Making statements suggesting that THJ's content was
13 created through Defendants' independent efforts rather than appropriated
14 from Daybreak's copyrighted materials; and

15 iv. Failing to properly attribute EverQuest's creative elements
16 to Daybreak when incorporating them into THJ;

17 c. *False Advertising*: Making false and misleading representations
18 about THJ and its relationship to Daybreak, including:

19 i. Statements that THJ provides the authentic EverQuest
20 experience;

21 ii. Representations that imply authorization or approval by
22 Daybreak;

23 iii. Claims about the quality, characteristics, or nature of THJ that
24 are likely to deceive consumers; and

25 iv. Omissions of material fact regarding THJ's unauthorized
26 nature;

27 d. *Trade Dress Infringement*: Adopting the distinctive look and feel
28 of EverQuest, including its user interface elements, visual style, and overall

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1 presentation, thereby creating a likelihood of confusion as to the source or origin of
2 THJ.

3 105. Defendants' unfair competition has occurred in interstate commerce and
4 has caused and is likely to continue to cause confusion, mistake, or deception among
5 consumers regarding the origin, sponsorship, approval, or affiliation of THJ.

6 106. Defendants knew or should have known that their actions constituted
7 unfair competition and would cause confusion, mistake, or deception among
8 consumers. Defendants' unfair competition has been willful and deliberate.

9 107. As a direct and proximate result of Defendants' unfair competition,
10 Daybreak has suffered and will continue to suffer damages, including diverted
11 customers, lost profits, lost goodwill, and damage to its reputation.

12 108. Daybreak is entitled to recover Defendants' profits, Daybreak's actual
13 damages, and the costs of this action pursuant to 15 U.S.C. § 1117(a). Defendants'
14 violations have been willful and therefore, Daybreak is entitled to enhanced damages
15 under 15 U.S.C. § 1117(a).

16 109. Daybreak has suffered and will continue to suffer irreparable harm for
17 which monetary damages are inadequate. Unless restrained by this Court, Defendants
18 will continue their unfair competition. Pursuant to 15 U.S.C. § 1116, Daybreak is
19 entitled to preliminary and permanent injunctive relief.

20 **SIXTH CLAIM FOR RELIEF**

21 **California Trademark Dilution, Cal. Bus. & Prof. Code § 14330**

22 110. Plaintiff repeats and realleges each and every allegation contained in
23 paragraphs 1 through 69 as if fully set forth herein.

24 111. Daybreak's EVERQUEST mark is distinctive and famous within the
25 State of California and was distinctive and famous prior to Defendants' first use of
26 the mark.

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1 112. Defendants' unauthorized use of the EVERQUEST mark in connection
2 with THJ is likely to cause dilution of the distinctive quality of Daybreak's mark in
3 violation of California Business & Professions Code § 14330.

4 113. Defendants' acts of dilution include, but are not limited to:

5 a. Dilution by blurring, by diminishing the EVERQUEST mark's
6 uniqueness and distinctiveness in California; and

7 b. Dilution by tarnishment, by associating the EVERQUEST mark
8 with services of inferior quality lacking Daybreak's professional standards and
9 quality controls.

10 114. As a direct and proximate result of Defendants' dilution, Daybreak has
11 suffered and continues to suffer irreparable injury to its business, reputation, and
12 goodwill in California, for which Daybreak has no adequate remedy at law.

13 115. Defendants' dilution has been willful and deliberate, entitling Daybreak
14 to enhanced remedies.

15 116. Daybreak is entitled to injunctive relief, compensatory damages,
16 disgorgement of Defendants' profits, and punitive damages.

17 **SEVENTH CLAIM FOR RELIEF**

18 **Breach of Contract, California Common Law**

19 117. Plaintiff repeats and realleges each and every allegation contained in
20 paragraphs 1 through 69 as if fully set forth herein.

21 118. The EULA constitutes a valid and binding contract between Plaintiff and
22 all users of EverQuest software. All users of the legitimate EverQuest client software,
23 including the Rain of Fear client upon which THJ is based, must affirmatively click
24 through and accept the EULA before accessing the EVERQUEST game. This
25 mandatory clickthrough agreement creates a binding contractual relationship between
26 Daybreak and each user.

27 119. Defendants, individually or collectively, have accessed and used the
28 EverQuest software and, in doing so, agreed to be bound by the terms of the EULA.

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1 The developers of THJ, including but not limited to those known publicly only by the
2 aliases “Aporia” and “Catapultam-Habeo,” have demonstrated intimate familiarity
3 with the EverQuest client software that could only be obtained through direct use of
4 the software, necessarily including acceptance of the EULA.

5 120. The EULA explicitly prohibits users from, among other things:

- 6 a. Creating “any means through which the Game may be played by
7 others, such as through server emulators” (EULA ¶ 9);
8 b. Using “any third party software to modify the Software to change
9 Game play” (*id.*); and
10 c. Copying, distributing, modifying, creating derivative works, or
11 transferring any portion of the Software. *Id.* at ¶ 7.

12 121. Defendants have materially breached the EULA by:

- 13 a. Creating and operating a server emulator that provides an
14 unauthorized means to play EverQuest;
15 b. Modifying the EverQuest client software to connect to
16 unauthorized servers; and
17 c. Creating derivative works based on EverQuest software.

18 122. As a direct and proximate result of Defendants’ breach of contract,
19 Daybreak has suffered and will continue to suffer monetary damages in an amount to
20 be proven at trial.

21 123. Daybreak has suffered and will continue to suffer irreparable harm for
22 which monetary damages are inadequate. Unless restrained by this Court, Defendant
23 will continue to breach the EULA and Daybreak is entitled to injunctive relief.

24 **EIGHTH CLAIM FOR RELIEF**

25 **Unfair Competition, California Cal. Bus. & Prof. Code § 17200**

26 124. Daybreak repeats and realleges each and every allegation contained in
27 paragraphs 1 through 69 as if fully set forth herein.
28

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1 125. Defendants have misrepresented their goods or services as those of
2 Daybreak.

3 126. Specifically, Defendants have engaged in passing off by:

4 a. Using Daybreak's EVERQUEST marks and content in connection
5 with THJ;

6 b. Creating the false impression that THJ is affiliated with,
7 authorized by, or connected to Daybreak;

8 c. Adopting trade dress and visual elements associated with
9 EverQuest; and

10 d. Otherwise misrepresenting the source of THJ to consumers in
11 California.

12 127. Defendants' passing off has caused and is likely to cause confusion
13 among consumers in California as to the source, sponsorship, affiliation, or approval
14 of THJ.

15 128. As a direct and proximate result of Defendants' passing off, Daybreak
16 has suffered and continues to suffer damages, including diverted customers and harm
17 to its reputation and goodwill in California.

18 129. Defendants' passing off has been willful and malicious, entitling
19 Daybreak to punitive damages.

20 130. Daybreak is entitled to injunctive relief, compensatory damages,
21 disgorgement of Defendants' profits, and punitive damages.

22 **NINTH CLAIM FOR RELIEF**

23 **Unjust Enrichment Under California Common Law**

24 131. Daybreak repeats and realleges each and every allegation contained in
25 paragraphs 1 through 69 as if fully set forth herein.

26 132. Through the development, operation, and promotion of THJ, Defendants
27 have wrongfully obtained benefits at Daybreak's expense.

28 133. Specifically, Defendants have:

- a. Profited from the use of Daybreak's intellectual property without authorization;
- b. Received donations, subscriptions, or other financial contributions from users for THJ;
- c. Enhanced their reputation and gained recognition in the gaming community by exploiting Daybreak's creative work; and
- d. Obtained substantial value from Daybreak's investment in developing and maintaining EverQuest without bearing the costs of that development.

134. It would be unjust and inequitable to permit Defendants to retain these benefits without compensation to Daybreak.

135. Daybreak is entitled to restitution from Defendants in an amount to be proven at trial, representing the value of the benefits conferred upon Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment against Defendants as follows:

a. For preliminary and permanent injunctive relief enjoining Defendants and all persons acting in active concert or participation with them from:

1. Developing, operating, hosting, maintaining, updating, modifying, distributing, advertising, marketing, promoting, or otherwise making available any software, server, service, emulator, installer, launcher, or tool that reproduces, derives from, or facilitates access to Plaintiff's copyrighted EverQuest content, including but not limited to The Heroes' Journey;

2. Providing support, updates, bug fixes, community engagement, technical assistance, or instructions related to the installation, use, or configuration of any such infringing material;

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1 3. Operating, maintaining, or directing others to any Discord server,
2 forum, website, or social media account used to promote or support the
3 infringing emulator or related tools

4 4. Circumventing technological measures that effectively control
5 access to Daybreak's copyrighted works;

6 5. Using the EVERQUEST Mark or any confusingly similar
7 variations thereof; and

8 6. Interfering with Plaintiff's business relationships with its
9 customers;

10 b. For an order requiring Defendants to deliver to Plaintiff for destruction
11 all copies of materials that infringe Plaintiff's copyrights or trademarks, including all
12 source code, executable files, documentation, promotional materials, and any and all
13 other items related to the THJ emulator;

14 c. For an order requiring Defendants to disable any and all websites, servers,
15 or other online services that host, distribute, or promote the THJ emulator;

16 d. For an award of actual damages suffered by Daybreak as a result of
17 Defendants' infringement, or, at Plaintiff's election, statutory damages pursuant to 17
18 U.S.C. § 504(c) for copyright infringement;

19 e. For an award of Defendants' profits attributable to their infringement of
20 Plaintiff's copyrights pursuant to 17 U.S.C. § 504(b);

21 f. For an award of statutory damages pursuant to 17 U.S.C. § 1203 for
22 violations of the Digital Millennium Copyright Act;

23 g. For an award of damages for breach of contract in an amount to be
24 determined at trial;

25 h. For an award of Plaintiff's costs and reasonable attorneys' fees pursuant
26 to 17 U.S.C. §§ 505 and 1203, 15 U.S.C. § 1117, and other applicable law;

27 i. For an order requiring Defendants to file with the Court and serve upon
28 Daybreak's counsel within thirty (30) days after entry of final judgment a report in

1 writing under oath setting forth in detail the manner and form in which Defendants
2 have complied with the Court's orders; and

3 j. For any such other and further relief as the Court deems just and proper.

4 **DEMAND FOR JURY TRIAL**

5 Plaintiff hereby demands a jury trial for all claims so triable, as provided by
6 Rule 38 of the Federal Rules of Civil Procedure.

7
8 Dated: June 10, 2025

Respectfully submitted,

9 DENTONS US LLP

10
11 By: /s/ Nicholas B. Janda

12 Nicholas B. Janda

13 Monica B. Richman (*pro hac vice* pending)

14 Daniel A. Schnapp (*pro hac vice* pending)

15 Mary Kate Brennan (*pro hac vice* pending)

16 *Attorneys for Plaintiff*

17 DAYBREAK GAME COMPANY, LLC