

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

EROS, LLC,	:	CIVIL ACTION NO.:
	:	
Plaintiff,	:	
	:	
v.	:	JURY TRIAL DEMANDED
	:	
JOHN DOE, a/k/a VOLKOV CATTENEO,	:	
a/k/a AARON LONG,	:	
	:	
Defendant.	:	
	:	

COMPLAINT

Plaintiff Eros, LLC ("Eros") says the following by way of Complaint:

NATURE OF THE ACTION

1. Eros is one of the most successful merchants doing business within the virtual world platform known as Second Life. Eros makes and sells virtual adult-themed objects within the Second Life platform.

2. Defendant John Doe, a/k/a Volkov Catteneo, a/k/a Aaron Long ("Defendant"), has been making and selling, and continues to make and sell numerous unauthorized copies of Eros's virtual products within Second Life using Eros's trademark in violation of the Lanham Act and the Copyright Act.

3. Eros brings this action to recover damages arising from and to enjoin defendant's violation of the Lanham and Copyright Acts.

PARTIES AND JURISDICTION

4. Eros is a limited liability corporation organized under the laws of Florida having its principal place of business at 16207 September Drive, Lutz, Florida 33549.

5. Upon information and belief, defendant John Doe a/ka/ Volkov Catteneo a/k/a Aaron Long ("Defendant"), whose actual identity is presently unknown to Eros, is an individual residing in the United States.

6. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338(a) and 15 U.S.C. § 1121.

7. This Court has personal jurisdiction over defendant, and venue is proper within this District pursuant to 28 U.S.C. § 1391(a)(2) because defendant has purposefully directed his course of conduct and other infringing acts toward, and has injured, Eros, which is a entity having its principal place of business within this District, because a substantial part of the acts and omissions giving rise to the claims in this action occurred in this District, and because a substantial portion of the property that is the subject of this action is situated within this District.

FACTUAL BACKGROUND

8. The Second Life virtual world platform ("Second Life") is an internet hosted interactive computer simulation which allows its participants to see, hear, use and modify the simulated objects in the computer generated environment. Second Life users adopt a Second Life name and a character or "avatar" to represent themselves virtually within Second Life.

9. Linden Research, Inc. ("Linden") owns and operates Second Life, which is currently hosted at <http://secondlife.com>. According to Linden, there are currently over 7 million different Second Life accounts. There are Second Life users throughout the United States and in many foreign countries.

10. At all times relevant to this Complaint and continuing to the date of the filing of this Complaint, by and through the "Terms of Service" governing users' participation in Second Life, Linden has recognized and allowed Second Life users to retain all intellectual property

rights in the digital content that they create, place or otherwise own within Second Life. As a result, Second Life users conduct significant commerce within Second Life each day. According to Linden, on a typical day Second Life users conduct transactions cumulatively involving well over 1 million dollars.

11. Eros is engaged in, *inter alia*, the sale of a number of adult-themed virtual objects for use within Second Life in interstate commerce to Second Life users throughout the United States and foreign countries.

12. Principally through the marketing efforts of Kevin Alderman, Eros's Chief Executive Officer (known within Second Life as "Stroker Serpentine"), Eros's products have become widely known within Second Life, with Mr. Alderman, Eros and Eros's products receiving substantial coverage from national and international technologically oriented media properties such as *ABC Australia*, *Wired*, *eBay Magazin*, *InformationWeek*, *iVillage*, and *Huff Report*.

13. Eros also routinely promotes its products throughout Second Life by placing advertisements and conducting promotional events within numerous virtual adult/social themed clubs within Second Life.

14. Eros's products have built a reputation within Second Life for performance, quality and value, and as a result, upon information and belief, are among the best selling adult-themed virtual objects within Second Life.

15. Two of these products are known as the SexGen Platinum Base Unit v4.01 (hereinafter, "Item 1") and the SexGen Platinum+Diamond Base v5.01 ("hereinafter, "Item 2" and together with Item 1, the "Items"). True and correct screen shots depicting Item 1 and Item 2 as they appear within Second Life are attached as Exhibits "A" and "B", respectively.

16. Eros uses the SexGen trademark (the "Mark") to sell the Items within Second Life, and generally as a method of identifying a number of Eros's products, including but not limited to the Items.

17. Since 2005, Mr. Alderman, by and through Eros as well as a previous company that Mr. Alderman owned, has sold thousands of copies of the Items in interstate commerce to Second Life users in locations throughout the United States and in numerous foreign countries, using the Mark. Eros currently owns all rights in and to the Mark.

18. As a result of Eros's substantial sales of the Items, and Mr. Alderman's and Eros's promotional and advertising efforts, the Mark has become famous and distinctive among the relevant consuming public, serving to distinguish Eros's goods from those of its competitors and to identify Eros as the source of those goods.

19. On or about June 11, 2007, Eros filed an application to obtain federal trademark registration, serial number 77202601, for the Mark with the United States Patent and Trademark Office.

20. Eros offers the Items for sale within Second Life on a "no copy" basis, meaning that while Eros permits other Second Life users to, *inter alia*, transfer the Items that Eros sells to other Second Life users, Eros prohibits other Second Life users from making copies of the Items.

21. The Items are comprised of original material that is copyrightable.

22. Eros is the owner of the copyrights in the Items within the meaning of 17 U.S.C. § 101.

23. On or about June 25, 2007, Eros filed applications for copyright registrations for Item 1 and Item 2 with the United States Copyright Office. True and correct copies of the applications and other documents associated with the applications are attached as Exhibits "C"

24. Defendant maintains one or more accounts within Second Life, and is known as Volkov Catteneo within Second Life. On information and belief, based on information obtained through Eros's investigation of Defendant's activities, defendant is an adult male who has in connection with his other on-line activities listed his name as "Aaron Long." Eros does not know whether Aaron Long is a pseudonym.

25. Despite reasonable efforts, Eros does not presently know Defendant's true identity or address but intends to obtain this information by way of subpoenas directed to one or more internet service providers that are likely to have obtained said information from Defendant.

26. Beginning no later than in or about April, 2007, defendant has made and sold, using the Mark, numerous unauthorized copies of the Items, and derivative works based on the Items, within Second Life in interstate commerce to Second Life users in locations such as Georgia, West Virginia and Great Britain. In connection with the sales of the unauthorized copies of the Items, Defendant has misrepresented the copies as authorized and legitimate copies of the Items created by Eros, resulting in actual consumer confusion regarding the origin of the copies. A true and correct screen shot depicting an unauthorized copy of the Item that Eros has been able to obtain is attached as Exhibit "D."

27. Defendant's acts as described herein have at all times been and continue to be willful, wanton, malicious, and committed in bad faith, with the deliberate intent to deceive or confuse the consuming public, to harm Eros in its business by trading off of the reputation and goodwill associated with the Mark, and to unjustly profit from the fame of and goodwill associated with the Mark.

28. As a direct and proximate result of defendant's acts, Eros has been damaged and continues to be irreparably damaged through the diversion of sales, profits and consumer interest

from Eros to Defendant, and the creation of consumer confusion and uncertainty as to the source and quality of Eros's products and its affiliation with or sponsorship of Defendant.

29. Defendant will suffer no harm as the result of a grant preliminary and/or permanent injunctive relief in Eros's favor and against Defendant, as Defendant has no legal justification for his sale of unauthorized use of the Mark and infringement of Eros's copyrights, and is making no legitimate use of Eros's Mark and copyrights.

30. There is a substantial likelihood that Eros will succeed on the merits of its Lanham Act and Copyright Act claims against Defendant.

31. The public interest favors the entry of an injunction against Defendant to protect consumers in Florida and elsewhere from the confusion, diversion, and deception that has been and is likely to continue being caused by Defendant's illegal conduct.

**COUNT I
LANHAM ACT VIOLATION-UNFAIR COMPETITION
AND FALSE DESCRIPTION OF ORIGIN**

32. Eros incorporates the allegations of paragraphs 1 through 31 as though set forth fully herein.

33. Defendant has falsely designated the origin of the unauthorized copies of the Items defendant has sold, and made false and misleading descriptions and representations of fact in the course of selling these copies.

34. Defendant's conduct as described above has caused confusion, mistake and deception as to the origin, sponsorship or approval by Eros of defendant's goods and commercial activities.

35. Defendant's conduct was willful.

36. As a direct and proximate result of Defendant's conduct, Eros has suffered and will continue to suffer damages from lost sales, the diversion of consumer interest, and injury to its business reputation and to the goodwill associated with its products and materials in an amount to be proven at trial.

37. Upon information and belief, Defendant continues to make unauthorized copies of the Items, and to make false and misleading descriptions and representations of fact in the course of selling these copies, and in the absence of an injunction prohibiting Defendant from doing so, intends to and will continue to do so in the future.

WHEREFORE, plaintiff Eros LLC demands judgment in its favor and against Defendant:

- (a) awarding Eros an amount equal to three times the damages sustained by Eros or three times Defendant's profits, whichever amount is greater;
- (b) awarding Eros prejudgment interest and costs of suit;
- (c) awarding Eros reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(b);
- (d) preliminarily and permanently enjoining Defendant from infringing the Mark, pursuant to 15 U.S.C. § 1116.
- (e) requiring Defendant to deliver up for destruction all infringing copies of the Items bearing the Mark, and all articles by means of which infringing copies of the Items may be reproduced; and
- (f) granting such other and further relief as the Court may deem just.

**COUNT II
COPYRIGHT INFRINGEMENT**

38. Eros incorporates the allegations of paragraphs 1 through 37 as though set forth fully herein.

39. By Defendant's conduct as described above, Defendant has infringed Eros's copyrights in the Items.

40. Defendant's infringement was willful.

41. As a direct and proximate result of Defendant's conduct, Eros has suffered damages.

42. Upon information and belief, Defendant is continuing to infringe Eros's copyrights in the Items by, *inter alia*, copying, displaying, distributing and selling copies of the Items, and derivative works based on the Items, without Eros's authorization, and in the absence of an injunction prohibiting Defendant from doing so, intends to and will continue to do so in the future.

WHEREFORE, plaintiff Eros LLC demands judgment in its favor and against Defendant:

(a) awarding Eros an amount equal to Eros's actual damages and any additional profits of Defendant, or in the alternative, statutory damages pursuant to 17 U.S.C. § 504;

(b) awarding Eros prejudgment interest and its costs of suit;

(c) awarding Eros reasonable attorneys' fees;

(d) preliminarily and permanently enjoining Defendant from infringing Eros's copyrights in the Items;

(e) requiring the impounding and destruction of all infringing copies of the Items and of all articles by means of which infringing copies of the Items may be reproduced, pursuant to 17 U.S.C. § 503; and

(f) granting such other and further relief as the Court may deem just.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

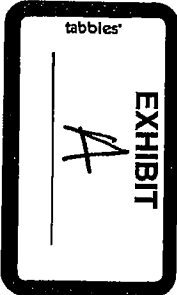
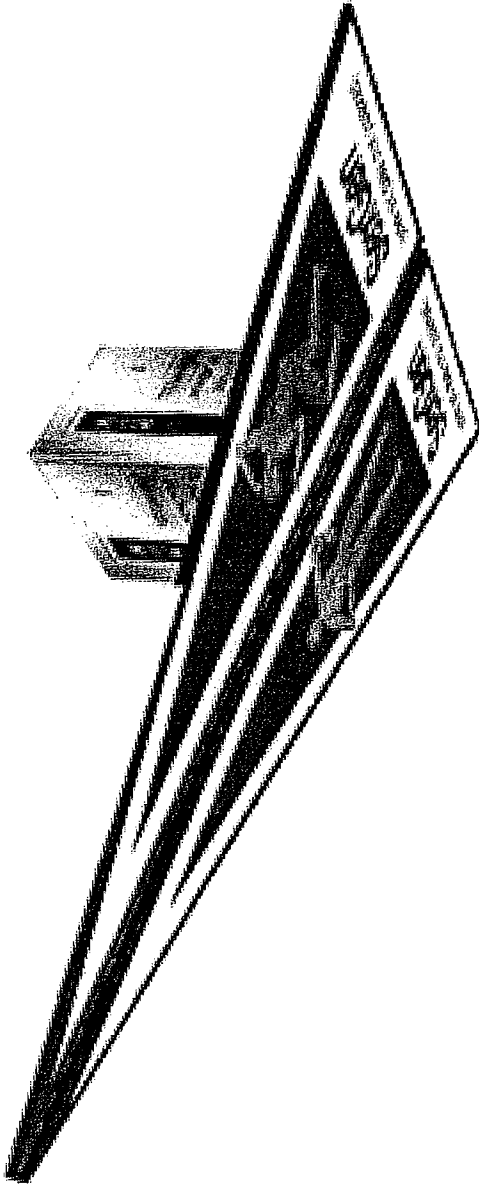


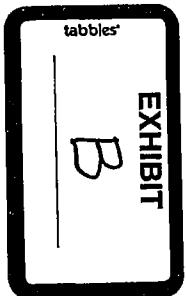
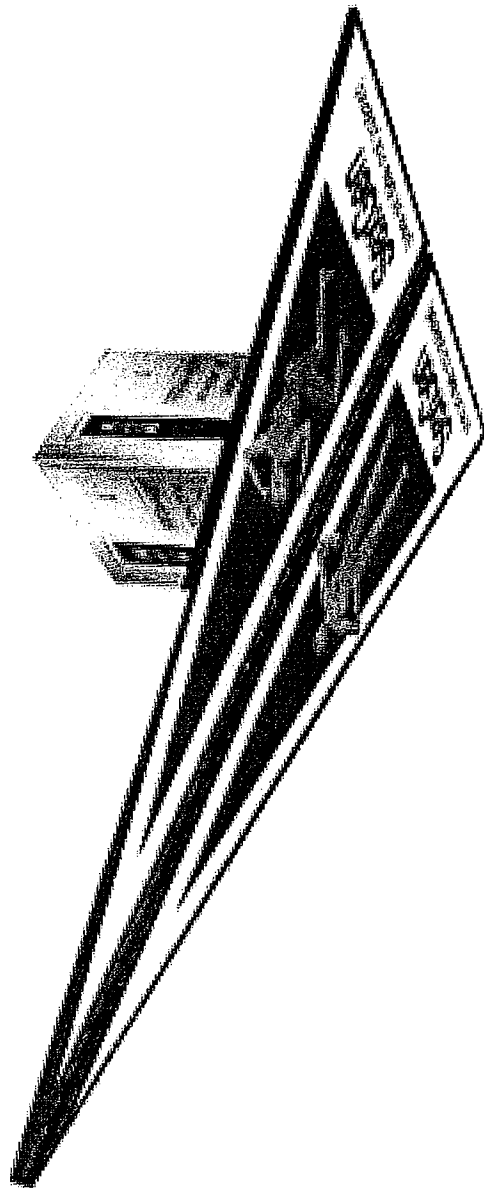
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Attorneys for Plaintiff

Dated: July 3, 2007







REGISTRATION NUMBER

VA VAU
EFFECTIVE DATE OF REGISTRATION
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

Title of This Work ▼ **SexGen Platinum + Diamond Base v5.01** NATURE OF THIS WORK ▼ See instructions **Computer Graphic/Animation**

Previous or Alternative Titles ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

NAME OF AUTHOR ▼ **Eros, LLC** DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"? Yes No
Author's Nationality or Domicile Name of Country OR Citizen of United States Domiciled in Lutz, Florida
Was This Author's Contribution to the Work Anonymously? Yes No Pseudonymously? Yes No

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

Nature of Authorship Check appropriate boxes. See instructions
 3-Dimensional sculpture Map Technical drawing
 2-Dimensional artwork Photograph Text
 Reproduction of work of art Jewelry design Architectural work

Name of Author ▼ Dates of Birth and Death
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"? Yes No
Author's Nationality or Domicile Name of Country OR Citizen of _____ Domiciled in _____
Was This Author's Contribution to the Work Anonymously? Yes No Pseudonymously? Yes No

Nature of Authorship Check appropriate boxes. See instructions
 3-Dimensional sculpture Map Technical drawing
 2-Dimensional artwork Photograph Text
 Reproduction of work of art Jewelry design Architectural work

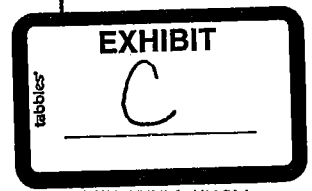
Year in Which Creation of This Work Was Completed 2004 This information must be given in all cases. Date and Nation of First Publication of This Particular Work Month March Day 28 Year 2005 Complete this information ONLY if this work has been published. United States Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼
Eros, LLC
16207 September Drive, Lutz, Florida 33549

APPLICATION RECEIVED
ONE DEPOSIT RECEIVED
TWO DEPOSITS RECEIVED
FUNDS RECEIVED

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

MORE ON BACK ► - Complete all applicable spaces (numbers 5-8) on the reverse side of this page.
- See detailed instructions. - Sign the form at line 8.



DO NOT WRITE HERE
Page 1 of _____ pages

EXAMINED BY

FORM VA

CHECKED BY

CORRESPONDENCE
Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

Yes No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼

a. This is the first published edition of a work previously registered in unpublished form.

b. This is the first application submitted by this author as copyright claimant.

c. This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼ Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

See instructions
before completing
this space.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name ▼ Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

Eros, LLC
16207 September Drive, Lutz, Florida 33549

Area code and daytime telephone number (813) 842-0761

Fax number (813) 930-9206

Email stroker.serpentine@gmail.com

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one author
 other copyright claimant
 owner of exclusive right(s)
 authorized agent of Eros, LLC

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

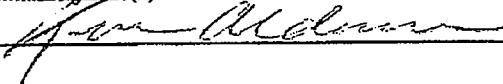
of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Kevin Alderman, CEO, Eros, LLC

Date 06/22/07

Handwritten signature (X) ▼

X 

Certificate
will be
mailed in
envelope
to the
address.

Name ▼
Eros, LLC

Address
16207 September Drive

City, State, Zip
Lutz, Florida 33549

YOU MUST:

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL ELEMENTS

- Application form
- Registration fee
- Copyright fee
- Copyright fee
- Copyright fee
- Copyright fee
- Copyright fee
- Copyright fee
- Copyright fee
- Copyright fee

U.S. Copyright Office, 1007 N. 17th St., Arlington, VA 22209-4342

