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NORTHERN DISTRICT OF CALIFORNIA

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17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

CRB

19 AMARETTO RANCH BREEDABLES, LLC, a
20 California Limited Liability Corporation

CV 10 - 5696
Case No.:

21 Plaintiff,
22 v.
23 OZIMALS, INC., an Alabama corporation,
24 Defendant.

**COMPLAINT FOR DECLARATORY
JUDGEMENT;
MISREPRESENTATION UNDER 17
U.S.C. § 512(f), TORTUOUS
INTERFERENCE WITH
CONTRACT, TORTUOUS
INTERFERENCE WITH
PROSPECTIVE BUSINESS
ADVANTAGE, UNFAIR
COMPETITION UNDER BUS.&
PROF. CODE § 17200, AND MISUSE
OF COPYRIGHT, 17 U.S.C. § 102(B).
AND INJUNCTIVE RELIEF**

DEMAND FOR JURY

1 Plaintiff, Amaretto Ranch Breedables, LLC, a California limited liability company hereby
2 sues Ozimals, Inc., an Alabama company, and alleges as follows:

3 **JURISDICTION & VENUE**

4 1. This is a civil action seeking declaratory relief and damages and arises under the
5 copyright laws of the United States, 17 U.S.C. §§ 101, et seq. This Court has subject matter
6 jurisdiction under 28 U.S.C. §§ 1331, 1332, and 2201, and the Declaratory Judgment Act, 28 U.S.C.
7 § 2291.

8 2. This Court also has jurisdiction under the Digital Millennium Copyright act (DMCA)
9 under 17 U.S.C. § 512(g)(3)(D) which provides that "jurisdiction of Federal District Court for the
10 judicial district in which the address of the [counter-notification subscriber] is located."

11 3. This Court has supplemental jurisdiction of the state statutory and common law
12 claims under 28 U.S.C. §§ 1338(b) and 1367(a). This complaint asserts claims for federal
13 misrepresentation under 17 U.S.C. § 512(f); for violation of California statutes §§ 17200 et seq. and
14 the common law of California.

15 4. This Court has personal jurisdiction and venue is proper in this Court pursuant to 28
16 U.S.C. § 1391 since Defendant is, upon information and belief doing business in, and substantially
17 all conduct occurred within this District.

18 **INTRADISTRICT ASSIGNMENT**

19 5. Intradistrict assignment to the San Francisco Division is appropriate per Civil Local
20 Rule 3-2(c), as a substantial part of events which give rise to the claims alleges in this Complaint
21 occurred in San Francisco County.

22 **THE PARTIES**

23 6. Plaintiff, Amaretto Ranch Breedables, LLC is a California Limited Liability
24 corporation with its principle place of business at 24570 Summerfield Drive, Moreno Valley,
25 California 92557.

26 7. Amaretto Ranch Breedables, LLC creates and sells animated, virtual digital animals
27 and associated products in its virtual store in Second Life, a three dimensional virtual world created

1 and operated by Linden Research, which has a principle place of business at of 945 Battery Street,
2 San Francisco, California 94111.

3 8. Plaintiff is informed and believes and thereon alleges that Defendant Ozimals, Inc. is
4 an Alabama company with an address of P.O. Box 1532, Pelham, Alabama 35124 and it sells digital
5 animals and associated products within Second Life.

6 **SUMMARY OF THE COMPLAINT**

7 9. This is a civil action seeking declaratory relief and damages following Defendant's
8 misrepresentation to Linden Research, Inc. that will result in, and most likely has resulted in as of
9 the date of the filing of this complaint, the improper "takedown" of Plaintiff's entire product line
10 within Second Life, thus causing irreparable harm to Plaintiff's business and reputation.

11 10. Second Life, a virtual world platform created by Linden Research, Inc., allows users
12 to create three dimensional environments, animated avatars and other creatures, and various other
13 things through the use of the Linden Scripting Language. Once created, many users sell copies of
14 these things to other users in virtual stores within Second Life, with many of these entrepreneurs
15 making substantial profits. Amaretto Ranch Breedables, LLC and Ozimals, Inc. are competitors in
16 the three dimensional (3D) environment, and with respect to Second Life.

17 11. On or about November 2, 2010 Ozimals, Inc. ("Ozimals") improperly alleged in a
18 cease-and-desist letter to Plaintiff Amaretto Ranch Breedables, LLC ("Amaretto") that Amaretto's
19 virtual horse that eats virtual food to grow into an adult and actually survive within Second Life was
20 the same as Ozimals' virtual bunny, and that Amaretto's products infringed Ozimals' alleged
21 copyrighted product, although no copyright registration, nor any patent was claimed or produced by
22 Ozimals to Amaretto.

23 12. On or about November 22, 2010 Amaretto's attorney responded to Ozimals' cease-
24 and-desist letter by pointing out to Ozimals' attorney, among other things, that Ozimals claimed
25 copyrights to the functional elements or traits of its product are not protectable under United States
26 copyright law. Moreover, the idea of a virtual animal that eats virtual food to survive and will "die"
27 without the food, is an idea, which can only protected by United States patent law - copyright and
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1 patent concepts Ozimals' attorney knew or should have known.

2 13. On or about December 1, 2010 Ozimals submitted a DMCA Notification to Linden
3 Research, Inc., owners of Second Life, claiming copyrights to "in world" items, such as "the scripts,
4 the screen displays, expression and game play generated by those scripts for a breedable virtual
5 animal in the form of a bunny" and that the "in world" Amaretto Horses Product Line infringed
6 Ozimals' alleged copyrights, therefore requiring Second Life, pursuant to its Terms of Service and
7 17 U.S.C. § 512, in order to preserve its Safe Harbor status, to takedown Amaretto's products during
8 the present busy holiday shopping season.

9 14. On or about December 9, 2010, Amaretto submitted a Counter DMCA Notification to
10 Linden Research, Inc. requesting that it reject Ozimals claims for copyright infringement because the
11 claimed copyright violation was based on mistaken information, misidentification of material in
12 question, or deliberate misreading of the law.

13 15. Plaintiff is informed and believes and thereon alleges that Linden Research, Inc. will
14 takedown Amaretto's product line at any moment, during the height of the holiday shopping season,
15 thereby causing irreparable harm and damage to Amaretto.

16 16. Since Ozimals actions will irreparably harm Amaretto's business and reputation
17 unless Linden Research, Inc. is preliminarily and permanently enjoined from taking this action,
18 Amaretto seeks a temporary restraining order, including cost and preliminary and permanent
19 injunction, damages, profits, statutory damages, attorneys fees and costs and other relief as more
20 fully set forth below.

21 **STATEMENT OF FACTS**

22 17. Second Life is a virtual world platform developed and owned by Linden Research,
23 Inc. Built into the software is a three-dimensional modeling tool based around geometric shapes that
24 allows users to build virtual objects. Functionality is added to virtual objects through the use of the
25 Linden Scripting Language, the copyrights for which are owned by Linden Research, Inc. All
26 objects and scripts, when created, have permissions set. The permissions available are "modify,
27 copy, transfer and move." If "modify" is enabled, one can edit properties like item name or object
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1 scale. "Modify" permissions also grant the ability to delete an object. If 'copy" is enabled, one can
2 make as many copies as needed of the original item. Copies maintain creator information, and can
3 never be more permissive than the item being copied. If "transfer" is enabled, the owner creator can
4 transfer the item to another user. If an item is not transferable, the new owner cannot sell, give away,
5 release or embed in something they sell, give away, or release. The transfer permission only applies
6 to the owner, since no one else can initiate a transfer. If "move" is enabled, the object can be moved.
7 The permissions track four primary categories for each object – 1) owner, 2) group, 3) everyone else,
8 and 4) next owner. Each category has its own set of permissions. It is through the use of these
9 permissions that creators lock items or make them available on differing levels to the other users of
10 Second Life. (See Exhibit 1 - Jason J. Jazdzewski Declaration (hereinafter, "Jazdzewski Dec."), ¶
11 10).

12 18. The term "breedable animal" in the 3D environment loosely means that the virtual
13 animal mimics the life of a real animal: it eats to survive, sleeps and replicates. (Jazdzewski Dec., ¶
14 11)

15 19. On or about October 26, 2009, and unaware of Ozimals endeavors, Amaretto wrote
16 "a food script" in the Second Life environment, allowing "a newly born" virtual animated animal to
17 eat "virtual food," grow into different stages of its life if it continued to eat the "virtual food," and
18 die if it was not fed the "virtual food". This was the beginning of Amaretto's development of the
19 Amaretto Horse Product Line which includes, among other things, an Amaretto breedable horse and
20 virtual food (sold in various quantities) from which it sells copies and transfers the rights to the
21 product to other users in Second Life. (Jazdzewski Dec., ¶ 12, and Exhibit A to Jazdzewski Dec.-
22 Copies of Images of the Amaretto Virtual Breedable Horse)

23 20. The idea encapsulated in Amaretto's virtual horse - that one must feed it in order for
24 it to grow, survive and replicate - was well known and was in the public domain long before either
25 Ozimals' or Amaretto's products were in existence: 1) PlantPets (virtual plants that must be given
26 virtual water to grow to survive and will self-replicate every 52 days) were created by Bruce
27 Liebknecht in or about 2007; 2) Sion Zaius Chickens (virtual chickens that must be given virtual
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1 feed to survive and grow from chicks to adults and are programed to engage in virtual mating habits
2 to replicate) were created on or about December 13, 2008; 3) HunnyBunny (virtual bunnies that
3 must receive virtual food to survive and are programmed to engage in virtual mating habits to
4 replicate) created by Hunny Larimore on or about January 2, 2009; 4) Petables' Turtles (virtual
5 turtles that must receive virtual food to survive and grow from babies to adults and are programmed
6 to engage in virtual mating habits to replicate) created by Mathew Anthony on or about August 27,
7 2009; and PinkyPigs (virtual pigs that must receive virtual food to survive and grow from babies to
8 adults and are programmed to engage in virtual mating habits to replicate) created on or about
9 December 25, 2009. (Jazdzewski Dec., ¶ 13)

10 21. Of course, it is well known and established that an idea is not protected by a
11 copyright, but rather, a patent is required to protect an idea. On or about November 20, 2010 and
12 again on or about December 13, 2010, Amaretto's attorney, Stevan H. Lieberman did patent searches
13 for "breedable" virtual "animal" patents. Mr. Lieberman did not locate any patents in the name of
14 Ozimals, Inc., but he located US Patent No. 7,179,171, a fish breeding toy for cellular telephones
15 issued to Clifton L. Forlines and Joseph W. Marks in 2007. (see Exhibit 2 – A true and correct copy
16 of US Patent No. 7,179,171). The patent, which requires a cell phone, is a game where multiple
17 virtual fish can be bred with each other and the virtual genetic traits of these fish are combined to
18 create more fish. Moreover, after doing further research in other databases, he discovered that the
19 concept of a breedable virtual animal that could pass on its "genetic traits" is as old as June 26, 1997
20 when Digimon virtual pet (by the same creators as Pokemon) was released. Since that that time there
21 have been dozens of games and toys which use the concept to one degree or another

22 22. On or about November 4, 2010 Amaretto received a cease and desist letter dated
23 November 2, 2010 from the attorney representing Ozimals alleging that Ozimals had a copyright for
24 its virtual bunny, alleging that the Amaretto's virtual horse was a "virtual clone" of Ozimals' virtual
25 bunny, and alleging that Amaretto's products infringed Ozimals' alleged copyrighted products. In
26 that letter Ozimals also claimed it "introduced a breedable, virtual animal in the form of a bunny"
27 into Second Life in late 2009. (Exhibit 3 – Ozimals' Nov. 4, 2010 Letter). However, the Ozimals
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1 Facebook page stated that the “bunny will be released to the public on January 9, 2010.” (Jazdzewski
2 Dec., ¶ 14)

3 23. Amaretto immediately engaged an attorney, and a response to the November 2, 2010
4 letter was sent on November 22, 2010 to Ozimals’ attorney, pointing out that Ozimals could not have
5 a copyright to the functional elements or traits of its products, was not the first to create a breedable,
6 virtual animal, could not have a copyright to the idea of the breedable, virtual animal, and that
7 because Amaretto began creating its script for the “virtual food” in October 2009, it could not copy
8 the script to an Ozimals bunny that was released in January 9, 2010. (see Exhibit 4 – Amaretto’s
9 Nov. 22, 2010 Letter).

10 24. Instead of responding to the November 22, 2010 letter, on or about December 1, 2010
11 Ozimals filed, pursuant to § 512(c)(3) of the Digital Millennium Copyright Act (“DMCA”) a DMCA
12 Notification with Linden Research, Inc. claiming, among other things, that Ozimals, Inc. owns the
13 copyrights to the following: “the scripts, the screen displays, expression and game play generated by
14 those scripts for a breedable virtual animal in the form of a bunny (the Ozimals Bunny). Protected
15 expression in the Ozimals Bunny allegedly include among other things, the selection and
16 organization of certain genetic traits: settings and configurations, such as home position, roaming
17 range, sleep states and energy levels, nutritional feed levels, interactivity settings, breeding settings,
18 selection and expression of additional characteristic utilized in game play, such a breeding age,
19 specific hunger/thirst levels, specific energy levels, specific ‘happiness’ levels and food features and
20 characteristics.” (see Exhibit 5 – Ozimals DMCA Notification to Linden Research, Inc.)

21 25. Ozimals December 1, 2010 DMCA Notification also identified, as infringing
22 Ozimals’ alleged copyrighted expressions of genetic traits, all Amaretto food and water products
23 sold to other Second Life Amaretto horse owners in order to keep their virtual horses “alive.” Once
24 the takedown is implemented, the Amaretto’s horse owners will no longer be able to buy food and
25 water to keep their virtual horses alive and the horses will “die” within 72 hours, thus depriving the
26 owners of the products they purchased from Amaretto. (Jazdzewski Dec., ¶ 12).

27 26. On or about December 9, 2010, after receiving the Ozimals’ DMCA Notification
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1 from Linden Research, Inc. on or about December 8, 2010, Amaretto submitted a Counter DMCA
2 Notification to Linden Research, Inc. requesting, pursuant to 17 USC § 512(g)(2)(B), that Linden
3 Research Inc. not takedown and/or restore the disputed material based on facts outlined in the
4 Amaretto's November 22, 2010 letter and based on a good faith belief that the complaint of
5 copyright violation was based on mistaken information, misidentification of material in question, or
6 a deliberate misreading to the law. Additionally, Amaretto consented to the jurisdiction of the
7 Federal District court for the judicial district in which Amaretto resides in the Counter DMCA
8 Notification. (see Exhibit 6 – Amaretto's Counter DMCA Notification) Both Amaretto and Linden
9 Research, Inc. are based in California.

10 27. Plaintiff is informed and believes and thereon alleges that Linden Research, Inc. will
11 takedown Amaretto's product line pursuant to the DMCA Notification, and/or an amended or
12 corrected version, at any moment, during the height of the holiday shopping season, thereby causing
13 irreparable harm and damage to Amaretto.

14 28. In the virtual computer world of Second Life, computer script code is written quickly
15 and the created virtual images are popular for a short period of time, causing the consuming users to
16 move quickly to become part of the fad before the fad fades. (Jazdzewski Dec., ¶ 11)

17 29. The current holiday season is underway and any take down of Amaretto's products in
18 Second Life would severely and irreparably damage Amaretto. Amaretto believes that Ozimals take
19 down notice and the actions complained of herein are specifically designed to harm and damage its
20 competitor, Amaretto during the busiest time of the year for Amaretto's products.

21 30. Ozimals' intentional, willful, and malicious actions will cause irreparable harm to
22 Amaretto's business reputation and extensive monetary loses and thus to address this injury,
23 Amaretto must pursue this action.

24 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth more fully
25 below.

FIRST CAUSE OF ACTION

(Declaratory Judgment - Declaratory Judgment Act, 28 U.S.C. § 2201)

31. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs 1-30 of the Complaint as set forth above.

32. Plaintiff seeks a declaratory judgment pursuant to 28 U.S.C. § 2201 and Federal Rule of Civil Procedure 57 for the purpose of determining and adjudicating questions of actual and substantial controversy between parties having adverse legal interests of sufficient immediacy and reality to warrant the issuance of declaratory judgment

33. There is a real and actual controversy between Amaretto Ranch Breedables, LLC and Ozimals, Inc. as to whether Plaintiff infringes the copyrights of Defendant.

34. Plaintiff claims that its products do not infringe any exclusive rights secured by the Copyright Act or any other state or federal law, including those laws prohibiting direct, contributory or vicarious infringement. Plaintiff's products are protected by the First Amendment to the United States Constitution and the judicial decisions construing such laws, doctrines, and provisions, and the Fair Use Doctrine, codified at 17 U.S.C. § 107.

35. Plaintiff is therefore entitled to a declaration and judgment that its products do not infringe the alleged copyrights of Defendant, or any other exclusive rights that Defendant might assert under state or federal law.

WHEREFORE, Plaintiff prays for judgment against Defendants as set forth more fully below.

SECOND CAUSE OF ACTION

(Misrepresentation – 17 U.S.C. § 512(f))

36. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs 1-35 of the Complaint as set forth above.

37. Plaintiff is informed and believes and based upon such information and belief alleges that Defendant had actual or constructive knowledge that Amaretto's products did not infringe any "exclusive rights" protected by the Copyright Act, 17 U.S.C. § 106 because Defendant has yet to

1 articulate with specificity what text, graphic, script, etc. is included in its alleged copyright.

2 38. In Defendant's November 2, 2010 cease-and-desist letter and December 1, 2010
3 DMCA notification, purportedly issued under the authority of 17 U.S.C. § 512, Defendant
4 knowingly and materially misrepresented that Plaintiff's products infringed Defendant's un-
5 articulated, yet alleged copyright.

6 39. In Defendant's November 2, 2010 cease-and-desist letter and December 1, 2010
7 DMCA notification, purportedly issued under the authority of 17 U.S.C. § 512, Defendant
8 knowingly and materially misrepresented that Plaintiff could be liable under copyright law for
9 selling any of its products, all of which Defendant claimed were infringing.

10 40. In Defendant's November 2, 2010 cease-and-desist letter and December 1, 2010
11 DMCA notification, purportedly issued under the authority of 17 U.S.C. § 512, Defendant's
12 malicious and willful actions by a competitor were designed to permanently injure Plaintiff's
13 business and reputation.

14 41. Plaintiff has been irreparably injured and will be further injured, and by Defendant's
15 knowingly material misrepresentation and malicious and willful actions that Plaintiff's products
16 infringed Defendant's alleged copyright, resulting in the DMCA takedown by Linden Research, Inc.
17 Defendant's action have proximately caused damage to Amaretto, including but not limited to lost
18 profits, and goodwill, monetary damage and damage to reputation.

19 42. In light of the foregoing, Defendants' claim that they are innocently seeking to protect
20 their alleged, un-articulated copyright is simply a smoke-screen attempt to justify unwarranted
21 interference in the lawful sale of Plaintiff's products is in violation of the DMCA, 17 U.S.C. §
22 512(f).

23 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth more fully
24 below.

25 **THIRD CAUSE OF ACTION**

26 **(Common Law Tortious Interference with Contract)**

27 43. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs

1 1-42 of the Complaint as set forth above.

2 44. Plaintiff has existing contractual relationships with customers who have purchases
3 Amaretto's products. Defendant's November 2, 2010 cease-and-desist letter acknowledges that
4 "individuals who purchased horses from Amaretto posted support questions on Ozimals' website"
5 showing that Defendant was and is aware of the contractual relationship between many users and
6 Plaintiff.

7 45. Defendant's November 2, 2010 cease and desist letter to Plaintiff was designed to
8 stop and prevent Plaintiff from competing with Defendant during the all-important holiday shopping
9 season.

10 46. Defendant's December 1, 2010 DMCA notice to the service provider Linden
11 Research, Inc., misrepresenting that Plaintiff's products violated Defendant's alleged un-articulated
12 copyrights was a further attempt to stop Plaintiff from competing with Defendant during the all-
13 important holiday shopping season.

14 47. Defendant's intentional, willful and malicious actions have and will disrupt Plaintiff's
15 business during the all-important holiday shopping season, cause damage to its reputation and will
16 cause substantial financial harm, including lost profits and goodwill, monetary damage and damage
17 to reputation.

18 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth more fully
19 below.

20 **FOURTH CAUSE OF ACTION**
21 **(Common Law Tortious Interference with Prospective Business Advantage)**

22 48. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs
23 1-47 of the Complaint as set forth above.

24 49. Defendant knew or should have known of Plaintiff's business and economic relations
25 with existing and potential purchaser users of its Amaretto Horse Product Line and through this law
26 suit is willfully committing intentional, malicious and wrongful acts to disrupt these potential
27 purchaser users during this all important holiday shopping season. Since the parties are competitors,

1 Defendant's actively solicits Plaintiff's purchaser users.

2 50. Defendant has committed and continues to commit such intentional, willful and
3 malicious acts with the design of disrupting Plaintiff's business relations and reaping future
4 economic benefit that would flow to Plaintiff, and such actions will cause damage to Plaintiff,
5 including but not limited to lost profits and goodwill, monetary damage and damage to reputation.

6 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth more fully
7 below.

8 **FIFTH CAUSE OF ACTION**
9 **(Unfair Competition - California Business and Professions Code § 17200 et seq.**
10 **And at Common Law)**

11 51. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs
12 1-50 of the Complaint as set forth above.

13 52. Defendants' unlawful, unfair and/or fraudulent business practice of claiming an
14 alleged copyright in and to all of Plaintiff's products in a DMCA letter for the purpose of preventing
15 Plaintiff from competing during the all important holiday shopping season is a violation of
16 California's Unfair Competition law.

17 53. As a proximate result of the acts of Defendants as alleged herein, Plaintiff has
18 suffered and will continue to suffer great damage, including lost profits and by tarnishing of its
19 business, goodwill and reputation by not being able to sell its products during the all-important
20 holiday shopping season.

21 54. Plaintiff has no adequate remedy at law for the acts of unfair competition as alleged
22 herein. Unless this Court grants a stay of Defendant's DMCA takedown notice, Plaintiff will not be
23 allowed to continue selling its products and will suffer irreparable harm.

24 55. The Defendants' intentional, willful and malicious acts as alleged herein, which
25 permit Defendant to compete within the market place without its main competitor during this, all-
26 important holiday shopping season constitutes an act of unfair competition in violation of the laws of
27 the State of California.

28 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth more fully

1 below.

2 **SEVENTH CAUSE OF ACTION**

3 **(Misuse of Copyright - 17 U.S.C.A. § 102(b))**

4 56. Plaintiff realleges and incorporates herein by reference the allegations of paragraphs
5 1-55 of the Complaint as set forth above.

6 57. Plaintiff did not copy Defendant's products, products code, textures or any other
7 expressions allegedly owned by Defendant.

8 58. Defendant does not, and cannot own a copyright to the functions encapsulated in its
9 product as copyrights do not protect functions. 17 U.S.C.A. § 102(b)

10 59. Defendant has claimed ownership of a copyright and yet has failed to articulate with
11 specificity what text, graphic, script, etc. that is included in its alleged copyright, nor have
12 Defendants submitted to Plaintiff a registered copyright.

13 60. Plaintiff is informed and believes and based upon such information and belief alleges
14 that Defendant's motivation in demanding Plaintiff's product removal was not to protect its alleged
15 copyrights, but rather to prevent Plaintiff from competing with Defendant during the all-important
16 holiday shopping season.

17 61. Plaintiff is informed and believes and based upon such information and belief alleges
18 that Defendant used copyright claims in its cease-and-desist letter because the "safe harbor"
19 provisions of the Digital Millennium Copyright Act, 17 U.S.C. § 512, provided a mechanism by
20 which it could demand expeditious takedown of materials alleged to infringe copyright.

21 62. Plaintiff is informed and believes and based upon such information and belief alleges
22 that Defendant did not intend in good faith to follow up on its threats of litigation, because it knew or
23 should have known that it cannot own a copyright to the functions encapsulated in its product.

24 63. Defendant engaged in the misuse of its alleged copyrights, including in the November
25 2, 2010 cease-and-desist letter and the December 1, 2010 DMCA notice, by claiming that Plaintiff's
26 products infringed Defendant's alleged copyrights when Defendant knew, or should have known,
27 that the products did not.

1 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth more fully
2 below.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Amaretto respectfully prays that the Court order the following relief:

5 A. That the Court enter a preliminary and permanent injunction prohibiting Defendant,
6 their officers, agents, servants, employees, and/or all persons acting in privity or in concert or
7 participation with them or any of them, from: (1) requesting the taking down any of Amaretto's
8 products from the Second Life 3D environment and any other 3D environment and (2) engaging in
9 any course of conduct likely to cause injury to Amaretto's business or reputation, now or in the
10 future:

11 B. A preliminary and permanent injunction requiring the current service provider Second
12 Life / Linden Research, Inc. from taking down Amaretto's products pursuant to § 512(c)(3) of the
13 DMCA:

14 C. A declaratory judgment declaring pursuant to 28 U.S.C. § 2201 and Federal Rule of
15 Civil Procedure 57 that Defendant's acts and practices violate 17 U.S.C. § 512, and injunction against
16 further violations; and award of damages sustained by Plaintiffs, including interest, costs, and
17 attorney fees:

18 D. An award of compensatory, consequential, statutory, and punitive damages in an
19 amount to be determined at trial;

20 E. An award of interest, costs and attorneys' fees incurred by Amaretto in prosecuting
21 this action; and

22 F. All other relief to which Amaretto is entitled.

23 Dated: December 15, 2010

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

24
25
26 By: _____

Kenneth Keller
KENNETH E. KELLER

Attorneys for Plaintiff

AMARETTO RANCH BREEDABLES, LLC

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COMPLAINT CASE NO.: _____

DEMAND FOR JURY TRIAL

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Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, demand is hereby made for trial by jury on all issues triable to a jury.

Dated: December 15, 2010

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

By: *Kenneth Keller*
KENNETH E. KELLER
Attorneys for Plaintiff
AMARETTO RANCH BREEDABLES, LLC