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WESTERN DISTRICT OF WASHINGTON  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WIZARDS OF THE COAST LLC, a  
Delaware limited liability company,

Plaintiff,

v.

KRYSZTOF RADZIKOWSKI, an  
individual; JOHN DOE 1, an individual;  
JOHN DOE 2, an individual; and JOHN  
DOE 3, an individual,

Defendants.

No.

CV9

460 RSM

COMPLAINT



09-CV-00460-CMP

In and for its Complaint, plaintiff Wizards of the Coast LLC ("Wizards") alleges as follows:

I. NATURE OF THE CASE

1. This action arises out of the Defendants' willful, wanton, and unauthorized copying and distribution of Wizards' publication Dungeons & Dragons® *Player's Handbook*® 2 ("*Player's Handbook 2*").

2. Dungeons & Dragons is one of the most acclaimed role-playing games of all time ("*Dungeons & Dragons*"), having created the category and enjoying millions of devoted players

COMPLAINT – 1

ORIGINAL

1 worldwide. On March 17, 2009, Wizards released for sale its highly anticipated *Player's*  
2 *Handbook 2*, an expansion of one of the core rulebooks for the Dungeons & Dragons game.

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4  
5 3. Within days of the product's release, Defendants illicitly uploaded a copy of  
6 *Player's Handbook 2* to a file-sharing website, making it available for limitless unauthorized  
7 distribution for free.  
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11 4. Wizards brings this action to stop Defendants' illegal copying and distribution, to  
12 deter future illicit uploading, and to recover its substantial lost sales and profits as a  
13 consequence of Defendants' willful infringement of Wizards' copyrights in *Player's*  
14 *Handbook 2*.  
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## 18 II. PARTIES

19  
20 5. Plaintiff Wizards is a Delaware limited liability company with its principal place  
21 of business in Renton, Washington, and is a wholly-owned subsidiary of Hasbro, Inc. Wizards  
22 is the worldwide leader in the table-top and role-playing game category, and is a leading  
23 developer and publisher of game-based entertainment products.  
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29 6. Upon information and belief, Defendant Krzysztof Radzikowski is a citizen of  
30 Poland.  
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33 7. Upon information and belief, John Doe 1 is an individual who unlawfully  
34 uploaded an electronic copy of *Player's Handbook 2* purchased by Defendant Radzikowski to  
35 Doe 1's webpage on the Scribd file-sharing website. Wizards is currently unaware of the true  
36 name and identity of Defendant John Doe 1, and therefore sues this defendant by a fictitious  
37 name. Wizards will amend the Complaint to allege this defendant's true name and identity  
38 when ascertained.  
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45 8. Upon information and belief, John Doe 2 is an individual who unlawfully  
46 uploaded an electronic copy of *Player's Handbook 2* purchased by Defendant Radzikowski to  
47 Doe 2's webpage on the Scribd file-sharing website. Wizards is currently unaware of the true  
48 name and identity of Defendant John Doe 2, and therefore sues this defendant by a fictitious  
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1 name. Wizards will amend the Complaint to allege this defendant's true name and identity  
2 when ascertained.  
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5 9. Upon information and belief, John Doe 3 is an individual who unlawfully  
6  
7 uploaded an electronic copy of *Player's Handbook 2* purchased by Defendant Radzikowski to  
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9 Doe 3's webpage on the Scribd file-sharing website. Wizards is currently unaware of the true  
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11 name and identity of Defendant John Doe 3, and therefore sues this defendant by a fictitious  
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13 name. Wizards will amend the Complaint to allege this defendant's true name and identity  
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15 when ascertained.  
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17 10. Defendants Radzikowski and Defendants Doe 1, Doe 2, and Doe 3 are joined in  
18  
19 this action pursuant to Federal Rule of Civil Procedure 20(a).  
20

### 21 III. JURISDICTION AND VENUE

22  
23 11. This Court has subject-matter jurisdiction over Wizards' claims pursuant to 28  
24  
25 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1338(a) (copyright).  
26

27 12. Venue is proper in this district under 28 U.S.C. § 1400(a) and 28 U.S.C.  
28  
29 § 1391(d).  
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### 31 IV. FACTS AND BACKGROUND

#### 32 A. WIZARDS OF THE COAST AND DUNGEONS & DRAGONS

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34 13. Created in 1974 by Gary Gygax and Dave Arneson, Dungeons & Dragons (also  
35  
36 known by shorthand as D&D® ("D&D")) is the first role-playing game and the founder of the  
37  
38 role-playing game category.  
39

40  
41 14. D&D rapidly evolved into a cultural and commercial phenomenon with millions  
42  
43 of highly devoted players worldwide. More than 20 million people around the globe are  
44  
45 estimated to have played D&D. Seth Schiesel, "Gary Gygax, 69, Game Pioneer, Dies," *N.Y.*  
46  
47 *Times* (Mar. 5, 2008), at C11. Beyond its commercial success, D&D has had a broad cultural  
48  
49 impact, influencing authors, filmmakers, and video game developers. By "creat[ing] the first  
50  
51 fantasy universe that could actually be inhabited[,] . . . Dungeons & Dragons formed a bridge

1 between the noninteractive world of books and films and the exploding interactive video game  
2 industry." *Id.*  
3

4  
5 15. D&D continues to be highly popular with devoted players worldwide.  
6  
7 Approximately 6 million people currently play D&D.  
8

9 16. To play D&D, players employ pen, paper, and various-sided dice (e.g., 4-sided  
10 and 20-sided dice) to create imaginary characters with varying attributes (such as an elf wizard)  
11 and with randomly determined levels of skill; players proceed to journey through magical lands  
12 searching for treasures and battling monsters. One player is designated the Dungeon Master  
13 and is in charge of the game setting, describing the unfolding of the story and serving as game  
14 referee. A particular game can require days or weeks of play. Devoted D&D players  
15 frequently play into early hours, a reflection of the game's addictive appeal based, in part, on its  
16 focus on storytelling, imagination, and cooperative and social game play.  
17  
18

19 17. Over its 35-year history, the rules and game mechanics of D&D have been refined  
20 and further developed in line with the game's core concepts. In 1978, the original publisher of  
21 the game, TSR, released *Advanced Dungeons & Dragons*, with its comprehensive and elaborate  
22 rules contained in the *Player's Handbook*® and *Dungeon Master's Guide*® core rulebooks.  
23 Since that time, the game's rules have principally been detailed in updated versions of those two  
24 rulebooks along with the *Monster Manual*® core rulebook. These three core rulebooks have  
25 been revised and released in highly anticipated updated editions over the past two decades.  
26  
27 TSR released 2nd editions of the core rulebooks in 1989.  
28  
29

30 18. In 1997, Wizards acquired TSR and began development of 3rd editions of the  
31 core rulebooks. This substantially revised set of core rulebooks was released in 2000. Updated  
32 to reflect fan feedback, in 2003, Wizards released revised versions of the 3rd edition of core  
33 rulebooks (version 3.5). These editions enjoyed worldwide success and formed the basis for  
34 hundreds of supplemental D&D role-playing game products over the ensuing decade.  
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1           19. After years of additional development, and again inspired in part by player  
2 feedback, Wizards released a 4th edition of Dungeons & Dragons in 2008. The 4th edition  
3 game provided for more streamlined play, plus new options for character creation and  
4 interaction. Again, the rules were detailed in the three core 4th edition rulebooks. Release of  
5 the rulebooks was highly anticipated, and Wizards sponsored a Worldwide Dungeons &  
6 Dragons Game Day and coordinated release of the 4th edition with D&D events held around  
7 the globe. The core 4th edition rulebooks have sold hundreds of thousands of copies and are  
8 now in their third printing.  
9

10           20. Shortly thereafter, Wizards also released 4th edition supplemental D&D guide  
11 products, including *Manual of the Planes*™, *Open Grave: Secrets of the Undead*™, and  
12 *Dungeon Delve*™.  
13

14           21. *Manual of the Planes* is a D&D rules supplement. It is a "travel guide" to the  
15 D&D universe and includes rules for players to create their own "planes," or imaginary  
16 dimensions, in the D&D universe. Wizards released the 4th edition *Manual of the Planes* in  
17 December 2008.  
18

19           22. *Open Grave: Secrets of the Undead* is another D&D rules supplement. It explores  
20 the background and tactics of the D&D monsters encountered during play. Wizards released  
21 the 4th edition *Open Grave: Secrets of the Undead* in January 2009.  
22

23           23. *Dungeon Delve* is a further D&D rules supplement. It provides players with a  
24 variety of game settings, each designed for a night of role-playing. Wizards released the 4th  
25 edition *Dungeon Delve* in March 2009.  
26

27           24. Wizards' Dungeons & Dragons website ([www.wizards.com/dnd](http://www.wizards.com/dnd)) offers additional  
28 resources for players, including online community message boards, chat rooms, and discussion  
29 lists. In late 2008, Wizards launched D&D Insider™, a subscription service offering articles,  
30 software tools, and other resources to players to enhance their D&D game experience.  
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25. Dungeons & Dragons has enjoyed widespread success, generating hundreds of millions of dollars from the role-playing games and other entertainment products such as video games, movies, and novels.

**B. WIZARDS RELEASES *DUNGEONS & DRAGONS, PLAYER'S HANDBOOK 2***

26. In March 2009, Wizards began its rollout of a second and supplemental set of core D&D rulebooks, beginning with *Player's Handbook 2*. The new rulebooks complement the core rulebooks and include new content to support higher-level game play, with expanded options for character creation, nonplayer character creation, monsters, and the design of game encounters.

27. *Player's Handbook 2* was released on March 17, 2009, and again was highly anticipated among D&D players. In coordination with the release, Wizards hosted a March 21 *Player's Handbook 2* Game Day. At more than 1,250 registered locations worldwide, players could experience exclusive adventures arising from new features in *Player's Handbook 2*.

28. In its first week on sale, *Player's Handbook 2* reached #28 of the USA Today Bestseller List, for all genres, and #4 of the Wall Street Journal Nonfiction Best-sellers List. As of April 1, 2009, *Player's Handbook 2* had already sold out of its initial print run.

29. Wizards owns all rights, title, and interest in *Player's Handbook 2*, as well as all editions of *Manual of the Planes*, *Open Grave: Secrets of the Undead*, and *Dungeon Delve*.

Wizards has obtained a copyright registration for *Player's Handbook 2*, as set forth below:

Reg. No.	Reg. Date	Title
TX6-908-841	March 27, 2009	Dungeons & Dragons Player's Handbook 2

**C. *PLAYER'S HANDBOOK 2* CAN BE PURCHASED IN ELECTRONIC FORMAT FROM AUTHORIZED THIRD-PARTY VENDORS**

30. Hardcover copies of *Player's Handbook 2* are available for purchase through various retailers. In addition, the rulebook and other Wizards' publications (including, without



1 limitation, *Manual of the Planes*, *Open Grave: Secrets of the Undead*, and *Dungeon Delve*) can  
2 be purchased in electronic format from third-party vendors that have entered into distribution  
3 agreements with Wizards.  
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7 31. In March 2009, the relevant period in this action, authorized vendors selling  
8 *Player's Handbook 2*, *Manual of the Planes*, *Open Grave: Secrets of the Undead*, and *Dungeon*  
9 *Delve*, in electronic format included OneBookShelf, Inc., which offered the rulebook and  
10 supplements through its websites located at <http://www.rpg.drivethrustuff.com> and  
11 <http://www.rpgnow.com> (collectively, "DriveThruRPG" or "OBS").  
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17 32. A customer purchasing *Player's Handbook 2* or other Wizards publications from  
18 DriveThruRPG downloads the publication in Adobe PDF format. The electronic versions of  
19 the publications include all pages of the books, including the credits pages, which identify  
20 Wizards as publisher and include Wizards' mailing address in Renton, Washington. The  
21 product webpages for the publications on DriveThruRPG also identify Wizards as the  
22 publisher. The credits pages within the electronic versions also invite readers to visit Wizards'  
23 Dungeons & Dragons website homepage ([www.wizards.com/dnd](http://www.wizards.com/dnd)).  
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31 33. The credits pages also include the following: "This material is protected under the  
32 copyright laws of the United States of America. Any reproduction or unauthorized use of the  
33 material or artwork contained herein is prohibited without the express written permission of  
34 Wizards of the Coast LLC."  
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39 34. A customer purchasing a copy of *Player's Handbook 2*, *Manual of the Planes*,  
40 *Open Grave: Secrets of the Undead*, or *Dungeon Delve* from DriveThruRPG is notified that the  
41 download type is a "Watermarked PDF." The DriveThruRPG websites explain as follows:  
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45 These eBooks are digitally watermarked to signify that you are the  
46 owner. A small message is added to the bottom of each page of the  
47 document containing your name and the order number of your  
48 eBook purchase. Warning: If any books bearing your information  
49 are found being distributed illegally, then your account will be  
50 suspended and legal action may be taken against you.  
51

1           35. In addition to the watermark of the purchaser's name and order number, electronic  
2 books downloaded from DriveThruRPG also include a micro-watermark embedded in a pixel of  
3 the downloaded work that also identifies the purchaser's account number which can then be  
4 traced to the purchaser's name and address.  
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9 **D. DEFENDANTS WILLFULLY INFRINGED WIZARDS' COPYRIGHT**  
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11           36. Defendant Radzikowski purchased an electronic copy of *Player's Handbook 2*  
12 from DriveThruRPG on or about March 17, 2009—the first day it was available for purchase.  
13

14           37. At other times, Defendant Radzikowski purchased electronic copies of *Manual of*  
15 *the Planes*, *Open Grave: Secrets of the Undead*, and *Dungeon Delve* from DriveThruRPG.  
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18           38. The electronic copies of *Player's Handbook 2* and *Manual of the Planes*, *Open*  
19 *Grave: Secrets of the Undead*, and *Dungeon Delve* purchased by Defendant Radzikowski  
20 included both the visible watermark added by OBS with the name and order number of  
21 Defendant Radzikowski at the bottom of each page and the micro-watermark added by OBS  
22 identifying Defendant Radzikowski's account number.  
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28           39. On or about March 23, 2009, Wizards discovered three unauthorized electronic  
29 copies of *Player's Handbook 2* uploaded to the document-sharing website Scribd, on the Scribd  
30 webpages of Defendants Doe 1, Doe 2, and Doe 3. The uploaded copies allowed Scribd users  
31 to view and download *Player's Handbook 2* for free. Wizards also discovered unauthorized  
32 electronic copies of *Manual of the Planes*, *Open Grave: Secrets of the Undead*, and *Dungeon*  
33 *Delve* illegally uploaded to document-sharing websites, including Scribd.  
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40           40. Wizards promptly notified Scribd and asked that the unauthorized copies be  
41 removed. Scribd complied. However, by the time Scribd removed the unauthorized copies of  
42 *Player's Handbook 2* from Defendants' Doe 1, Doe 2, and Doe 3 Scribd webpages,  
43 approximately 376 copies had been downloaded and 665 copies had been viewed. Upon  
44 information and belief, unauthorized copies were downloaded and/or viewed by individuals in  
45 every, or nearly every, state of the United States of America.  
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1           41. The unauthorized copies of *Player's Handbook 2* on the Scribd webpages, as well  
2 as *Manual of the Planes*, *Open Grave: Secrets of the Undead*, and *Dungeon Delve* on  
3 document-sharing websites, (including, as to *Player's Handbook 2*, the Scribd webpages of the  
4 Defendants Doe 1, Doe 2, and Doe 3) did not have visible watermarks, but did have the OBS  
5 micro-watermark indicating that they were purchased from DriveThruRPG by Defendant  
6 Radzikowski on or about March 17, 2009.  
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12           42. Based on the information above, Wizards believes, and on that basis alleges, that  
13 Defendant Radzikowski or Defendants Doe 1, Doe 2, and Doe 3 removed the visible watermark  
14 identifying Defendant Radzikowski (*i.e.* name and order number) as purchaser of the electronic  
15 copy of *Player's Handbook 2*, as well as *Manual of the Planes*, *Open Grave: Secrets of the*  
16 *Undead*, and *Dungeon Delve*, from DriveThruRPG. Upon information and belief, such removal  
17 was done to conceal Defendant Radzikowski's identity and role in what was understood to be  
18 unlawful conduct in violation of United States copyright laws.  
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26           43. Based on the information above, Wizards believes, and on that basis alleges, that  
27 Defendant Radzikowski unlawfully provided a copy of *Player's Handbook 2* either directly to  
28 Defendants Doe 1, Doe 2, and Doe 3 or made the copy of *Player's Handbook 2* and copies of  
29 *Manual of the Planes*, *Open Grave: Secrets of the Undead*, and *Dungeon Delve* available on a  
30 file-sharing or peer-to-peer network. Upon information and belief, Defendant Radzikowski  
31 knew that s/he was unlawfully copying and distributing Wizards' copyrighted works and/or was  
32 unlawfully enabling others to download illegal copies of the works.  
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41           44. Based on the information above, Wizards believes, and on that basis alleges, that  
42 Defendants Doe 1, Doe 2 and Doe 3 unlawfully uploaded the copy of *Player's Handbook 2*  
43 purchased by Defendant Radzikowski to Defendants Doe 1, Doe 2, and Doe 3 Scribd pages.  
44 Upon information and belief, Defendants Doe 1, Doe 2, and Doe 3 each knew that, by  
45 uploading the unauthorized copy of *Player's Handbook 2* to Scribd, s/he was illegally  
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1 displaying Wizards' copyrighted work and enabling other individuals to download illegally the  
2 unauthorized copy.  
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5 45. Wizards did not authorize Defendants Doe 1, Doe 2 and Doe 3 or Defendant  
6 Radzikowski, or anyone acting on their behalf, to copy or distribute *Player's Handbook 2* or  
7 any other Wizards works.  
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10  
11 46. As a direct and proximate result of Defendants' Doe 1, Doe 2, and Doe 3 and  
12 Defendant Radzikowski's acts, Wizards has suffered irreparable harm that cannot adequately be  
13 remedied at law. Wizards is entitled to injunctive relief as well as damages in an amount to be  
14 established at trial.  
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19 47. Upon information and belief, at the time of their actions, Defendants Doe 1, Doe  
20 2, and Doe 3 and Defendant Radzikowski each knew that *Player's Handbook 2* was published  
21 by Wizards, that the company's principal location is in Washington state, and that the harm  
22 from their actions would primarily be suffered in Washington state.  
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27 48. Upon information and belief, Defendants' Doe 1, Doe 2, and Doe 3 and Defendant  
28 Radzikowski's actions were intentional, willful, wanton, and undertaken in disregard of the  
29 rights of Wizards.  
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## 32 33 V. CAUSES OF ACTION

### 34 35 FIRST CAUSE OF ACTION—DIRECT COPYRIGHT INFRINGEMENT 36 (17 U.S.C. § 101 *et seq.*)

37  
38 49. Wizards realleges and incorporates by reference the allegations in paragraphs 1  
39 through 48 above as if fully set forth herein.  
40

41  
42 50. Wizards has a registered copyright in *Player's Handbook 2*.  
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44 51. Defendants Doe 1, Doe 2, and Doe 3 and Defendant Radzikowski had access to  
45 Wizards' *Player's Handbook 2*.  
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1 52. Without the authorization of Wizards or its agents, Defendants Doe 1, Doe 2, and  
2 Doe 3 and Defendant Radzikowski copied, reproduced, displayed, and/or distributed Wizards'  
3 copyrighted *Player's Handbook 2*.  
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5  
6 53. The foregoing acts of Defendants Doe 1, Doe 2, and Doe 3 and Defendant  
7 Radzikowski constitute direct infringement of Wizards' exclusive rights in its copyrighted work  
8 under 17 U.S.C. § 106.  
9

10 54. Wizards has been and will continue to be damaged as a result of Defendants' Doe  
11 1, Doe 2, and Doe 3 and Defendant Radzikowski's unlawful infringement of Wizards'  
12 copyrighted work in an amount to be proven at trial.  
13

14 55. Upon information and belief, Defendants' Doe 1, Doe 2, and Doe 3 and Defendant  
15 Radzikowski's actions were intentional, willful, wanton, and performed in disregard of the  
16 rights of Wizards.  
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19 **SECOND CAUSE OF ACTION—CONTRIBUTORY COPYRIGHT INFRINGEMENT**  
20 **(17 U.S.C. § 101 et seq.)**  
21

22 56. Wizards realleges and incorporates by reference the allegations in paragraphs 1  
23 through 55 above as if fully set forth herein.  
24

25 57. Wizards has a registered copyright in *Player's Handbook 2*.  
26

27 58. Defendants Doe 1, Doe 2, and Doe 3 and Defendant Radzikowski had access to  
28 Wizards' *Player's Handbook 2*.  
29

30 59. Upon information and belief, Defendants Doe 1, Doe 2, and Doe 3 and Defendant  
31 Radzikowski knew that distribution of *Player's Handbook 2* and copying by individuals other  
32 than the authorized purchaser was unlawful and constituted an infringement of Wizards' rights  
33 in the copyrighted work.  
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35 60. Without the authorization of Wizards or its agents, Defendants Doe 1, Doe 2, and  
36 Doe 3 and Defendant Radzikowski induced, caused, and/or materially contributed to the  
37 infringing conduct of others.  
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61. The foregoing acts of Defendants Doe 1, Doe 2, and Doe 3 and Defendant Radzikowski constitute contributory infringement of Wizards' exclusive rights in its copyrighted work under 17 U.S.C. § 106.

62. Wizards has been and will continue to be damaged as a result of Defendants' Doe 1, Doe 2, and Doe 3 and Defendant Radzikowski's unlawful infringement of Wizards' copyrighted work in an amount to be proven at trial.

63. Upon information and belief, Defendants' Doe 1, Doe 2, and Doe 3 and Defendant Radzikowski's actions were intentional, willful, wanton and performed in disregard of the rights of Wizards.

## VI. PRAYER FOR RELIEF

WHEREFORE, plaintiff Wizards of the Coast LLC prays for the following relief:

1. A permanent injunction enjoining and restraining Defendants Doe 1, Doe 2, and Doe 3 and Defendant Radzikowski, and all persons in active concert or participation with them, from copying, distributing, displaying, creating derivative works or otherwise using protected elements of Wizards' copyrighted works, including, but not limited to, Wizards' *Player's Handbook 2*;
2. An award of damages sustained by Wizards pursuant to 17 U.S.C. § 504(b) and as otherwise permitted by law;
3. An award of statutory damages pursuant to 17 U.S.C. § 504(c) and as otherwise permitted by law;
4. An award of Wizards' costs of suit, including reasonable attorneys' fees pursuant to 17 U.S.C. § 505 and as otherwise permitted by law;
5. An award of prejudgment and post-judgment interest; and
6. Such other relief as the Court may deem just and proper.

1  
2 DATED: April 6, 2009  
3  
4

PERKINS COIE LLP

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