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9 Attorneys for
ROBLOX CORPORATION

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

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17 IN RE DMCA SUBPOENA TO ROBLOX
18 CORPORATION

Case No. 3:22-mc-80172-SK

**ROBLOX CORPORATION'S NOTICE
OF OBJECTIONS TO PETITIONER
CHRISTOPHER BOOMER'S
SUBPOENA TO PRODUCE
DOCUMENTS**

1 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on July 21, 2022, Roblox Corporation served its
3 objections to the July 11, 2022 subpoena to produce documents (“Objections”) propounded by
4 Petitioner Christopher Boomer. A copy of the Objections is attached hereto as **Exhibit A**.

5
6 Dated: July 21, 2022

Respectfully submitted,

LATHAM & WATKINS LLP

8 By: /s/ Andrew M. Gass

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EXHIBIT A

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**ROBLOX CORPORATION'S
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1 Roblox Corporation (“Roblox”) hereby objects to the Subpoena to Produce Documents,
2 Information, or Objects or to Permit Inspection of Premises in a Civil Action (the “Subpoena”)
3 propounded by Petitioner Christopher Boomer (“Petitioner”) as follows.

4 **OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

5 The following objections (“Objections to Instructions and Definitions”) are incorporated
6 into the specific responses below:

7 1. Roblox objects to the truncated return period for the subpoena. The subpoena was not
8 issued until July 11, 2022, and Roblox was not served until July 12, 2022, giving Roblox just ten
9 days to address the multiple requests therein. Such a return period is especially unreasonable given
10 the volume of information requested.

11 2. Roblox objects to the extent the requests seek information in connection with, or for the
12 purpose of, pursuing matters unrelated to alleged copyright infringement, which is not permitted
13 under the Digital Millennium Copyright Act’s subpoena provision. *See* 17 U.S.C. § 512(h).

14 3. Roblox objects to the extent the subpoena requests information that Roblox does not retain
15 in a producible format.

16 4. Roblox objects to the extent the subpoena requests electronically stored information from
17 sources that are not reasonably accessible because of undue burden or cost. *See* Fed. R. Civ. P.
18 45(e)(1)(D).

19 5. Roblox objects to the extent the subpoena seeks to impose on Roblox any obligation to
20 take actions or provide responses beyond that which is required by the Digital Millennium
21 Copyright Act, 17 U.S.C. § 512, the Federal Rules of Civil Procedure, the Local Rules for the
22 United States District Court for the Northern District of California, or any order entered by the
23 Court in this matter.

24 6. Roblox objects to the Requests to the extent that they seek the production of documents
25 that are not within Roblox’s possession, custody, or control and to the extent that they purport to
26 impose any duty to provide information and/or documents more readily available from sources
27 other than Roblox. To the extent Roblox agrees to produce documents in response to any Request,
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1 Roblox will perform a reasonable search within the documents of relevant custodians and/or within
2 other document sources as necessary to comply with Roblox’s document production obligations.

3 **SPECIFIC OBJECTIONS**

4 **REQUEST FOR PRODUCTION NO. 1:**

5 For each of the Infringing Game URLs, Documents sufficient to identify all current and
6 previous owners, operators, developers, and contributors to the game corresponding to the
7 Infringing Game URL, including but not limited to Documents sufficient to identify all usernames,
8 real names, physical addresses, telephone numbers, e-mail addresses, and IP addresses associated
9 with each owner, operator, developer, and contributor.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

11 Roblox incorporates by reference its Objections to Instructions and Definitions.

12 Roblox objects to the request to unmask anonymous speakers without the provision of
13 notice to the speakers so that they may address directly any potential concerns, First Amendment
14 or otherwise. *See, e.g., In re DMCA Subpoena to Reddit, Inc.*, 441 F. Supp. 3d 875 (N.D. Cal.
15 2020); *see generally In re DMCA § 512(h) Subpoena to Twitter, Inc.*, No. 20-mc-80214, 2022 WL
16 2205476 (N.D. Cal. June 21, 2022). Roblox has, accordingly, provided notice to the users whose
17 information is subject to this request.

18 Subject to and without waiving the foregoing objections, once users whose information is
19 subject to this request have had a reasonable time to address the request, Roblox agrees to produce
20 documents responsive to this request for any user who has not intervened in this matter, but only
21 to the extent such information is within Roblox’s possession, custody, and/or control and is
22 available in a producible format.

23 **REQUEST FOR PRODUCTION NO. 2:**

24 For each of the Infringing Groups, Documents sufficient to identify all current and previous
25 members of the Infringing Group, including but not limited to Documents sufficient to identify all
26 usernames, real names, physical addresses, telephone numbers, e-mail addresses, and IP addresses
27 associated with each member.

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RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Roblox incorporates by reference its Objections to Instructions and Definitions.

Roblox objects to this request in its entirety as beyond the scope of discovery permitted by 17 U.S.C. § 512(h). Section 512(h)(3) provides for the disclosure of “information sufficient to identify the alleged infringer of the material described in the notification to the extent such information is available to the service provider.” Petitioner has requested such information in Request for Production Number 1. This Request, in contrast, seeks the information of thousands of Roblox users who happen to be members of a particular group. As a result, Petitioner has not established that these Roblox users qualify as “the alleged infringer(s)” of the materials Petitioner described in the notifications submitted to Roblox by Petitioner.

Roblox objects to this request as overbroad because it seeks a wide swath of user information that Petitioner has not established is relevant to any alleged copyright infringement, and thus the information requested does not qualify as discoverable subject matter. *See* Fed. R. Civ. P. 26(b); *see, e.g., BWP Media USA, Inc. v. Crowdfather, Inc.*, No. 13-cv-05318, 2014 WL 12601054, at *2 (C.D. Cal. July 28, 2014) (finding overbroad a request that required identification of “some individuals who plainly did not infringe”).

Roblox also objects to this request as overly burdensome, given the number of users and amount of data that is subject to this request. *See* Fed. R. Civ. P. 45(d)(1).

Finally, to the extent information sought by this request is deemed discoverable pursuant to 17 U.S.C. § 512(h), Roblox objects to the request to unmask anonymous speakers without the provision of notice to the speakers so that they may address directly any potential concerns, First Amendment or otherwise. *See, e.g., In re DMCA Subpoena to Reddit, Inc.*, 441 F. Supp. 3d 875 (N.D. Cal. 2020); *see generally In re DMCA § 512(h) Subpoena to Twitter, Inc.*, No. 20-mc-80214, 2022 WL 2205476 (N.D. Cal. June 21, 2022).

REQUEST FOR PRODUCTION NO. 3:

For each of the Infringing Users, Documents sufficient to identify the Infringing User, including but not limited to Documents sufficient to identify all usernames, real names, physical

1 addresses, telephone numbers, e-mail addresses, and IP addresses associated with each Infringing
2 User.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

4 Roblox incorporates by reference its Objections to Instructions and Definitions.

5 Roblox objects to this request in its entirety as beyond the scope of discovery permitted by
6 17 U.S.C. § 512(h). Section 512(h)(3) provides for the disclosure of “information sufficient to
7 identify the alleged infringer of the material described in the notification to the extent such
8 information is available to the service provider.” Petitioner has requested such information in
9 Request for Production Number 1. This Request, in contrast, seeks information about users whom
10 Petitioner has not shown were the subject of a notification submitted by Petitioner pursuant to the
11 DMCA. As a result, Petitioner has not established that these Roblox users qualify as “the alleged
12 infringer(s)” of the materials of Petitioner described in the notifications submitted to Roblox by
13 Petitioner.

14 Roblox objects to this request as overbroad because it seeks user information that Petitioner
15 has not established is relevant to any alleged copyright infringement, and thus the information
16 requested does not qualify as discoverable subject matter. *See* Fed. R. Civ. P. 26(b); *see, e.g.,*
17 *BWP Media USA, Inc. v. Crowdgather, Inc.*, No. 13-cv-05318, 2014 WL 12601054, at *2 (C.D.
18 Cal. July 28, 2014) (finding overbroad a request that required identification of “some individuals
19 who plainly did not infringe”).

20 Finally, to the extent information sought by this request is deemed discoverable pursuant
21 to 17 U.S.C. § 512(h), Roblox objects to the request to unmask anonymous speakers without the
22 provision of notice to the speakers so that they may address directly any potential concerns, First
23 Amendment or otherwise. *See, e.g., In re DMCA Subpoena to Reddit, Inc.*, 441 F. Supp. 3d 875,
24 882 (N.D. Cal. 2020); *see generally In re DMCA § 512(h) Subpoena to Twitter, Inc.*, No. 20-mc-
25 80214, 2022 WL 2205476 (N.D. Cal. June 21, 2022).

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1 Dated: July 21, 2022

Respectfully submitted,

2 LATHAM & WATKINS LLP

3 By: /s/ Andrew M. Gass

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PROOF OF SERVICE

I, Elana Nightingale Dawson, do hereby certify that on July 21, 2022, I caused a copy of the foregoing Roblox Corporation’s Objections To Petitioner Christopher Boomer’s Subpoena To Produce Documents, to be served via electronic mail upon:

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