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12  
13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15  
16 **ROBLOX CORPORATION and**  
**JAZWARES, LLC,**

17 **Plaintiffs,**

18 **v.**

19 **WOWWEE GROUP LIMITED, WOWWEE**  
20 **CANADA, INC., WOWWEE USA, INC.,**  
and **GRAMPS GOODS, INC.,**

21 **Defendants.**

Case No. 3:22-cv-04476

**COMPLAINT FOR COPYRIGHT  
INFRINGEMENT, FALSE ADVERTISING IN  
VIOLATION OF THE LANHAM ACT,  
TRADEMARK INFRINGEMENT, FALSE  
ASSOCIATION AND DESIGNATION OF  
ORIGIN, TRADE DRESS INFRINGEMENT,  
INTENTIONAL INTERFERENCE WITH  
CONTRACTUAL RELATIONS, BREACH OF  
CONTRACT, FALSE ADVERTISING IN  
VIOLATION OF CALIFORNIA’S BUSINESS  
AND PROFESSIONAL CODE, AND  
VIOLATIONS OF CALIFORNIA’S UNFAIR  
COMPETITION LAW**

**DEMAND FOR JURY TRIAL**

Action Filed: August 2, 2022

1 Plaintiffs Roblox Corporation (“Roblox”) and Jazwares, LLC (“Jazwares,” and  
2 collectively “Plaintiffs”), by and through their undersigned counsel, bring this Complaint against  
3 WowWee Group Limited, WowWee Canada, Inc., WowWee USA, Inc., and Gramps Goods, Inc.  
4 (collectively “Defendants” or “WowWee”) and allege as follows:

5 **PRELIMINARY STATEMENT**

6 1. Selling toys based on someone else’s intellectual property, without their  
7 permission, and in direct contravention of their binding Terms of Use to which you agreed, is  
8 unlawful. With this lawsuit, Plaintiffs seek to halt WowWee’s blatant and admitted copying of  
9 Roblox’s copyrighted works, and to put a stop to WowWee’s ongoing efforts to profit off of  
10 Roblox’s trademarks, trade dress, and hard-won reputation and success.

11 2. Over the past two decades, Roblox has developed one of the top online platforms  
12 for games and other experiences. At the core of its appeal are its distinctive and copyrighted  
13 characters, or “avatars,” which are the digital manifestations of the millions of users who visit the  
14 Roblox Platform every day. Observing the centrality of Roblox’s avatars to its success, WowWee  
15 saw a chance for a quick buck and decided to make toy copies of Roblox’s avatars—dolls it dubbed  
16 My Avastars. WowWee then induced a Roblox developer to create a Roblox “experience” (the  
17 term used to describe games and similar digital environments on the Roblox Platform) specifically  
18 so the experience could be connected with the dolls and used in promotional materials, along with  
19 Roblox’s name—all of which directly violate Roblox’s Terms of Use and longstanding intellectual  
20 property rights.

21 3. WowWee has not made a secret of any of this. That makes this the rare case where  
22 no one needs to wonder whether WowWee actually copied Roblox’s copyrighted works—  
23 WowWee has admitted it already, in numerous TikTok videos promoting the infringing dolls. And  
24 in video after video, as well as in myriad other marketing materials, WowWee has implied that its  
25 products are associated with and sanctioned by Roblox—a ploy aimed directly at profiting off of  
26 Roblox’s popularity. This profiteering is unlawful and inequitable, and it must stop now.

27 4. Roblox’s innovative technology and platform, the result of nearly two decades of  
28 effort and investment, allow people to imagine, create, and have fun with friends as they explore

1 millions of immersive 3D experiences and games. At the center of the Roblox Platform’s appeal  
2 are the technology and content that Roblox provides to its users and developers for use on the  
3 Platform. And no such content is more core to Roblox’s identity than the Roblox avatars—  
4 humanoid figures with cylindrical heads, C-shaped hands, block-shaped bodies and legs, square  
5 or rounded arms, and cartoon-like facial expressions (exemplars shown below). Roblox refers to  
6 these avatar bases, along with Roblox-created avatar variations, as Classic Avatars.



14           5.       A Roblox user’s journey starts with the adoption of their own personal avatar—a  
15 unique digital identity—generally based on a template supplied by Roblox, that they take  
16 everywhere they go on the Roblox Platform. Roblox has designed numerous avatars as well as  
17 hairstyles, facial expressions, clothing, and accessories for those avatars, which users can select  
18 and adjust. Roblox also designs avatars complete with their own combinations of hairstyles, facial  
19 expressions, clothing, and accessories. Cindy, Lindsey, Kenneth, and Dennis (shown below) are  
20 examples of Roblox-designed avatars.

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**Cindy Roblox Avatar**



**Lindsey Roblox Avatar**



**Kenneth Roblox Avatar**



**Dennis Roblox Avatar**

6. On the Roblox Platform, users play and interact with each other through their avatars in what Roblox calls “experiences.” Experiences are interactive content (such as games, events, and virtual places) that are created by Roblox developers (also called “creators”). Roblox’s developer community has created a wide range of diverse experiences on the Platform, ranging from role-play experiences to obstacle courses and battle games, and even concert experiences.

7. To foster the creation of experiences and other content on its Platform, Roblox encourages creators and users to both upload their own content and to modify the content—

1 including avatars—that Roblox has developed or created itself. Indeed, these features (and the  
2 content and technology that Roblox provides) are key to Roblox’s appeal both to developers and  
3 to users. But Roblox does not simply allow users to appropriate its content and intellectual  
4 property for their own purposes, divorced from Roblox. To the contrary, while Roblox encourages  
5 users and creators to modify and engage with its creations and intellectual property *on the Roblox*  
6 *Platform*, Roblox requires its users to agree that, absent express permission from Roblox, they will  
7 *not* make use of certain Roblox content outside the Platform, monetize that content for their own  
8 purposes, or imply an association with or sponsorship by Roblox for their offline businesses.

9 8. These controls are necessary to protect Roblox’s brand, content, and intellectual  
10 property, which are at the center of Roblox’s success. They are also necessary to protect the  
11 significant investments that Roblox has made to create content—such as Classic Avatars. Roblox  
12 has thus gone to great lengths to protect its brand and Platform, from requiring users to agree to its  
13 comprehensive Terms of Use to registering its avatars as copyrighted works.

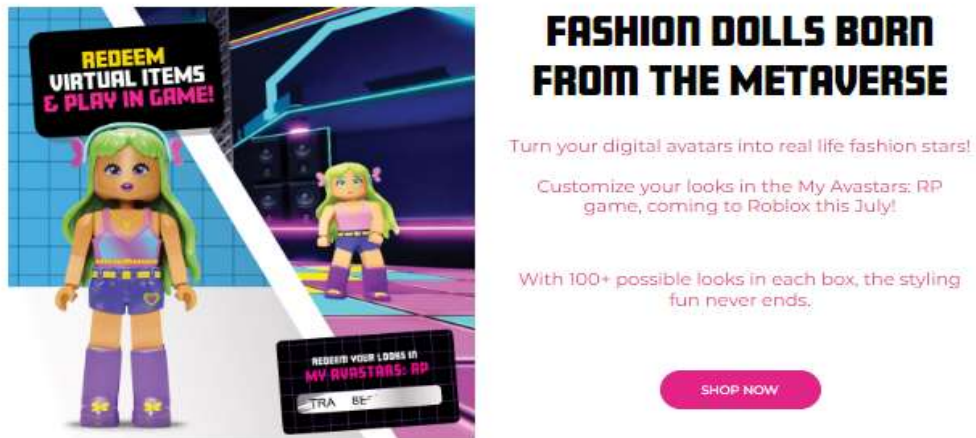
14 9. Additionally, Roblox has collaborated with other companies, such as toy  
15 manufacturer Jazwares, to create merchandise that accords with Roblox’s carefully curated brand  
16 and high quality standards. Roblox thus licenses its intellectual property in its avatars (and other  
17 aspects of the Platform) to Jazwares—the only company licensed to manufacture avatar figurines  
18 (the “Avatar Figurines”).

19 10. The Defendants here are toy companies who *admittedly* copied Roblox’s wildly  
20 successful avatar intellectual property to create and sell a line of physical dolls to exploit Roblox’s  
21 investment, creative efforts, and popularity in the marketplace for their own profit. As WowWee’s  
22 Vice President of Brand Development & Creative Strategy explained in an online video promoting  
23 WowWee’s products, she “was looking at all the customization of roblox and [she] was like ‘wow  
24 that would be a great doll line.’”<sup>1</sup> WowWee thus set out to copy as closely as possible Roblox  
25 avatars in the form of dolls (an example of which is shown below). Unlike Jazwares, however,  
26 WowWee did not seek a license for Roblox’s intellectual property—nor did it work with Roblox

27 <sup>1</sup> Sydney Wiseman (@sydwiseman), *Coming soon!! Pre order just went live on Walmart,*  
28 TWITTER (June 18, 2022), [https://www.tiktok.com/@sydwiseman/video/7110650821506845957?is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382](https://www.tiktok.com/@sydwiseman/video/7110650821506845957?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382).

1 to ensure that its copies of Roblox avatars would protect Roblox’s brand and meet its high  
2 standards.

3 11. Not content to simply infringe Roblox’s copyrights in its avatars, WowWee also  
4 wanted to exploit the experiences on Roblox’s Platform for its own benefit. To accomplish that  
5 goal, WowWee induced one of Roblox’s top experience developers—Gamefam—to partner with  
6 it so WowWee’s infringing My Avastars dolls could be paired with a Roblox Platform  
7 experience—My Avastars: RP.



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16 12. WowWee then induced Gamefam to join it in marketing and selling the My  
17 Avastars dolls using both the Roblox name and content from Gamefam’s My Avastars: RP  
18 experience in order to suggest that the dolls are connected to and endorsed by Roblox. As part of  
19 these marketing and sales efforts, WowWee and Gamefam promised purchasers of the My  
20 Avastars dolls a special “code” that they claimed could be used within the Roblox Platform in the  
21 My Avastars: RP game. All of this, as WowWee knows, is expressly prohibited by the Roblox  
22 Terms of Use that both WowWee and Gamefam agreed to.

23 13. WowWee—like anyone else—would have been free to make use of Roblox’s  
24 avatars on the Roblox Platform. Or WowWee could have sought to license Roblox’s avatars, as  
25 Jazwares has done, and proceed only with Roblox’s permission. Instead, WowWee chose to  
26 exploit Roblox’s success—its brand, its reputation, its goodwill, and its intellectual property—  
27 without ever involving Roblox, by reproducing Roblox’s avatars as a line of toys, marketing them  
28 in connection with a Roblox experience, and misleading consumers into believing that these

1 actions were sanctioned by Roblox.

2 14. Comments from across the Internet confirm that WowWee’s efforts to mislead and  
3 confuse the consuming public are succeeding. For instance, when the My Avastars videos posted  
4 by WowWee’s Vice President to TikTok prompted some people to wonder whether Roblox might  
5 sue, others opined: “I think they work with roblox.”<sup>2</sup>

6 15. WowWee cannot be allowed to create doll copies of Roblox’s avatar designs and  
7 market and sell them for its own profit. In conjunction with this lawsuit, Plaintiffs will seek a  
8 preliminary injunction preventing WowWee from manufacturing, marketing, selling, and  
9 distributing the My Avastars dolls. Plaintiffs are also entitled to permanent injunctive relief,  
10 damages, disgorgement of profits, and all other available relief in law or equity.

11 **THE PARTIES**

12 16. Plaintiff Roblox Corporation is a Delaware corporation with its principal place of  
13 business at 970 Park Place, Suite 100, San Mateo, CA 94401.

14 17. Plaintiff Jazwares, LLC is a Delaware limited liability company with its principal  
15 place of business at 1067 Shotgun Road, Sunrise, FL 33326.

16 18. On information and belief, Defendant WowWee Group Limited is a company  
17 organized in Hong Kong with a principal place of business at Energy Plaza, 3F, 92 Granville Road,  
18 T.S.T. East, Hong Kong.

19 19. On information and belief, Defendant WowWee Canada, Inc. is a Canadian  
20 corporation with a principal place of business at 3700 Saint Patrick, Suite 206, Montreal, Quebec  
21 H4E 1A2, Canada.

22 20. On information and belief, Defendant WowWee USA, Inc. is a New York  
23 corporation with its principal place of business in the State of California at 875 Prospect St., Suite  
24 204a, La Jolla, CA 92037.

25 21. On information and belief, Defendant Gramps Goods, Inc. is a California  
26 corporation with its principal place of business in the State of California at 7855 Fay Avenue, Suite

27 <sup>2</sup> Sydney Wiseman (@sydwiseman), *Coming soon!! Pre order just went live on Walmart*, TWITTER  
28 (June, 18, 2022), [https://www.tiktok.com/@sydwiseman/video/7110650821506845957?is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382](https://www.tiktok.com/@sydwiseman/video/7110650821506845957?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382).

1 310, La Jolla, California 92037.

2 **JURISDICTION AND VENUE**

3 22. Subject matter jurisdiction is vested in this Court under 15 U.S.C. § 1121 and 28  
4 U.S.C. § 1331 and § 1338 because this dispute concerns the rights of parties under the Copyright  
5 Act, 17 U.S.C. § 101 *et seq.* and the Lanham Act, 15 U.S.C. § 1051 *et seq.* This Court has  
6 supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) over the state law claims, as those claims  
7 are so closely related to the federal claims brought in this Action as to form part of the same case  
8 or controversy, specifically, Defendants’ creation, marketing, offering for sale, and sale of  
9 products that give rise to Plaintiffs’ federal copyright infringement, trademark infringement, and  
10 related Lanham Act claims.

11 23. In addition, jurisdiction and venue are proper in this Court under the Roblox Terms  
12 of Use. The Roblox Terms of Use, to which Defendants agreed in order to create accounts and  
13 gain access to the Roblox Platform, provide that courts located within San Mateo County,  
14 California shall have exclusive jurisdiction over all disputes “arising under or relating to the  
15 Roblox Terms or Services” that are not subject to arbitration, and that parties to those disputes  
16 consent to personal and exclusive jurisdiction in those courts. *See* Ex. 1(a) (Roblox Terms of Use  
17 16(a), (e)).

18 24. Venue is further proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)  
19 and 1400 because a substantial part of the events or omissions giving rise to the claims occurred  
20 in this District, Roblox’s principal place of business is within this judicial district, and Defendants  
21 have targeted their wrongful acts at Roblox.

22 **DIVISIONAL ASSIGNMENT**

23 25. Pursuant to Civil Local Rule 3-2(c), this action is to be assigned on a district-wide  
24 basis because it involves intellectual property rights.

25 **GENERAL ALLEGATIONS**

26 **A. The Roblox Platform: Avatars and Experiences**

27 26. Founded in 2004, Roblox provides an online platform that hosts a digital world  
28 where users create virtual games and experiences and connect with other users. The Roblox

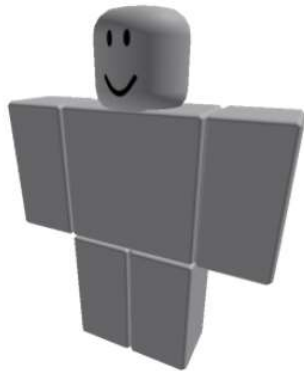


1 Platform includes Roblox-provided graphics, interfaces, and tools for the creation of content by  
2 users for users. Roblox users, in turn, develop games, experiences, and virtual items for use on  
3 Roblox by themselves and other users.

4 27. Roblox developers are essential to Roblox’s Platform. Indeed, one of the reasons  
5 Roblox has proven so popular is that Roblox eliminated many of the barriers inherent in game  
6 development, such as upfront costs and coding experience. Roblox wants its developers to focus  
7 on creation, so it provides free tools to help developers begin creating on Roblox, covers ongoing  
8 expenses such as hosting, storage, and customer support, and provides access to a user base of over  
9 50 million daily Roblox users from all over the world.

10 28. Roblox’s innovative business model worked—Roblox has grown exponentially  
11 since its inception. For example, since 2018, over 29 million Roblox creators have made over 34  
12 million games available on the Roblox Platform.

13 29. The building blocks of the Roblox Platform are Roblox avatars. Avatars are  
14 customizable entities that players use to interact with the Roblox digital world and other users, and  
15 to play games on the Roblox Platform. Roblox has created and owns the intellectual property in  
16 various avatar models, which it makes available to Roblox users for use and customization on the  
17 Roblox Platform. Among the models provided by Roblox are “Classic Avatars.” The Roblox  
18 Classic Avatars are known for their distinct blocky appearance, the bases of which are depicted  
19 below. Within Roblox, the Classic Avatars are three-dimensional characters that are able to move  
20 around through Roblox experiences.



1           30. Roblox iterates on its Classic Avatars to create various derivative works that users  
2 can further customize on the Roblox Platform, all of which Roblox refers to as Classic Avatars.  
3 Four such Classic Avatars, each of which has been registered with the U.S. Copyright Office as an  
4 audiovisual work, are depicted below:



13  
14 **Cindy Roblox Avatar**



15  
16 **Lindsey Roblox Avatar**



23  
24 **Kenneth Roblox Avatar**



25  
26 **Dennis Roblox Avatar**

27           31. In the Roblox universe, few things reflect a user's identity more directly than their  
28 avatar. Users have the ability to customize their avatars in endless ways within the Roblox  
Platform, including by choosing their avatars' clothing, body parts, facial expressions, gear, and  
accessories. Users can also design virtual accessories and clothing within the Roblox Platform

1 and sell those virtual accessories to other Roblox users on the Avatar Marketplace. This type of  
2 digital content intended for use on the Roblox Platform is called user-generated content (“UGC”).<sup>3</sup>

3 32. Roblox users (embodied by their avatars) play and interact on the Roblox Platform  
4 through what Roblox calls “experiences”—interactive content, such as games, events, and virtual  
5 places. Experiences are created by Roblox “developers” (also called “devs” or “creators”).  
6 Anyone can be a developer on Roblox, from amateur coders to professional game development  
7 companies. Indeed, Roblox is committed to attracting diverse group of developers, and has  
8 focused on building its Platform so anyone can take the technology and intellectual property that  
9 Roblox provides and create new and unique experiences on the Platform for Roblox users (subject  
10 to certain terms and conditions).

11 **B. Roblox Goes to Significant Lengths to Protect Its Intellectual Property**  
12 **(Including Its Classic Avatars) and Its Brand Identity**

13 33. Roblox’s brand, technology, and designs—including avatars—are the core of the  
14 Roblox Platform, and are therefore central to its business. As Roblox explained in a filing  
15 submitted to the SEC, its “business depends on a strong brand” and, “if events occur that damage  
16 [its] reputation and brand, [it] may be unable to maintain and grow the number of developers,  
17 creators, and users on [its] Platform.”

18 34. Roblox therefore takes a number of measures to safeguard its brand, reputation, and  
19 intellectual property. For example:

- 20 • **First**, users must assent to Roblox’s binding terms (the “Roblox Terms of Use” or  
21 “Terms”) to use the Roblox Platform. The Roblox Terms of Use restrict the off-  
22 Platform use of Roblox avatars, including Classic Avatars, and certain other Roblox  
23 content, and prohibit users from implying commercial affiliation with Roblox.
- 24 • **Second**, Roblox enters into a small number of merchandising collaborations with  
25 select manufacturers to produce commercial products based on Roblox intellectual  
26 property for use outside the Roblox Platform. Roblox retains significant control in

27  
28 <sup>3</sup> User-generated content includes, as relevant here, any content that Roblox users upload, create, modify, or publish on the Roblox Platform.

1 these relationships, which are governed by negotiated contracts. For example,  
 2 Roblox works closely with Jazwares to ensure that the Avatar Figurines meet  
 3 Roblox’s exacting standards for Roblox-associated merchandise.

- 4 • *Third*, Roblox secures its intellectual property rights. Roblox avatars have a  
 5 distinctive trade dress, rendering them protectable under the Lanham Act, and  
 6 Roblox registers its avatars with the United States Copyright Office. Roblox also  
 7 registers its trademarks with the United States Patent and Trademark Office.

#### 8 **1. Terms of Use Protection**

9 35. Roblox requires all users and creators on the Roblox Platform to agree to the  
 10 Roblox Terms of Use.<sup>4</sup> The Roblox Terms of Use govern the use of the Roblox Platform, websites,  
 11 applications, forums, and all other services that Roblox makes available to users (collectively, “the  
 12 Roblox Services” or “Services”).<sup>5</sup>

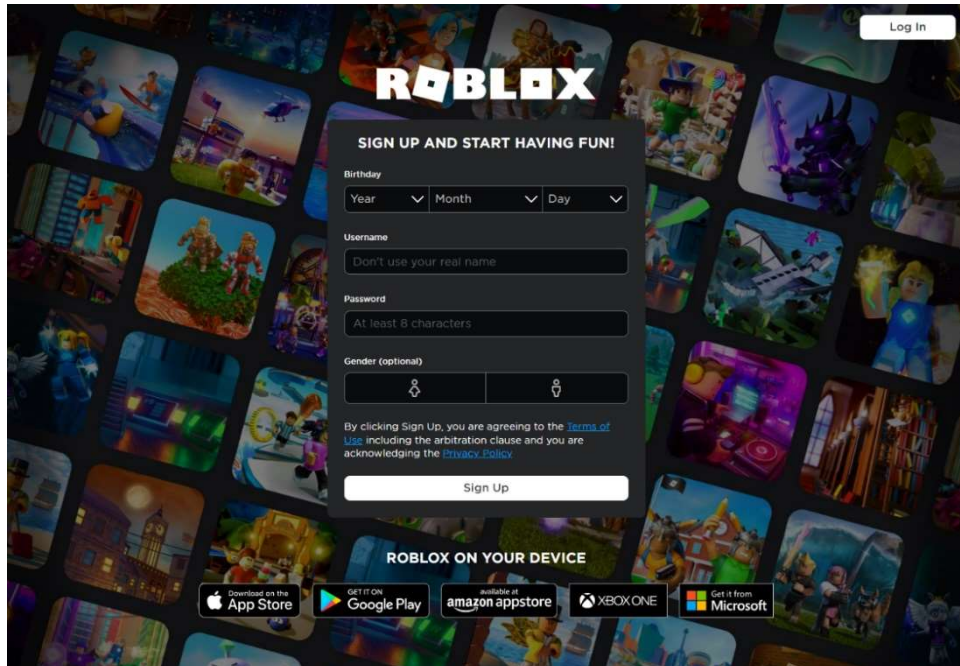
13 36. Genuine copies of the User Terms and the Creator Terms, the Roblox Community  
 14 Standards, the Roblox Name and Logo - Community Usage Guidelines, and the Roblox Dictionary  
 15 are attached hereto as Exhibits 1(a)-1(d), respectively.

16 37. A Roblox account is required to gain access to the Roblox Platform. When creating  
 17 an account, whomever is completing the online forms—whether acting on their own behalf or on  
 18 behalf of a company—must provide a birthday (for privacy reasons), create a username and  
 19 password, and click a “Sign Up” button. Immediately above that Sign Up button is the following  
 20 language: “By clicking Sign Up, you are agreeing to the **Terms of Use**.” The phrase “**Terms of**  
 21 **Use**” is in bold, color-contrasting text, and it hyperlinks to the full text of the Terms. If the  
 22 company or person creating an account wishes to proceed with account creation, the company or  
 23 person must first manifest their assent to the Terms by clicking the “Sign Up” button. A Roblox  
 24 account cannot be created, and the Roblox Platform cannot be used, without entering an agreement

25 \_\_\_\_\_  
 26 <sup>4</sup> The Roblox Terms of Use include the User Terms, the Creator Terms, the DevEx Terms, the  
 27 Roblox Community Standards, the DMCA Guidelines and Policies, and the Roblox Name and  
 28 Logo Community Usage Guidelines.

<sup>5</sup> The Terms of Use define the Roblox Services as “[c]ollectively, all of the various features and  
 services, like websites, applications, forums and the Platform, which Roblox makes available to  
 Users to allow Users to play, create and connect.” Ex. 1(d) (Roblox Dictionary).

1 with Roblox that is embodied in the Roblox Terms of Use.



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13 **Roblox Desktop Sign Up Page**

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15 38. The Roblox Terms of Use provide at the outset that the “Roblox Terms are a legally  
16 binding agreement between Users and Roblox.” Ex. 1(a).

17 39. From time to time, Roblox updates its terms. Roblox users agree that, if they use  
18 Roblox’s Platform “after Roblox has posted updates to the[] User Terms or other Roblox Terms,”  
19 the user has “agree[d] to the updated User Terms and other Roblox Terms.” Ex. 1(a) (User Terms  
20 § 1(b)).

21 40. Roblox’s Terms allow—indeed, encourage—users and creators to, *within the*  
22 *Roblox Platform*, make use of, modify, and add to the content and intellectual property that Roblox  
23 provides. But the Terms also limit the use of this content and intellectual property in crucial ways.

24 41. For instance, the Terms have long provided that, subject to Users’ compliance with  
25 the User Terms, Roblox grants users “a non-exclusive, limited, revocable, non-transferable license  
26 to use the [Roblox] Services on devices that [the] User owns or controls for [the] User’s personal,  
27 entertainment use.” Ex. 1(a) (User Terms § 9).

28 42. Similarly, the Terms have long provided that, subject to “Creator’s compliance with

1 the Creator Terms, Roblox grants Creator a non-exclusive, limited, revocable, non-transferable  
2 license to use other content that Roblox develops and makes available on the Platform *solely for*  
3 *use on the Platform in Creator’s UGC.*” Ex. 1(a) (Creator Terms § 1.a.iv) (emphasis added).

4 43. Relatedly, Roblox has long made portions of the content it creates—which it terms  
5 “Roblox Intellectual Property” or “Roblox IP”—available to its users and creators for use on the  
6 Roblox Platform. Ex. 1(a) (User Terms § 10). That content includes “interfaces,” “graphics,”  
7 “design,” and “artwork,” along with “the rights therein and *any* derivatives.” *Id.* (emphasis added).  
8 And, as discussed above, “[s]ubject to Users compliance with” the Terms, Roblox grants its users  
9 “a non-exclusive, limited, revocable, non-transferable license to use the Services” for “personal,  
10 entertainment use.” *Id.* § 9. However, Roblox expressly forbids users from any effort to “lease,  
11 lend, sell, redistribute or sublicense any part of the Services” or otherwise use them “in any manner  
12 that infringes, misappropriates, or otherwise violates any intellectual property right.” *Id.* § 6.

13 44. Additionally, Roblox users may not use “the Roblox name” or “Classic Roblox  
14 Avatars” on “physical products or commercial content” or in connection with the “distribution or  
15 sale of any products or services.” Ex. 1(c) (Roblox Name and Logo - Community Usage  
16 Guidelines). Similarly, while creators ordinarily retain rights in their own UGC (that is, the content  
17 that they uploaded to Roblox in the first instance), Roblox’s Terms have consistently prohibited  
18 the use of UGC in any “manner which is intended or reasonably likely to suggest or imply that  
19 Creator is affiliated with Roblox or that Roblox endorses Creator or its use of the applicable UGC.”  
20 Ex. 1(a) (Creator Terms § 1.b.viii).

21 45. The Terms, moreover, expressly reaffirm Roblox’s ownership of its avatars—  
22 including those Roblox avatars that have been modified by Roblox users and creators, which are  
23 known as “Modified Classic Avatars.” The Terms specify that, “to the extent that a Creator has  
24 or obtains any right, title, or interest in any Modified Classic Avatar, Creator hereby assigns to  
25 Roblox all such right, title and interest.” Ex. 1(a) (Creator Terms § 1.b.iii.a). Roblox, in turn,  
26 grants the creator of a Modified Classic Avatar “a limited, non-exclusive, revocable, non-  
27 transferrable license to use the Modified Classic Avatar created by such Creator *solely for use on*  
28 *the Platform* and as otherwise permitted under these Terms.” *Id.* (Creator Terms § 1.b.iii.b)

1 (emphasis added). Finally, the Terms make clear that Roblox continues to reserve for itself all  
 2 rights in “Classic Avatars and Modified Classic Avatars not expressly granted” by the Terms,  
 3 “including the exclusive right to create derivative works incorporating Classic Avatars and  
 4 Modified Classic Avatars.” *Id.*

5 46. The Terms also expressly prohibit off-Platform commercial uses of Classic  
 6 Avatars, Modified Classic Avatars, and other Roblox content:

- 7 a. Roblox Users may not sell “in-experience items, exclusive features, or other in-  
 8 experience enhancements” outside of the Roblox Platform. Ex. 1(b) (Community  
 9 Standards § 30).
- 10 b. Roblox Creators may not use Classic Avatars “in connection with any off-Platform  
 11 physical or digital merchandise.” Ex. 1(a) (Creator Terms § 1.b.iii.c).
- 12 c. Roblox Creators may not “create, license, or exploit off-Platform digital items that are  
 13 offered for compensated access (including license or sale).” *Id.*

14 **2. Roblox’s Careful Merchandising Collaborations and Its Fruitful**  
 15 **Relationship with Jazwares**

16 47. Because of Roblox’s skyrocketing popularity, demand for toys based on the Roblox  
 17 brand has skyrocketed too. Roblox has proceeded cautiously into the toy market, however, as part  
 18 of its intentional strategy to preserve and protect its brand by exercising control over all  
 19 commercial products that use the Roblox name and Roblox content. As a result, Roblox has  
 20 entered into only a select few licensing agreements with third-party manufacturers, thereby  
 21 controlling the quantity and quality of Roblox merchandise on the market.<sup>6</sup>

22 48. Other than the limited rights to develop, manufacture, market, and sell particular  
 23 approved merchandise pursuant to these relationships, Roblox continues to retain all rights in its  
 24 intellectual property, including the right to create derivative works of its avatars.

25 49. One of Roblox’s most fruitful relationships is with Jazwares, a toy manufacturer  
 26 that Roblox vetted and accepted as a collaborator approximately six years ago. Roblox chose

27 \_\_\_\_\_  
 28 <sup>6</sup> Roblox also has license agreements with Hasbro (Nerf and Monopoly products), Bioworld (Roblox apparel), and Pearson Education and Egmont (Roblox books).

1 Jazwares to manufacture figurines based on Roblox avatars because of, among other things,  
2 Jazwares' ability to deliver high-quality products, particularly in connection with video games.  
3 Roblox has authorized Jazwares to manufacture, sell, and market a line of figurines based on  
4 certain Roblox Classic and Modified Classic Avatars.

5 50. To ensure high quality standards and maintain control of the Roblox brand, Roblox  
6 has worked with Jazwares to establish the form, content, and other specifications of the Avatar  
7 Figurines. Additionally, Roblox is entitled to a share of profits from the toys manufactured and  
8 sold by Jazwares that make use of Roblox's intellectual property.

9 51. Jazwares, in turn, has created a top-quality line of figurines based on Roblox's  
10 avatars, millions of which are sold each year. Jazwares also has spent tens of millions of dollars  
11 on promoting Roblox Avatar Figurines in accordance with Roblox's strict standards. These  
12 promotional efforts take the form of TV commercials, social media advertising, retail promotions,  
13 and YouTube promotions—all of which Roblox approves. As with product quality, Roblox  
14 closely supervises the method and message of advertisements for Avatar Figurines.

15 52. While Roblox permits Jazwares to offer codes with the Avatar Figurines that are  
16 redeemable through Roblox, Roblox creates and curates the codes, and carefully controls how  
17 these codes can be used. For example, the codes must be redeemed through Roblox's off-Platform  
18 website, not via Roblox's mobile app.

### 19 3. Copyright and Trade Dress Protection

20 53. Roblox avatars are a key element of Roblox's intellectual property. As explained  
21 above, Roblox created and owns the intellectual property rights in its Classic Avatars. Roblox also  
22 expressly retains the intellectual property rights to all Modified Classic Avatars, both as derivative  
23 works of its Classic Avatars and contractually, pursuant to its Terms of Use. *See supra* ¶ 45.

24 54. To further safeguard its intellectual property rights, Roblox has acquired copyright  
25 registrations in four separate audiovisual works: the Cindy Avatar; the Lindsey Avatar; the  
26 Kenneth Avatar; and the Dennis Avatar (collectively, "the Registered Avatars"). Stills from those  
27 audiovisual works are shown above. *See supra* ¶ 30.

28 55. The Cindy Avatar is registered with the U.S. Copyright Office at Registration



1 Number PA 2-357-603. The Lindsey Avatar is registered with the U.S. Copyright Office at  
2 Registration Number PA 2-357-611. The Kenneth Avatar is registered with the U.S. Copyright  
3 Office at Registration Number PA 2-357-639. The Dennis Avatar is registered with the U.S.  
4 Copyright Office at Registration Number PA 2-357-608.

5 56. Roblox avatars are easily identifiable upon first glance. They have many distinct,  
6 nonfunctional elements, including: (1) the humanoid, blocky shape of the avatars; (2) the  
7 cylindrical heads of the avatars; (3) the C-shaped hands of the avatars; (4) the block-shaped legs  
8 of the avatars; (5) the square or rounded arms of the avatars; (6) the cartoon-like, changeable facial  
9 expressions of the avatars and the lack of a nose; and (7) the particularized combination of these  
10 elements. The combination of these nonfunctional elements and the overall appearance of the  
11 Roblox avatars is distinct and identifies Roblox as the exclusive creator of the Roblox avatars.  
12 Together, these nonfunctional elements make up the Roblox avatar trade dress (or “Roblox trade  
13 dress”).

14 57. Roblox has used this trade dress exclusively and continuously for years, since at  
15 least 2007. Roblox has a loyal community base of over 50 million daily users, each with their own  
16 Roblox avatar for use on the Roblox Platform. And since 2018, over 29 million Roblox creators  
17 have made over 34 million games available on the Roblox Platform. All of these users have come  
18 to associate the Roblox trade dress exclusively with Roblox. Indeed, consumer comments on the  
19 WowWee videos themselves make clear that consumers widely associate the Roblox Classic  
20 Avatar form described above with the Roblox brand.

21 58. Roblox has expended significant marketing, advertising, and financial resources to  
22 create and promote its avatars and Roblox trade dress, as well as the Roblox Platform more  
23 generally. For instance, Roblox has a strong social media presence that helps support organic  
24 growth of the brand, and enhances the recognizability of the brand, Roblox trade dress, and  
25 offerings. Another such effort is through partnerships with third-party manufacturers to create  
26 products that use the Roblox trade dress. For example, as discussed above in Section B.2, Roblox  
27 has partnered with Jazwares to manufacture toys that are based on the Roblox avatar design and  
28 trade dress. The Avatar Figurines possess all the elements of the distinctive Roblox trade dress,

1 and both Jazwares and Roblox have marketed these toys extensively throughout the United States  
 2 (and the world), including through Roblox blog posts, social media hashtags like #robloxtoys, and  
 3 in-store launch events hosted by Jazwares. Jazwares also spends tens of millions of dollars on  
 4 advertisements (which Roblox supervises and approves) for Avatar Figurines, including through  
 5 TV commercials and social media campaigns.

6 59. As a result of these efforts, the Roblox trade dress is widely recognized by the  
 7 consuming public as a designation of the source of the Roblox avatars.

8 60. The Roblox trade dress serves no purpose other than to identify Roblox as the  
 9 exclusive source of Roblox avatars. The trade dress is non-functional and Roblox did not have to  
 10 design its avatars in such a manner for them to be able to interact on the Roblox Platform. There  
 11 are countless alternative designs that could have been used, but Roblox designed and adopted this  
 12 specific trade dress for its avatars because it was unique, easily and instantly recognizable, and  
 13 highly distinctive. Indeed, Jazwares, in partnership with and with permission from Roblox,  
 14 manufactures toys that are identical to Roblox avatars *precisely because* of their distinctive  
 15 appearance, which makes them highly popular with the Roblox community.

16 **C. Trademark Protection**

17 61. Roblox has also registered the ROBLOX trademarks with the U.S. Patent and  
 18 Trademark Office as shown below (collectively, “the ROBLOX Mark”).

TRADEMARK	CLASS: GOODS/SERVICES	REG. NUMBER REG. DATE
ROBLOX	(9) Video game software; computer software for interactive games First Used in Commerce: July 2005  (38) Providing online chat rooms for exchange of messages among users of computers and other devices concerning topics related to interactive games First Used in Commerce: August 2006  (41) Entertainment services, namely providing an interactive game via electronic and optical communications networks	3,280,422 August 14, 2007

1		First Used in Commerce: July 2005	
2	ROBLOX	(9) Interactive entertainment software First Use in Commerce: January 10, 2017	5,466,424 May 8, 2018
3	<b>ROBLOX</b>	(28) Toys, namely, toy vehicles, action figure toys, plastic character toys, rubber character toys; accessories for action figure toys; toy figures and accessories; toy cars; toy boxing playsets and accessories therefore; toy armor, namely, shields First Use in Commerce: February 1, 2017	
4		(41) Entertainment and education services, namely, providing online electronic, computer and video games provided by means of the internet First Use in Commerce: January 10, 2017	
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12	ROBLOX	(42) Providing temporary use of on-line non-downloadable software for storing and sharing video First Used in Commerce: September 2017	5,771,263 June 4, 2019
13	<b>ROBLOX</b>		
14	ROBLOX	(9) Interactive entertainment software First Use in Commerce: May 26, 2011	6,024,416 March 31, 2020
15		(28) Toys, namely, toy vehicles, action figure toys, plastic character toys, rubber character toys; accessories for action figure toys; toy figures and accessories; toy cars; toy boxing playsets and accessories therefore; toy armor, namely, shields First Use in Commerce: September 2011	
16		(41) Entertainment and education services, namely, providing online electronic, computer and video games provided by means of the internet First Use in Commerce: June 2005	
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24	ROBLOX	(9) Downloadable fiction electronic books on a variety of topics; downloadable non- fiction electronic books on a variety of topics First Use in Commerce: October 30, 2018	6,200,694 November 17, 2020
25		(16) Printed fiction books on a variety of topics; printed non-fiction books on a variety of topics; stickers	
26			
27			
28			

	First Use in Commerce: May 21, 2019  (25) T-shirts; women’s clothing, namely, shirts; sweatshirts  First Use in Commerce: June 2019	
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62. The registrations for the ROBLOX Mark are valid, unrevoked, and in full force and effect. Roblox owns these registrations and the trademarks and all business and goodwill connected therewith.

63. The ROBLOX Mark has been used extensively in conjunction with both the Roblox Services and the distribution of Roblox products, including the Avatar Figurines. For example, the ROBLOX Mark is shown prominently on Roblox’s website [www.roblox.com](http://www.roblox.com).



64. Roblox and Jazwares (with Roblox’s explicit authorization) use the ROBLOX Mark in association with the promotion and sale of the Avatar Figurines. For example, in the Roblox blog post officially announcing the launch of Roblox toys, Roblox stated: “We encourage our fans to film and share their unboxing videos on Facebook, YouTube, and Twitter using #RobloxToys to show off their collection with their friends.”<sup>7</sup> And Jazwares uses the ROBLOX Mark in connection with the Avatar Figurines both on its own site and on third-party retailer sites, like [www.amazon.com](http://www.amazon.com). In recent years, annual sales of the Avatar Figurines advertised with the ROBLOX Mark have totaled well over one hundred million dollars.

65. Roblox monitors unauthorized use of the ROBLOX Mark, and recently updated the Roblox Name and Logo - Community Usage Guidelines to further clarify that the ROBLOX Mark may not be used in conjunction with products offered off of the Roblox Platform. Roblox has also acted on reports of unauthorized use of the ROBLOX Mark, including by sending takedown

<sup>7</sup> David Baszucki, *Introducing Roblox Toys*, ROBLOX (Feb. 1, 2017), <https://blog.roblox.com/2017/02/introducing-roblox-toys>.

1 notices when appropriate.

2 66. As a result of ROBLOX's efforts and use of the ROBLOX Mark, members of the  
3 consuming public readily identify merchandise bearing or sold with the ROBLOX Mark as high-  
4 quality merchandise, sponsored and approved by Roblox. The ROBLOX Mark serves as a symbol  
5 of Roblox's quality, reputation, and goodwill. In the mind of the public, the ROBLOX Mark  
6 identifies and designates Roblox's brand and associated products, and distinguishes them from the  
7 goods and services of others.

8 **D. Gamefam Found Success on Roblox**

9 67. Gamefam, created in 2019, is a large and well-known developer on Roblox.  
10 Gamefam describes itself as "the first and only fully-dedicated, professional game publishing  
11 company on Roblox."<sup>8</sup>

12 68. According to Gamefam, it is the "lead publisher for 40+ unique #Roblox games &  
13 brands" on Twitter, and lists 29 Roblox experiences on its website.<sup>9</sup> To create these experiences  
14 and games, Gamefam created an account on Roblox and, in so doing, agreed to Roblox's Terms  
15 of Use.

16 69. Gamefam has grown rapidly over the last three years, primarily by creating Roblox  
17 experiences. In March 2022, Gamefam's Roblox portfolio of experiences and games received  
18 over 25 million monthly visits every day and more than 75 million hours of gameplay every  
19 month.<sup>10</sup> Gamefam's daily active users for its games can be as high as 892,000. Gamefam has  
20 over 100 employees. And Gamefam raised \$25 million in its series A funding round in March  
21 2022 to continue building games on Roblox.<sup>11</sup>

22 \_\_\_\_\_  
23 <sup>8</sup> Anthony Ha, *Gamefam aims to be the first big gaming company built on Roblox*, TECHCRUNCH  
(Mar. 11, 2021, 7:12 AM), <https://techcrunch.com/2021/03/11/gamefam>.

24 <sup>9</sup> Gamefam Studios (@gamefamstudios), TWITTER (July 14, 2022, 8:24 AM),  
25 [https://twitter.com/gamefamstudios/status/1547602947848036354?cxt=HHwWhICj\\_c6rmPoqA](https://twitter.com/gamefamstudios/status/1547602947848036354?cxt=HHwWhICj_c6rmPoqAAA)  
AAA; *Our Roblox Games*, <https://gamefam.com/> (last visited July 29, 2022).

26 <sup>10</sup> Dean Takahashi, *Gamefam raises \$25 million to build games for Roblox*, VENTURE BEAT (March  
27 23, 2022), <https://venturebeat.com/2022/03/23/gamefam-raises-25m-to-build-games-for-roblox/>.

28 <sup>11</sup> Kris Holt, *Gamefam Publisher of Hit Roblox Games Like Twilight Daycare, Raises \$25 Million  
In Its Series A Round*, FORBES (Mar. 23, 2022, 8:00 AM), <https://www.forbes.com/sites/krisholt/2022/03/23/gamefam-publisher-of-hit-roblox-games-like-twilight-daycare-raises-25-million/?sh=153a26e71df4>.

1           70. Gamefam’s success is directly tied to the steps Roblox takes to protect Roblox’s  
 2 brand and intellectual property, as well as to the technology and content that Roblox provides.  
 3 Roblox’s Terms of Use and intellectual property rights have enabled Roblox to build its strong  
 4 brand and attract its user base. And without Roblox’s user base, platform, and intellectual  
 5 property, Gamefam would not have the building blocks necessary to create its experiences, or the  
 6 dedicated community of users to experience them. Indeed, Gamefam’s CEO has said that  
 7 Gamefam “plan[s] to build a huge brand and media business hand-in-hand with the Roblox  
 8 platform” and that “the truth is, right now we couldn’t be more all about Roblox.”<sup>12</sup>

9           **E. WowWee’s Sale of Infringing Dolls For Its Own Profit**

10           71. Roblox’s explosive success has presented an opportunity for various third parties  
 11 to take advantage of, and profit from, the Roblox brand and strong user base. A number of third  
 12 parties, including Jazwares, have done so in cooperation with Roblox. But others, like Defendants,  
 13 have sought to exploit Roblox’s brand and intellectual property for their own profit while  
 14 disregarding Roblox’s rights and those of Roblox licensees such as Jazwares.

15           72. Roblox recently learned that the WowWee defendants, in conjunction with Gramps  
 16 Goods, are manufacturing, promoting, and selling a line of dolls, called My Avastars, that they  
 17 copied directly from Roblox’s Classic Avatars.

18           73. Defendants are promoting for sale on their website ([www.myavastars.com](http://www.myavastars.com)) four  
 19 different My Avastars dolls. The My Avastars dolls, priced at between \$24.99 and \$34.99 are or  
 20 have also been available for pre-order and purchase on [www.walmart.com](http://www.walmart.com), [www.amazon.com](http://www.amazon.com),  
 21 and [www.macys.com](http://www.macys.com). WowWee touts that it has “more dolls planned to release this year.”<sup>13</sup>  
 22 WowWee is both advertising and selling the My Avastars dolls across the nation, stating that they  
 23 will ship free “to the 48 US States,” and that shipping will be provided via “USPS.”<sup>14</sup> The Terms  
 24 of Service on the [www.myavastars.com](http://www.myavastars.com) site state “[t]his website is operated by Wowwee Group

25 \_\_\_\_\_  
 26 <sup>12</sup> Anthony Ha, *Gamefam aims to be the first big gaming company built on Roblox*, TECHCRUNCH  
 (Mar. 11, 2021, 7:12 AM), <https://techcrunch.com/2021/03/11/gamefam>.

27 <sup>13</sup> *FAQ*, MY AVASTARS, <https://myavastars.com/pages/faq> (last visited July 29, 2022).

28 <sup>14</sup> *Shipping Policy*, MY AVASTARS, <https://myavastars.com/policies/shipping-policy> (last visited  
 July 29, 2022).

1 Ltd. in partnership with Gramps Goods Inc.”<sup>15</sup>

2 74. In addition to selling the physical My Avastars dolls, WowWee has also advertised  
3 that each My Avastars doll is sold with a code that is compatible with and redeemable on Roblox  
4 in the “My Avastars: RP” experience.

5 75. The “My Avastars: RP” experience is a Gamefam-developed experience on Roblox  
6 originally set to be released in July 2022.

7 76. Various news and media outlets have covered the launch of the My Avastars toy  
8 line as a partnership between WowWee and Gamefam.<sup>16</sup>

9 77. On July 8, 2022, Roblox informed WowWee that WowWee’s activities constitute  
10 infringement of Roblox’s intellectual property rights and tortious interference with Roblox’s  
11 contractual relationship with Gamefam—specifically, the agreement between Gamefam and  
12 Roblox reflected in the Roblox Terms of Use. Roblox demanded that WowWee cease all  
13 marketing and sales of its My Avastars products and Roblox in-platform codes. WowWee refused  
14 to stop selling the My Avastars dolls. WowWee continues to promote the dolls on the  
15 myavastars.com website, and they are likewise still being promoted on www.amazon.com,  
16 www.walmart.com, and www.macys.com.

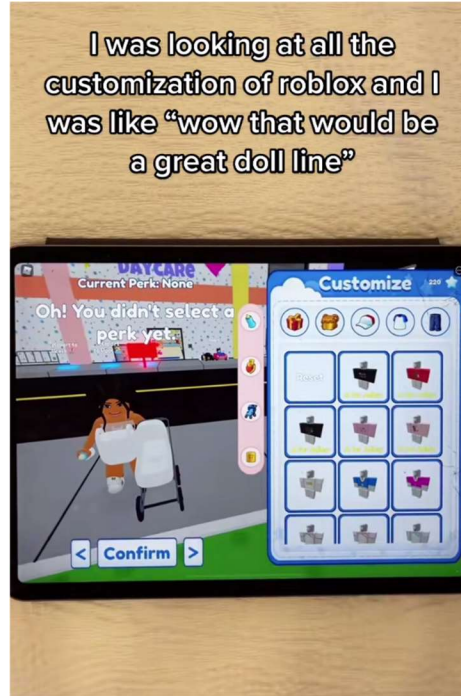
17 **F. WowWee Intentionally Copied Roblox Avatars to Create the My Avastars**  
18 **Dolls**

19 78. There is no question that WowWee copied Roblox avatars in designing its My  
20 Avastars doll line—a key WowWee executive has admitted to doing so. WowWee’s Vice  
21 President of Brand Development & Creative Strategy, Sydney Wiseman, used TikTok to promote

22 <sup>15</sup> *Terms of Service*, MY AVASTARS, <https://myavastars.com/policies/terms-of-service> (last visited  
23 July 29, 2022). It appears that Gramps Goods was created by the founder of WowWee toys and,  
24 with respect to the My Avastars dolls, is acting in concert with the WowWee entities on the dolls’  
creation, marketing, and sale.

25 <sup>16</sup> *See, e.g.*, Jennifer Jolly, *Exclusive first look: My Avastars dolls can help you understand the*  
26 *metaverse – finally!* USATODAY (June 18, 2022, 8:14 PM), [https://www.usatoday.com/](https://www.usatoday.com/story/tech/2022/06/18/my-avastars-dolls-help-explain-metaverse/7659129001/?gnt-cfr=1)  
27 [story/tech/2022/06/18/my-avastars-dolls-help-explain-metaverse/7659129001/?gnt-cfr=1](https://www.usatoday.com/story/tech/2022/06/18/my-avastars-dolls-help-explain-metaverse/7659129001/?gnt-cfr=1); Erron  
28 Kelly, *My Avastars: WowWee and Gamefam are making physical metaverse dolls*, VENTURE BEAT  
(June 21, 2022), [https://venturebeat.com/2022/06/21/wowwee-and-gamefam-are-making-](https://venturebeat.com/2022/06/21/wowwee-and-gamefam-are-making-physical-metaverse-dolls)  
[physical-metaverse-dolls](https://venturebeat.com/2022/06/21/wowwee-and-gamefam-are-making-physical-metaverse-dolls); Jackie Cucoo, *My Avastars Doll Line and “Roblox” Game Bring the*  
*Metaverse to the Toy Aisle*, THE TOY INSIDER (June 19, 2022), [https://www.thetoyinsider.com](https://www.thetoyinsider.com/wowwee-my-avastars-news)  
[/wowwee-my-avastars-news](https://www.thetoyinsider.com/wowwee-my-avastars-news).

1 the My Avastars doll line. Ms. Wiseman explained the inception of the My Avastars dolls as  
 2 follows: “I was looking at all the customization of roblox and I was like ‘wow that would be a  
 3 great doll line.’”<sup>17</sup> Ms. Wiseman then proceeded to lay out, step by step, the ways in which  
 4 WowWee copied the Roblox Classic Avatars:



16 79. First, WowWee started with Roblox’s classic avatar body—“[o]ne bodyshape for  
 17 everyone with tons of clothing options, like tops, shorts!”<sup>18</sup>

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26 <sup>17</sup> Sydney Wiseman (@sydwiseman), *Coming Soon!! Pre order just went live on Walmart,*  
 27 TWITTER (June 18, 2022), [https://www.tiktok.com/@sydwiseman/video/7110650821506845957?  
 28 is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382.](https://www.tiktok.com/@sydwiseman/video/7110650821506845957?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382)

<sup>18</sup> *Id.*



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80. Then, because “[t]he wig play of roblox is so special,” WowWee decided to “offer hair”:<sup>19</sup>



81. “And the best part” is that “you can *recreate her exactly in our roblox game my Avastars RP.*”<sup>20</sup>

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* (emphasis added).

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82. The end result is a doll line that WowWee admits consists of copies of Roblox’s avatars. Just like Roblox’s avatars, “My Avastars” are humanoid figures with cylindrical heads, C-shaped hands, block-shaped bodies and legs, square or rounded arms, and cartoon-like facial expressions that lack a nose.



**Roblox Cindy Avatar**



**My Avastars Dreamer\_3.0 Doll**

83. In another video on TikTok, Ms. Wiseman re-tells the My Avastars origin story,

1 again showing the My Avastars doll form directly on top of the Roblox Platform. This time,  
 2 however, she promoted the My Avastars dolls using her Roblox avatar and a Roblox experience  
 3 called Royale High created by Roblox developer callmehbob that, on information and belief, has  
 4 no connection to WowWee or Gamefam. She starts by explaining: “I was playing roblox and as I  
 5 was customizing my avatar I was inspired to create a doll line call my Avastars.”<sup>21</sup>



16  
 17  
 18 84. Ms. Wiseman goes on to state that My Avastars dolls come with “multiple outfits  
 19 in the box! Including an amazing hair piece” and “[s]tickers for the face,”<sup>22</sup> all of which mimic  
 20 the Roblox users’ ability to customize the hair, clothes, and facial expressions of their avatars on  
 21 the Roblox Platform.

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 27 <sup>21</sup> Sydney Wiseman (@sydwiseman), *The first doll born in the metaverse*, TWITTER (June 25,  
 2022), <https://www.tiktok.com/@sydwiseman/video/7113358682448071942>.

28 <sup>22</sup> *Id.*

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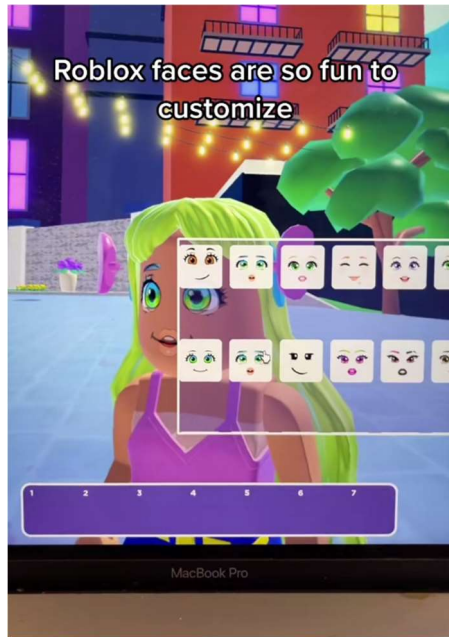
85. The video ends with footage of an avatar version of the My Avastars doll running towards the viewer in the virtual My Avastars: RP experience. Ms. Wiseman exclaims “Wow! And the best part... You can play as your avastar in the roblox game we launch in July!”<sup>23</sup>



86. In yet a third video, Ms. Wiseman makes clear that the faces of the My Avastars

<sup>23</sup> *Id.*

1 dolls are directly copied from the Roblox avatar faces. “Roblox faces are so fun to customize[.]  
 2 What if we made a doll that could do the same?”<sup>24</sup>



25 87. Ms. Wiseman has also stated in the press that she created the My Avastars doll line  
 26 to appeal to female Roblox users, stating that “[h]alf of Roblox users identify as girls, yet when  
 27 you look at how the toy industry intersects with gaming, its product offerings are focused primarily  
 28 on action figures and blasters.”<sup>25</sup> In attempting to capitalize on the market of female Roblox users,  
 WowWee decided the easiest course of action was simply to copy the Roblox avatar that those  
 users know and love, rather than come up with a unique doll design.

88. Further, Andrew Yanofsky, the Vice President of Marketing and Operations at  
 WowWee, has described the My Avastars doll line as having a “blockish shape” with “flat  
 surfaces,” which WowWee designed “to provoke kids’ creativity by allowing them to change and  
 rearrange their dolls as they do their avatars.”<sup>26</sup> This “blockish shape” is a distinctive feature of  
 Roblox’s copyrighted avatars. WowWee designed the My Avastars dolls to invoke the same

<sup>24</sup> Sydney Wiseman (@sydwiseman), *It’s the IRL face customization for me*, TWITTER (June 19, 2022), [https://www.tiktok.com/@sydwiseman/video/7110975821870845190?is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382](https://www.tiktok.com/@sydwiseman/video/7110975821870845190?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382).

<sup>25</sup> Jennifer Jolly, *Exclusive first look: My Avastars dolls can help you understand the metaverse – finally!* USA TODAY (June 18, 2022, 8:14 PM), <https://www.usatoday.com/story/tech/2022/06/18/my-avastars-dolls-help-explain-metaverse/7659129001/?gnt-cfr=1>.

<sup>26</sup> *Id.*

1 response in kids as “avatars” do—one need only compare the Roblox avatars and the My Avastars  
2 dolls to know which “avatars” Mr. Yanofsky was talking about.

3 89. Even without WowWee’s admissions, the My Avastars dolls clearly make use of  
4 and are derivative of Roblox’s copyrighted avatars in violation of Roblox’s exclusive rights under  
5 the Copyright Act, and they violate Roblox’s rights in the Roblox trade dress for these avatars.

6 90. A side-by-side comparison of a My Avastars doll, and the corresponding Modified  
7 Classic Avatar in the My Avastars: RP experience, shows that the My Avastars doll is based on  
8 the Roblox Classic Avatar original work and is substantially similar to it. These similarities  
9 include, at least: (1) the block shaped body, and in particular the block-shaped legs and feet; (2) the  
10 C-shape of the hands; (3) the shape of the eyes, eyebrows, and mouths; (4) the lack of nose; and  
11 (5) the texture of the hair.



**My Avastars Doll**



**My Avastars Avatar**

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23 91. The comparison is similarly striking when one compares the unclothed version of  
24 the My Avastars dolls shown in one of the My Avastars TikTok videos<sup>27</sup> to the Roblox Classic  
25 Avatar form.

26  
27 <sup>27</sup> My Avastars (@my\_avastars), *Style looks with KawaiiPie^^!*, TWITTER (June 28, 2022)  
28 [https://www.tiktok.com/@my\\_avastars/video/7114411424469847301?is\\_copy\\_url=1&is\\_from\\_webapp=v1&lang=en](https://www.tiktok.com/@my_avastars/video/7114411424469847301?is_copy_url=1&is_from_webapp=v1&lang=en).

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**Roblox Classic Avatar**



**My Avastars KawaiiPie^^ Doll**

92. The My Avastars dolls are also nearly identical to the Roblox toys that Jazwares markets and sells pursuant to its license agreement with Roblox. These similarities include, at least: (1) the block-shaped body, and in particular the block-shaped legs and feet; (2) the C-shape of the hand; (3) the shape of the eyes, eyebrows, and mouths; (4) the lack of nose; (5) the texture of the hair; and (6) the facial expression. These similarities are unsurprising, given that Jazwares has created dolls of the same protected avatars, pursuant to a license, that WowWee has appropriated without a license and in contravention of the Roblox Terms of Use and Roblox’s intellectual property rights.

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**Roblox—Jazwares Avatar Figurine**



**My Avastars Toy**



**Roblox—Jazwares Avatar Figurine**



**My Avastars Toy**

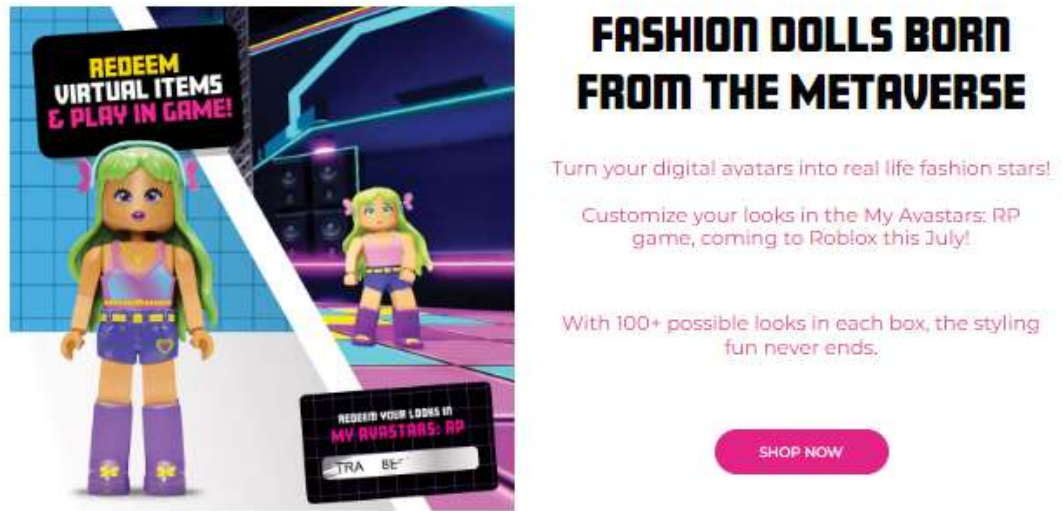
25           93.     For the same reasons described above, WowWee, by copying the Roblox Classic  
26 Avatar design, has also copied the Roblox avatar trade dress. The My Avastars dolls each contain  
27 the same nonfunctional, distinctive elements that make up the Roblox trade dress: (1) the  
28 humanoid, blocky shape; (2) the cylindrical heads; (3) the C-shaped hands; (4) the block-shaped



1 legs; (5) the square or rounded arms; (6) the cartoon-like facial expressions and lack of a nose; and  
 2 (7) the particularized combination of these elements.

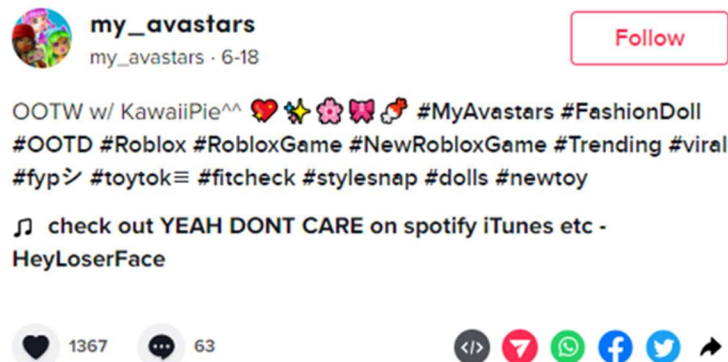
3 **G. WowWee Infringed the ROBLOX Mark**

4 94. Not satisfied to simply copy the Roblox avatar design and trade dress, WowWee  
 5 also used the ROBLOX Mark to advertise the My Avastars dolls without Roblox’s authorization  
 6 or consent to further cement in the minds of consumers that the My Avastars dolls are Roblox-  
 7 affiliated products.



17 95. First, as shown above, WowWee advertised on www.myavastars.com that the My  
 18 Avastars dolls were sold with a code redeemable on Roblox.

19 96. Second, WowWee used the ROBLOX Mark to advertise the My Avastars dolls in  
 20 all of the videos posted to the @my\_avastars TikTok account. For example, on the @my\_avastars  
 21 TikTok account, WowWee used the hashtags #roblox and #newroblox to advertise the My  
 22 Avastars dolls.



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97. Ms. Wiseman’s TikTok videos made similar use of the ROBLOX Mark. For example, one of Ms. Wiseman’s TikTok’s is titled: “#doll + #roblox = #myavastars.” Other videos used the hashtag #roblox to further associate the dolls with the Roblox brand.



98. WowWee also used the ROBLOX Mark in the voice over and text of promotional TikTok videos themselves. For example, in one video, Ms. Wiseman stated “Roblox’s faces are

1 so fun to customize. What if we made a doll that could do the same?"<sup>28</sup>



11 99. As discussed in more detail in the following section, WowWee intentionally used  
12 the ROBLOX Mark to unfairly usurp and capitalize on the value and goodwill of the ROBLOX  
13 brand, and to confuse customers into believing that the My Avastars dolls are a Roblox product,  
14 or are otherwise authorized or sponsored by, or connected or affiliated with, Roblox. WowWee is  
15 aware of the strength of the ROBLOX Mark, and Roblox's strong intellectual property rights and  
16 reputation in the marketplace, but nevertheless continues to use the ROBLOX Mark in an effort to  
17 profit from the goodwill associated with Roblox.

18 **H. WowWee Falsely, Misleadingly, and Intentionally Implied That My Avastars**  
19 **Dolls Were Sanctioned by or Associated with Roblox**

20 100. WowWee has worked hard to play on the similarities between its My Avastars dolls  
21 and the Roblox brand in the mind of consumers. At every turn, WowWee has attempted to free  
22 ride on the goodwill and reputation of Roblox by misleadingly implying an association with  
23 Roblox, both through the similarity of the My Avastars dolls to the Roblox avatars and through  
24 the use of the ROBLOX Mark.

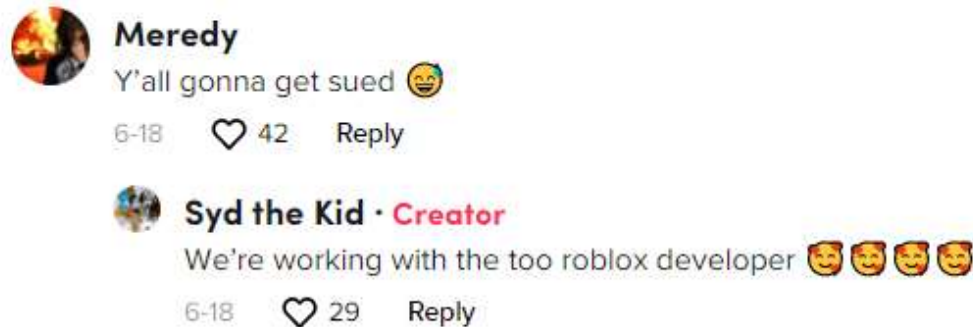
25 101. For instance, when one viewer of Ms. Wiseman's TikTok videos correctly  
26 recognized that WowWee had copied Roblox, and stated the obvious, "\*steals the entire roblox

27 <sup>28</sup> Sydney Wiseman (@sydwiseman), *It's the IRL face customization for me*, TWITTER (June 19,  
28 2022), [https://www.tiktok.com/@sydwiseman/video/7110975821870845190?is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382](https://www.tiktok.com/@sydwiseman/video/7110975821870845190?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382).

1 brand\* Yep! This is my own idea,” Ms. Wiseman replied: “Lol we’re working with top roblox  
 2 developers.”<sup>29</sup> That statement was clearly intended to deceive viewers of WowWee’s advertising  
 3 video into believing that the My Avastars dolls were a collaboration with, and sanctioned by,  
 4 Roblox.



11 102. Ms. Wiseman took the same approach repeatedly. On June 18, 2022, for instance,  
 12 she stated that WowWee would not be sued by Roblox because “[w]e’re working with the to[p]  
 13 roblox developer”:<sup>30</sup>



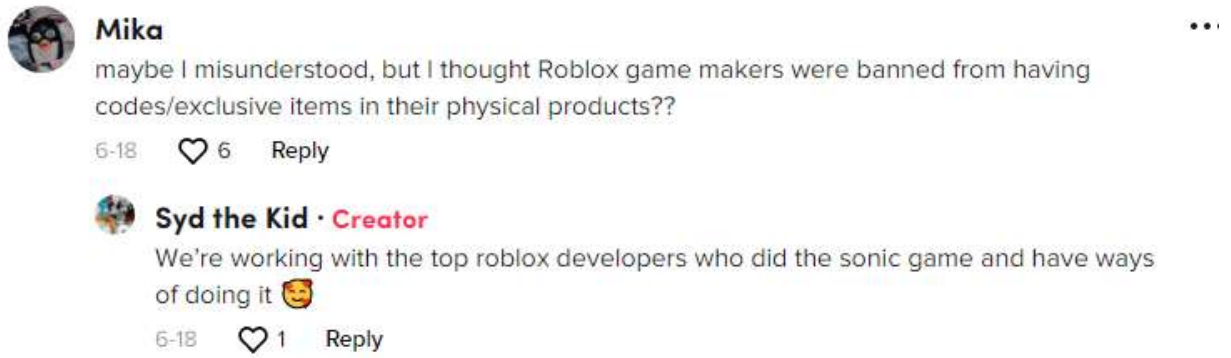
20 103. And once again, when alerted by a consumer to the impermissibility of selling in-  
 21 game codes along with physical products, Ms. Wiseman responded that WowWee was “working  
 22 with the top roblox developers who . . . have ways of doing it.”<sup>31</sup>

24 \_\_\_\_\_  
 25 <sup>29</sup> Sydney Wiseman (@sydwiseman), Comments on *Coming soon!! Pre order just went live on*  
 26 *Walmart*, TWITTER (June 18, 2022), [https://www.tiktok.com/@sydwiseman/video/7110650821506845957?is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382](https://www.tiktok.com/@sydwiseman/video/7110650821506845957?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382).

27 <sup>30</sup> Sydney Wiseman (@sydwiseman), Comment on *New doll Alert!!*, TWITTER (June 18, 2022),  
 28 [https://www.tiktok.com/@sydwiseman/video/7110581592950623494?is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382](https://www.tiktok.com/@sydwiseman/video/7110581592950623494?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382).

<sup>31</sup> *Id.*

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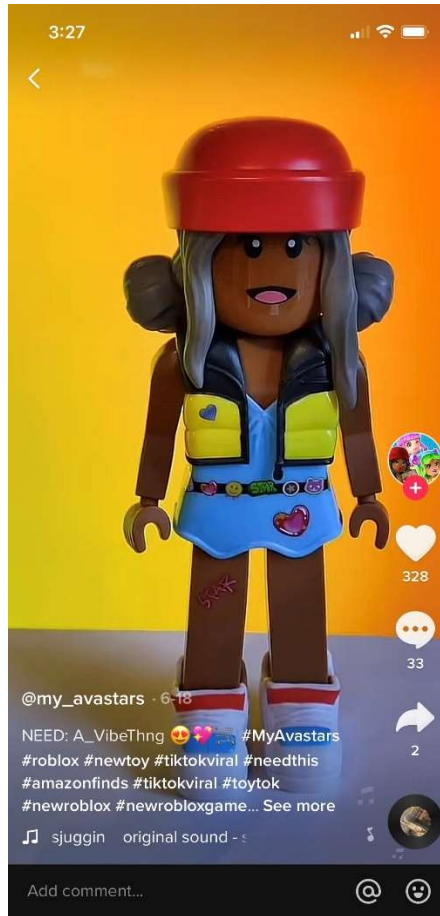
104. WowWee’s false and misleading attempts to associate My Avastars dolls with Roblox are also evident in the My Avastars advertising videos themselves, as well as on the My Avastars website and packaging.

105. WowWee encouraged and fomented market confusion, repeatedly tying the promotion of the My Avastars dolls to Roblox by, for example, showing the Roblox interface with the dolls in its TikTok promotional videos, tagging its videos with hashtags such as #Roblox or #newroblox,<sup>32</sup> and expressly referencing a connection with Roblox in the text of the video. Indeed, this use of the ROBLOX Mark intentionally suggested that Roblox was either the source or sponsor of the My Avastars dolls—neither of which is true.



<sup>32</sup> @my\_avastars, *NEED: A VibeThng*, TWITTER (June 18, 2022), [https://www.tiktok.com/@my\\_avastars/video/7110601916043906310?is\\_copy\\_url=1&is\\_from\\_webapp=v1&lang=en](https://www.tiktok.com/@my_avastars/video/7110601916043906310?is_copy_url=1&is_from_webapp=v1&lang=en).

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106. These efforts have had their desired effect, with numerous consumers expressing confusion as to whether My Avastars dolls are associated with Roblox—or affirmatively opining that they must be, given WowWee’s advertising. One commenter on a WowWee TikTok video, for instance, stated “I think they work with roblox.”<sup>33</sup> Across the board, people recognized the My Avastars dolls as Roblox avatars in doll form, with comments such as: “Roblox but in real

<sup>33</sup> Sydney Wiseman (@sydwiseman), Comment on *Coming soon!! Pre order just went live on Walmart*, TWITTER (June 18, 2022) [https://www.tiktok.com/@sydwiseman/video/7110650821506845957?is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382](https://www.tiktok.com/@sydwiseman/video/7110650821506845957?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382).

1 life,”<sup>34</sup> “is she from Roblox?”<sup>35</sup> “bro its roblox irl!?!?”<sup>36</sup> “is this a Roblox toy????”<sup>37</sup> and “IS  
2 THAT ROBLOX??”<sup>38</sup>

3 107. Many other commenters similarly assumed the dolls were made by Roblox—and  
4 this assumption influenced consumers’ opinions of Roblox as well as consumers’ desire to buy the  
5 My Avastars products. For instance, one commenter expressed disgust at Roblox’s brand based  
6 on the dolls: “I am so upset what Roblox became I’m so glad I’m not playing anymore.”<sup>39</sup> Another  
7 commenter viewed the My Avastars dolls’ perceived association with Roblox as a reason to buy  
8 the product: “I love the avastars doll because I play roblox so I definitely will be purchasing.”<sup>40</sup>

9 108. While it appears, on information and belief, that WowWee has ceased using the  
10 Roblox name on its website, WowWee has not taken down the TikTok advertising that uses the  
11 ROBLOX Mark in connection with the promotion of the My Avastars dolls. Thus, this confusion  
12 among consumers is likely to spread, especially if the My Avastars dolls are permitted to be  
13 shipped to customers—confusion that WowWee intentionally fostered to capitalize on Roblox’s  
14 carefully crafted reputation and goodwill with its customer base.

#### 15 I. WowWee Breached the Roblox Terms of Use

16 109. In addition to copying Roblox’s Classic Avatar design for its My Avastars dolls,  
17 WowWee also breached numerous provisions of the Roblox Terms of Use through its employee

18  
19 <sup>34</sup> Sydney Wiseman (@sydwiseman), Comment on *The possibilities and endless, both IRL and in*  
20 *game!*, TWITTER (July 3, 2022), <https://www.tiktok.com/@sydwiseman/video/7116154178237517062>.

21 <sup>35</sup> @my\_avastars, Comment on *#ASMR unboxing Dreamer 3.0!!*, TWITTER (June 28, 2022),  
22 [https://www.tiktok.com/@my\\_avastars/video/7114331263233789189?is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121743165363504686](https://www.tiktok.com/@my_avastars/video/7114331263233789189?is_from_webapp=1&sender_device=pc&web_id=7121743165363504686).

23 <sup>36</sup> *Id.*

24 <sup>37</sup> @my\_avastars, Comment on *Strutting into the metaverse with Dreamer 3.0*, TWITTER (June 21,  
25 2022), [https://www.tiktok.com/@my\\_avastars/video/7111822379155836165?is\\_copy\\_url=1&is\\_from\\_webapp=v1](https://www.tiktok.com/@my_avastars/video/7111822379155836165?is_copy_url=1&is_from_webapp=v1).

26 <sup>38</sup> Sydney Wiseman (@sydwiseman), Comment on *Press release drops tomorrow and were*  
27 *already almost sold out thank you so much for all your support!!*, TWITTER (June 20, 2022),  
28 [https://www.tiktok.com/@sydwiseman/video/7111489279863360773?is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382](https://www.tiktok.com/@sydwiseman/video/7111489279863360773?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382).

<sup>39</sup> *Id.*

<sup>40</sup> Sydney Wiseman (@sydwiseman), Comment on *#doll + #roblox = #myavastars*, TWITTER (June  
27, 2022), <https://www.tiktok.com/@sydwiseman/video/7114045461299760390>.

1 and agent, Sydney Wiseman.

2 110. On information and belief, Sydney Wiseman is the Vice President of Brand  
3 Development & Creative Strategy at WowWee. On July 28, 2021, Ms. Wiseman created an  
4 account on Roblox with the username sydwiseman.

5 111. On information and belief, Ms. Wiseman created this Roblox account on behalf of  
6 her employer, WowWee. Ms. Wiseman used her WowWee email address,  
7 [sydney@wowwee.com](mailto:sydney@wowwee.com), to create her account on Roblox. Further, Ms. Wiseman used her Roblox  
8 account to produce social media marketing for the My Avastars dolls, primarily by posting TikTok  
9 videos that featured the Roblox Platform and Roblox Modified Classic Avatars. *See supra*, ¶¶ 78-  
10 99. Ms. Wiseman even responded to a comment on one of her TikTok videos promoting the My  
11 Avastars dolls by providing her Roblox username (sydwiseman), further confirming that Ms.  
12 Wiseman created and uses her Roblox account on behalf of WowWee and within the scope of her  
13 duties as Vice President of Brand Development and Creative Strategy.

14 112. By creating an account on Roblox, WowWee affirmatively assented to the Roblox  
15 Terms of Use, which are prominently displayed on the Roblox Sign Up page in bold, color-  
16 contrasting, and hyperlinked text. WowWee is also on notice that Roblox views Ms. Wiseman's  
17 promotion of the My Avastars dolls on the @sydneywiseman TikTok account as promotion by  
18 WowWee itself. Yet WowWee has failed to terminate Ms. Wiseman's Roblox account, and Ms.  
19 Wiseman logged in to her Roblox account as recently as July 27, 2022. WowWee has therefore  
20 accepted the revisions to the Terms that were released on January 11, 2021, and June 22, 2022.

21 113. WowWee breached numerous provisions of the Roblox Terms of Use when it used  
22 Roblox's Classic Avatar design, along with related Roblox content, to advertise and sell the  
23 infringing My Avastars dolls.

24 114. **First**, the Roblox Terms explicitly provide for the protection of content that Roblox  
25 creates and owns—that is, “[t]he interfaces, graphics, trademarks, design, information, artwork,  
26 data, code, products, software, and all other elements of the Services, including the rights therein  
27 and any derivatives.” Ex. 1(a) (User Terms § 10). This content is termed “Roblox IP,” and  
28 “[e]xcept as allowed in these User Terms or any other Roblox Terms, User may not use any Roblox



1 IP contained in the Services unless User gets separate permission from the owner.” *Id.* WowWee  
2 breached these Terms by using Roblox IP (as explained above) without express permission from  
3 Roblox.

4 115. **Second**, subject “to Users compliance with” the Terms, Roblox grants its users and  
5 creators “a non-exclusive, limited, revocable, non-transferable license” to use the Roblox services  
6 (including the Roblox Platform) purely for a user’s own personal, entertainment use. Ex. 1(a)  
7 (User Terms § 9). But Roblox expressly forbids users from making any effort to “lease, lend, sell,  
8 redistribute or sublicense any part of the Services”<sup>41</sup> or otherwise use them “in any manner that  
9 infringes, misappropriates, or otherwise violates any intellectual property right.” Ex. 1(a) (User  
10 Terms § 6). WowWee breached these Terms by marketing and selling the My Avastars dolls,  
11 which by WowWee’s own admission, are based on Roblox’s artwork and design, outside of the  
12 Roblox Platform.

13 116. **Third**, the Roblox Terms grant Roblox creators a “non-exclusive, limited,  
14 revocable, non-transferrable license to use other content that Roblox develops and makes available  
15 on the Platform *solely for use on the Platform* in Creator’s UGC.” Ex. 1(a) (Creator Terms § 1.a.iv)  
16 (emphasis added). Similarly, WowWee acted in contravention of this provision by copying the  
17 Roblox Classic Avatar design, which Roblox develops and makes available on the Roblox  
18 Platform, to create, market, and sell the My Avastars dolls off the Roblox Platform.

19 117. **Fourth**, the Roblox Terms expressly reaffirm Roblox’s ownership of its avatars,  
20 including Modified Classic Avatars. The Terms specify that, “to the extent that a Creator has or  
21 obtains any right, title, or interest in any Modified Classic Avatar, Creator hereby assigns to Roblox  
22 all such right, title and interest.” Ex. 1(a) (Creator Terms § 1.b.iii.a). And the Terms prohibit the  
23 use of “Classic Avatars” “in connection with . . . off-Platform physical or digital merchandise.”  
24 Ex. 1(a) (Creator Terms § 1.b.iii.c). The My Avastars dolls plainly are based on Roblox’s Classic  
25 Avatar design and/or Modified Classic Avatars that Roblox owns the rights to, and thus, WowWee  
26 acted in contravention of this term by marketing and selling the physical My Avastars dolls.

27 <sup>41</sup> Services include the Roblox Platform as well as the “various other features and services, like  
28 websites, applications, and forums,” that Roblox offers “in order to allow users to play, create and  
connect.” Ex. 1(d) (Roblox Dictionary).

1 Further, WowWee used the Roblox Classic Avatar design in connection with off-Platform physical  
2 merchandise by marketing the My Avastars dolls with videos of Roblox avatars within the  
3 MyAvastars: RP experience.

4 118. *Fifth*, the Roblox Terms prohibit Roblox users from using “the Roblox name” on  
5 “physical products or commercial content” or in connection with the “distribution or sale of any  
6 products or services.” Ex. 1(c) (Roblox Name and Logo - Community Usage Guidelines). The  
7 Terms further prohibit users from employing UGC in any “manner which is intended or reasonably  
8 likely to suggest or imply that Creator is affiliated with Roblox or that Roblox endorses Creator or  
9 its use of the applicable UGC.” Ex. 1(a) (Creator Terms § 1.b.viii). WowWee acted in  
10 contravention of these terms by selling and marketing the My Avastars dolls with the Roblox  
11 name, the Roblox Classic Avatar design, Roblox UGC, and video footage from the Roblox  
12 Platform. WowWee further breached these provisions by advertising that it was working with “top  
13 Roblox developers” to create the My Avastars doll line.

14 119. *Sixth*, the Terms of Use prohibit the use of “third-party services or products to sell,  
15 either directly or as a bundle: in-experience items, exclusive features, or other in-experience  
16 enhancements” for the Roblox Platform. Ex. 1(b) (Community Standards § 30). WowWee  
17 breached this term by selling and advertising the My Avastars dolls with codes that can be  
18 redeemed “in-game to play with your My Avastars collectible items virtually.”

19 120. The User and Creator Terms provide that the specific restrictive provisions  
20 described above remain in effect and survive the termination of a User’s right to use the Roblox  
21 Services. Ex. 1(a) (User Terms § 19(b); Creator Terms § 12).

22 **J. WowWee’s Partnership with Gamefam Induced Gamefam to Violate the**  
23 **Roblox Terms**

24 121. In addition to WowWee’s own breach of the Roblox Terms, WowWee’s infringing  
25 dolls, and related promotional conduct, have resulted in Gamefam violating the Roblox Terms of  
26 Use in multiple ways—violations that WowWee knowingly and intentionally induced.

27 122. On information and belief, WowWee devised the idea for the My Avastars dolls,  
28 and simultaneously or subsequently entered into a partnership with Gamefam, pursuant to which

1 Gamefam developed an experience for the Roblox Platform, “My Avastars: RP,” and WowWee,  
2 in partnership with Gamefam, marketed and sold dolls designed to like the Modified Classic  
3 Avatars in “My Avastars: RP.”

4 123. Gamefam is a User and Creator within the meaning of the Roblox Terms of Use.  
5 By creating multiple accounts on Roblox, Gamefam affirmatively assented to the Roblox Terms  
6 of Use, which are prominently displayed on the Roblox Sign Up page in bold, color-contrasting,  
7 and hyperlinked text. Gamfam accepted further revisions to the Terms that were released on  
8 January 11, 2021, and June 22, 2022.

9 124. On information and belief, WowWee is aware of the restrictions placed on Roblox  
10 developers by the Roblox Terms of Use. WowWee itself has a Roblox account, and as discussed  
11 at ¶¶ 109-112, has affirmatively assented to the Roblox Terms. Further, on information and belief,  
12 WowWee has been aware of the contractual relationship between Roblox and Gamefam since the  
13 outset of WowWee’s dealings with Gamefam. The Roblox Terms of Use are publicly available,  
14 and WowWee knows that Gamefam is a Roblox user and creator—indeed, that is the basis of  
15 WowWee’s relationship with Gamefam.

16 125. Additionally, on July 8, 2022, Roblox wrote to WowWee to remind it of the  
17 contractual relationship between Gamefam and Roblox, and pointed out a number of the violations  
18 addressed herein.

19 126. On information and belief, in exchange for the creation of the “My Avastars: RP”  
20 experience, Gamefam receives benefits from WowWee in connection with the promotion and sale  
21 of the My Avastars dolls. WowWee’s partnership with Gamefam to market and sell the My  
22 Avastars line of dolls has induced Gamefam to breach multiple provisions of the Roblox Terms.

23 127. **First**, WowWee marketed and sold the My Avastars dolls with a code that it  
24 claimed could be redeemed in Gamefam’s “My Avastars: RP” game on the Roblox Platform for  
25 in-game clothing and other items. This caused Gamefam—who owns and operates the My  
26 Avastars: RP experience—to violate the Terms’ prohibition on the sale of “in-experience items,  
27 exclusive features, or other in-experience enhancements” for the Roblox Platform. Ex. 1(b)  
28 (Community Standards § 30).

1           128. **Second**, by continuing to market and sell the My Avastars dolls in partnership with  
2 Gamefam, WowWee has caused (and continues to cause) Gamefam to breach multiple restrictions  
3 in the Roblox Terms of Use on the use of Roblox avatars, other Roblox content, and UGC:

4           a.       The My Avastars dolls are based on Roblox’s Classic Avatar, and thus are  
5 Modified Classic Avatars under Roblox’s Terms. The Terms prohibit Creators from  
6 “us[ing] Classic Avatars” “in connection with any off-Platform physical or digital  
7 merchandise.” Ex. 1(a) (Creator Terms § 1.b.iii.c). The My Avastars dolls, websites and  
8 social media, and/or marketing have made and continue to make liberal use of the Roblox  
9 Classic Avatar form and other Roblox content to sell My Avastars dolls—including, on  
10 information and belief, video provided by Gamefam of its My Avastars: RP game that  
11 features Modified Classic Avatars. This is exactly what Gamefam contractually promised  
12 not to do.

13           b.       WowWee’s actions in working with Gamefam to sell the My Avastars dolls  
14 also place Gamefam in breach of the Roblox Terms’ prohibition on the “use [of] any  
15 Roblox IP” without “separate permission from the owner.” Ex. 1(a) (User Terms § 10).  
16 Roblox Classic Avatars are core Roblox IP owned by Roblox, and WowWee partnered  
17 with Gamefam to use that Roblox IP without Roblox’s permission.

18           c.       By promoting a connection between Gamefam’s on-Platform My Avastars-  
19 RP game and the My Avastars dolls that WowWee advertises for sale in conjunction with  
20 the Roblox name, WowWee also has induced Gamefam to violate the Terms’ prohibition  
21 on using “the Roblox name” or “Classic Roblox Avatars” on “physical products or  
22 commercial content” or tying such use to the “distribution or sale of any products or  
23 services.” Ex. 1(c) (Roblox Name and Logo - Community Usage Guidelines).

24           d.       Finally, WowWee’s sales put Gamefam in breach of the Roblox Terms’  
25 restrictions on UGC. The Roblox Terms of Use prohibit using UGC in any manner that is  
26 “reasonably likely to suggest or imply that Creator is affiliated with Roblox or that Roblox  
27 endorses Creator or its use of the applicable UGC.” Ex. 1(a) (Creator Terms § 1.b.viii).  
28 On information and belief, WowWee induced Gamefam to breach this provision by

1 (i) creating a doll specifically for use with a Roblox experience that WowWee induced  
2 Gamefam to create; (ii) working with Gamefam to advertise the dolls using content from  
3 the experience Gamefam created; and (iii) marketing the experience-tied dolls by using the  
4 Roblox name.

5 129. WowWee intentionally induced Gamefam's breaches, as described above. Indeed,  
6 Roblox's July 8 letter informed WowWee that its collaboration with Gamefam to license, sell, and  
7 market the My Avastars dolls had and would continue to cause these contractual breaches, yet  
8 WowWee has persisted to market the My Avastars dolls and they remain available for purchase  
9 on www.amazon.com (with an unspecified shipping date).

10 130. In the absence of WowWee's inducement, Gamefam would have continued to  
11 perform its contractual obligations to Roblox. As detailed above, Gamefam is a longtime Roblox  
12 developer that has created top-ranked experiences within the Roblox Platform for years without  
13 engaging in the sort of impermissible off-Platform merchandising that WowWee has induced. And  
14 Gamefam, as a top Roblox developer, has every incentive to continue to comply with the Terms  
15 and retain access to the Roblox Platform.

16 **K. The My Avastars Dolls are Irreparably Harming Plaintiffs' Brands and**  
17 **Reputation, and Will Cause Economic Harm**

18 131. The current marketing and sale of the My Avastars dolls, and the impending  
19 shipment of My Avastars dolls to customers, are causing immediate and irreparable harm to  
20 Plaintiffs' reputation, brand, and goodwill with customers and other third parties.

21 132. Roblox has expended significant energy, money, and time over many years to build  
22 its Platform and attract its developer and user community. As a direct result of this investment,  
23 millions of Roblox users are able to interact with each other and play games in the Roblox universe,  
24 personified as their customizable Roblox avatars. Now, WowWee is attempting to profit directly  
25 from the goodwill and reputation that Roblox has spent years cultivating. It is doing so by  
26 marketing and selling the My Avastars dolls as "fashion dolls born from the metaverse" that come  
27 with a "code compatible with the My Avastars: RP online game" available on Roblox.

28 133. The near-identical appearance to Roblox Classic Avatars, the sale of the Roblox

1 code, and the use of the ROBLOX Mark virtually guarantee that customers will associate the My  
2 Avastars dolls with Roblox and will assume Roblox’s endorsement, authorization, and/or  
3 affiliation. In fact, as explained above, many consumers have already assumed that the My  
4 Avastars dolls are Roblox products. These customers’ opinions of Roblox will be influenced by  
5 their experience with the My Avastars dolls, toys that Roblox has not approved and has no control  
6 over. And these dolls appear to be of significantly inferior quality to the Avatar Figurines (and  
7 well below the quality that Roblox would find acceptable).

8 134. Indeed, some people have already expressed skepticism about the quality of the My  
9 Avastars dolls. One commenter on a TikTok video of the My Avastars dolls stated “Not to be rude  
10 but these look cheaply made.”<sup>42</sup>

11 135. WowWee’s actions further deprive Roblox of *control* over its brand and intellectual  
12 property. In working with Jazwares and other collaborators to create physical merchandise of  
13 Roblox content, Roblox exercises significant control over the design and creation of Roblox-  
14 affiliated products, as well as the marketing and sale of those products to consumers, down to the  
15 details of the packaging materials. Roblox does this both to safeguard its reputation for high-  
16 quality goods and services and to ensure the merchandise accords with the brand image Roblox  
17 presents to the world. In so doing, WowWee has harmed and continues to harm Roblox’s brand  
18 and its relationship with the numerous other Users and Creators, including other businesses, who  
19 comply with its Terms of Use and proceed through its carefully crafted, licensing, distribution, and  
20 marketing strategy processes.

21 136. Roblox may suffer additional unquantifiable financial and reputational harm as a  
22 direct result of the Roblox code that WowWee has advertised for sale along with the My Avastars  
23 dolls. One of the main platforms through which Roblox’s application is distributed—the Apple  
24 App Store—does not permit users to redeem codes (through the Roblox application distributed  
25 through the Apple App Store) that are included as part of a physical product that is sold to  
26 consumers. Violation of this restriction can result in serious consequences, including the rejection

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27 <sup>42</sup> Sydney Wiseman (@sydwiseman), Comment on *It’s the IRL face customization for me*,  
28 TWITTER (June 19, 2022) [https://www.tiktok.com/@sydwiseman/video/7110975821870845190?  
is\\_from\\_webapp=1&sender\\_device=pc&web\\_id=7121508639904974382](https://www.tiktok.com/@sydwiseman/video/7110975821870845190?is_from_webapp=1&sender_device=pc&web_id=7121508639904974382).

1 by Apple of updated versions of Roblox’s application. Should WowWee’s off-platform sale of  
2 codes tied to the MyAvastars dolls result in the rejection of Roblox’s application by Apple, this  
3 will invariably result in a loss of goodwill towards Roblox on the part of Apple, as well as a loss  
4 of goodwill towards Roblox from users who depend on the Roblox app via the Apple App Store.  
5 Roblox could also be forced to incur significant administrative and engineering resources and time  
6 to correct the app updates (including potentially deleting the experience to which the code is tied,  
7 thereby further harming Roblox’s reputation with its users and creators). If Roblox is prevented  
8 by Apple (or any other distribution platform) from making necessary updates to its app to enhance  
9 the experience and security of its users, the harm to Roblox’s goodwill and reputation would be  
10 immeasurable.

11 137. This loss of reputation and goodwill, and damage to Roblox’s brand identity, cannot  
12 be remedied through monetary damages.

13 138. Jazwares is similarly suffering irreparable harm to its reputation and brand from  
14 Defendants’ continued wrongdoing. As discussed above, the My Avastars dolls bear a striking  
15 resemblance to Jazwares’ Roblox toys—but lack the high quality and brand controls instituted by  
16 Plaintiffs. Consumers will thus confuse the My Avastars dolls for Jazwares’ own products, and  
17 attribute the inferior quality of the My Avastars dolls to Jazwares. Customer comments show that  
18 consumers have already seen the glaring likeness between the My Avastars dolls and the Avatar  
19 Figurines, and will undoubtedly associate Jazwares’ brand with the My Avastar dolls.

20 139. In addition to these harms to reputation and goodwill, both Plaintiffs have incurred  
21 and will continue to incur economic damage from WowWee’s activities. For instance, WowWee’s  
22 My Avastars dolls compete directly with Roblox’s Jazwares toy line. Thus, both Roblox and  
23 Jazwares have suffered and will continue to suffer financial harm and loss of market share from  
24 the ongoing sale of the My Avastars dolls. In addition, Roblox’s future potential licensees will be  
25 far less likely to compensate Roblox fully for a license for Roblox content (as Jazwares has done)  
26 if they know that copycats will be able to make use of Roblox’s creations for free, without  
27 consequence.

28

**FIRST CAUSE OF ACTION**

**COPYRIGHT INFRINGEMENT**

1  
2  
3 140. Plaintiffs repeat and re-allege each and every allegation contained in the above  
4 paragraphs as if fully set forth herein.

5 141. Roblox Classic Avatars, including the Roblox Classic Avatar bases and all  
6 derivative works thereof, constitute original works of authorship and copyrightable subject matter  
7 under the laws of the United States. Each Roblox avatar is an audiovisual work.

8 142. Roblox owns or has exclusive rights to all rights, title, and interest in and to the  
9 Roblox Classic Avatars. Roblox has licensed certain of those rights to Jazwares in exchange for  
10 compensation.

11 143. Defendants had and have access to the Roblox avatars through the Internet, on the  
12 Roblox Platform, and through other means, including through Defendants' creation and use of a  
13 Roblox account.

14 144. Prior to filing this suit, Roblox registered with the United States Copyright Office  
15 four separate derivative audiovisual works: the Cindy Avatar; the Lindsey Avatar; the Kenneth  
16 Avatar; and the Dennis Avatar. Each of those four works is derivative of Roblox Classic Avatar  
17 bases, as shown at ¶¶ 4, 29.

18 145. Roblox received valid registrations for each of those works at Registration Numbers  
19 PA 2-357-603, PA 2-357-611, PA 2-357-639, and PA 2-357-608.

20 146. Without authorization, Defendants modified the Roblox avatars, as well as the  
21 underlying Classic Avatar bases, to create the My Avastars dolls. The My Avastars dolls are  
22 therefore derivative works of the Roblox avatars as well as the underlying Classic Avatar bases.  
23 Defendants also copied, reproduced, offered for sale, and publicly displayed those derivative  
24 works, which incorporate Roblox's copyrighted Roblox avatars and Classic Avatars bases, on  
25 Defendants' website and other third-party websites. Defendants' My Avastars dolls are  
26 substantially similar to Roblox avatars and the Classic Avatar bases.

27 147. Defendants are directly liable for these acts of infringement in violation of 17  
28 U.S.C. §§ 106 and 501.



1 148. Defendants' acts of infringement have been and continue to be willful, intentional,  
2 purposeful, and in disregard of Roblox's rights under the Copyright Act. Defendants know that  
3 their acts are infringing and yet they intentionally or recklessly disregard the law with their  
4 conduct.

5 149. Plaintiffs have and will continue to be damaged as a direct and proximate result of  
6 Defendants' willful infringing acts set forth above, and Defendants have profited and will continue  
7 to profit as a result of their unlawful infringement of the Roblox avatars in an amount to be proven  
8 at trial.

9 150. As a result of Defendants' infringement of Roblox's copyrights, Plaintiffs have  
10 suffered substantial damages, as well as the continuing loss of the goodwill and reputation  
11 established by Roblox in its avatars, including the Registered Avatars and the Roblox Avatar  
12 Figurines. Plaintiffs have suffered and continue to suffer immediate and irreparable injury for  
13 which they have no adequate remedy at law. Plaintiffs are entitled to injunctive relief pursuant to  
14 17 U.S.C. § 502(a).

15 **SECOND CAUSE OF ACTION**

16 **FALSE ADVERTISING - LANHAM ACT, 15 U.S.C. § 1125(a)(1)(B)**

17 151. Plaintiffs repeat and re-allege each and every allegation contained in the above  
18 paragraphs as if fully set forth herein.

19 152. Defendants have made multiple false and misleading statements of facts implying  
20 an association with Roblox. These include comments to consumers in TikTok video  
21 advertisements by WowWee's Vice President, on June 18 and 22, 2022, stating that WowWee was  
22 not stealing Roblox's brand and would not get sued because WowWee was "working with top  
23 roblox developers." WowWee also repeatedly used video of Roblox experiences in advertising  
24 the My Avastars dolls, and likewise frequently mentioned Roblox in the text of advertising videos  
25 and Internet hashtags, including in videos posted on June 18, 21, 25, and 27, 2022. *See supra*,  
26 ¶¶ 96-98.

27 153. Defendants knew, or should have known, that their advertising was false,  
28 misleading, and deceptive, because Defendants knew that the My Avastars dolls were not affiliated

1 with, associated with, or endorsed by Roblox.

2 154. Each of these false or misleading statements was made in the context of a  
3 commercial advertisement or promotion, including TikTok video product promotions, sales  
4 websites, and product packaging, distributed across the Internet and designed to sell the My  
5 Avastars dolls to consumers across the nation.

6 155. These statements have deceived, and were likely to deceive, consumers into  
7 believing that My Avastars dolls were associated with, endorsed by, licensed by, or created in  
8 collaboration with Roblox. And in fact, Internet comments indicate that consumers were actively  
9 deceived on this point. Defendants' false and misleading statements have caused harm to the  
10 public and, unless restrained, will further damage the public.

11 156. This deception is also material, as it is likely to cause a consumer to purchase a My  
12 Avastars doll on the strength of Roblox's brand and the false association with Roblox's reputation.

13 157. As a result of Defendants' false and misleading statements, Plaintiffs have suffered  
14 substantial damages through lost sales of Avatar Figurines and lost profits, as well as continuing  
15 damage to Plaintiffs' business, goodwill, and reputation. Plaintiffs have suffered and continue to  
16 suffer immediate and irreparable injury for which there is no adequate remedy at law. Plaintiffs  
17 are entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a).

18 **THIRD CAUSE OF ACTION**

19 **TRADEMARK INFRINGEMENT - 15 U.S.C. § 1114**

20 158. Plaintiffs repeat and re-allege each and every allegation contained in the above  
21 paragraphs as if fully set forth herein.

22 159. Roblox owns the ROBLOX Mark and related trademark registrations. The  
23 ROBLOX Mark is strong and distinctive, and designates Roblox as the source of all products and  
24 services advertised, marketed, sold, or used in connection with the ROBLOX Mark.

25 160. Roblox uses the ROBLOX Mark to describe, advertise, and promote its platform  
26 and related products, including toy figures, action figures, and accessories.

27 161. Defendants have caused to be offered for sale and sold the My Avastars dolls in  
28 conjunction with the ROBLOX Mark without authorization, license, or permission from Roblox.

1 Defendants' manufacturing, distribution, offer for sale, and sale of the My Avastars dolls in  
2 interstate commerce has caused and is likely to continue causing confusion, deception, and  
3 mistake, or to deceive as to the source and origin of the My Avastars dolls in that the buying public  
4 will conclude that the My Avastars dolls sold by Defendants are authorized, sponsored, approved,  
5 or associated with Roblox.

6 162. Defendants were aware of the ROBLOX Mark. Defendants were on constructive  
7 notice based on Roblox's federal registrations and Roblox's widespread use of the ROBLOX  
8 Mark, as well as on actual notice based on Defendants' use of the Roblox services and agreement  
9 to the Roblox Terms of Use. Yet Defendants continued (and continue) to use the ROBLOX Mark  
10 on Defendants' social media accounts and/or website to advertise the My Avastars dolls. Thus,  
11 Defendants' unauthorized use of the ROBLOX Mark was and is knowing, intentional, and willful.

12 163. As a direct and proximate result of Defendants' wrongful conduct, Roblox has been  
13 and will continue to be damaged.

14 164. Defendants' actions constitute trademark infringement in violation of the  
15 Trademark Act of 1946, as amended, 15 U.S.C. § 1114.

16 165. Unless an injunction is issued enjoining any continuing or future use of the  
17 ROBLOX Mark by Defendants, such continuing or future use is likely to continue to cause  
18 confusion, mistake, or deception as to source, origin, affiliation, or sponsorship, and will thereby  
19 irreparably harm Roblox.

20 166. As a result of Defendants' infringement of the ROBLOX Mark, Roblox has  
21 suffered substantial damages, as well as the continuing loss of the goodwill and reputation  
22 established by Roblox in its trademarks. Roblox has suffered and continues to suffer immediate  
23 and irreparable injury for which it has no adequate remedy at law. Roblox is entitled to injunctive  
24 relief pursuant to 15 U.S.C. § 1116(a).

25 167. Pursuant to 15 U.S.C. § 1117(a), Roblox is entitled to an order: (i) requiring  
26 Defendants to account to Roblox for any and all profits derived from its infringing actions, to be  
27 increased in accordance with the applicable provisions of law; and (ii) awarding all damages  
28 sustained by Roblox that were caused by Defendants' conduct, including the cost of preventing

1 consumers from being deceived and the cost of future advertising to correct public confusion.

2 168. Defendants' conduct was and is intentional and without foundation in law, and,  
3 pursuant to 15 U.S.C. § 1117(a), Roblox is therefore entitled to an award of treble damages against  
4 Defendant.

5 **FOURTH CAUSE OF ACTION**

6 **FALSE ASSOCIATION AND FALSE DESIGNATION OF ORIGIN**

7 **LANHAM ACT, 15 U.S.C. § 1125(a)(1)(A)**

8 169. Plaintiffs repeat and re-allege each and every allegation contained in the above  
9 paragraphs as if fully set forth herein.

10 170. Defendants have used and continue to use words, terms, names, and symbols,  
11 including "Roblox," "#Roblox," "#NewRoblox," and the ROBLOX Mark to market and sell the  
12 My Avastars dolls in interstate commerce.

13 171. The ROBLOX Mark is strong and distinctive, and it designates Roblox and, with  
14 respect to Avatar Figurines, Plaintiffs, as the source of all products and services advertised,  
15 marketed, sold, or used in connection with the ROBLOX Mark. By virtue of Plaintiffs' long  
16 standing and continued use of the ROBLOX Mark in connection with their products and services,  
17 the ROBLOX Mark has developed a substantial reputation for high-quality products and services  
18 and the consuming public has come to associate this mark with a single source of products and  
19 services (i.e., Roblox and, with respect to the Avatar Figurines, Jazwares).

20 172. Defendants were aware of the ROBLOX Mark. Defendants were on constructive  
21 notice based on Roblox's federal trademark registrations and Plaintiffs' widespread use of the  
22 ROBLOX Mark and Roblox name, as well as on actual notice based on Defendants' use of the  
23 Roblox services and agreement to the Roblox Terms of Use. Yet Defendants continued (and  
24 continue) to use the ROBLOX Mark and Roblox name on Defendants' social media accounts  
25 and/or website to advertise the My Avastars dolls and divert consumers looking for Roblox toys  
26 away from Jazwares' Avatar Figurines and toward the My Avastars dolls for the purpose of  
27 commercial gain. Thus, Defendants' unauthorized use of the ROBLOX Mark and Roblox name  
28 was and is knowing, intentional, and willful.

1 173. Through their use of the ROBLOX Mark and the Roblox name, Defendants  
2 intended to, and did in fact, cause and mislead consumers into believing, and misrepresented and  
3 created the false impression, that Plaintiffs somehow authorized, originated, sponsored, approved,  
4 licensed, or participated in Defendants' use of the ROBLOX Mark and/or Roblox name and  
5 Defendants' My Avastars dolls. Indeed, Internet comments confirm that consumers have been  
6 actually deceived on this point.

7 174. In fact, beyond the limited and closely controlled permissions granted in the Roblox  
8 Terms of Use, Plaintiffs have never authorized, licensed, or given permission to Defendants to use  
9 the ROBLOX Mark or Roblox name off the Roblox Platform.

10 175. As a result of Defendants' wrongful conduct, Plaintiffs have suffered substantial  
11 damages, as well as the continuing loss of the goodwill and reputation established by Plaintiffs in  
12 the ROBLOX Mark and the Roblox name. Plaintiffs have suffered and continue to suffer  
13 immediate and irreparable injury for which they have no adequate remedy at law. Plaintiffs are  
14 entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a).

15 **FIFTH CAUSE OF ACTION**

16 **TRADE DRESS INFRINGEMENT – THE LANHAM ACT, 15 U.S.C. § 1125**

17 176. Plaintiffs repeat and re-allege each and every allegation contained in the above  
18 paragraphs as if fully set forth herein.

19 177. The Roblox avatars have a distinct overall look and feel stemming from at least  
20 their (1) humanoid, blocky shape; (2) cylindrical heads; (3) C-shaped hands; (4) block-shaped legs;  
21 (5) square or rounded arms; (6) cartoon-like facial expressions and lack of a nose; and (7) the  
22 particularized combination of these elements. This distinct look has remained consistent since  
23 Roblox first developed its avatar design in 2007, and consumers identify this distinct look and feel  
24 with the Roblox Platform, the Roblox brand, and Jazware's Avatar Figurines licensed by Roblox.  
25 Indeed, numerous consumer comments on WowWee's own videos evidence that consumers  
26 associate the distinctive appearance of Classic Avatars with Plaintiffs. Thus, the Roblox trade  
27 dress has acquired secondary meaning and the consuming public has come to associate this trade  
28 dress solely with Plaintiffs.

1           178. None of these elements of the Roblox trade dress are functional. There are myriad  
2 ways that a video game designer (or toy manufacturer) could choose to render a humanoid avatar.  
3 These need not include features such as cartoon-like facial expression, lack of a nose, or C-shaped  
4 hands—much less all those features (and the others described above) taken together. Nor does a  
5 designer’s inability to use this distinctive combination of features add to their costs or place them  
6 at a competitive disadvantage.

7           179. The combination of these nonfunctional elements, among others, and the total  
8 impression of the Roblox avatars is sufficiently distinct that this trade dress identifies Plaintiffs as  
9 the source of the Roblox avatars, and all merchandise or products based on those avatars and  
10 associated trade dress.

11           180. Plaintiffs have expended considerable capital and resources to build and promote  
12 its avatars, the Roblox trade dress, and the Roblox Platform more generally. And Roblox only  
13 permits use of its trade dress within the Roblox Platform or through license agreements. Through  
14 Plaintiffs’ extensive and continuous use and promotion, the Roblox avatars’ trade dress has  
15 become a well-known indicator of the Plaintiffs’ brand and quality, and has acquired secondary  
16 meaning.

17           181. With the manufacturing, marketing, and sale of the My Avastars dolls, Defendants  
18 have intentionally, knowingly, deliberately, and willfully infringed and continue to intentionally,  
19 knowingly, deliberately, and willfully infringe Plaintiffs’ trade dress rights through its blatant  
20 copying of the trade dress in interstate commerce. This intentional, wrongful conduct includes,  
21 but is not limited to, the use of the same following elements in the My Avastars dolls: (1) the  
22 humanoid, blocky shape of the dolls; (2) the cylindrical heads of the dolls; (3) the C-shaped hands  
23 of the dolls; (4) the block-shaped legs of the dolls; (5) the square or rounded arms of the dolls;  
24 (6) the cartoon-like facial expressions of the dolls and the lack of a nose; and (7) the particularized  
25 combination of these elements.

26           182. Defendants’ copying of the trade dress has caused and is likely to continue to cause  
27 confusion, mistake, or deception as to the source, affiliation, connection, or association of  
28 Defendants’ My Avastars dolls. This includes, for example, the confusion, mistake, or deception

1 that creates initial customer interest in the My Avastars dolls.

2 183. As a result of Defendants’ infringement of Roblox’s trade dress, Plaintiffs have  
3 suffered substantial damages, as well as the continuing loss of the goodwill and reputation  
4 established by Roblox in its trade dress. Plaintiffs have suffered and continue to suffer immediate  
5 and irreparable injury for which they have no adequate remedy at law. Plaintiffs are entitled to  
6 injunctive relief pursuant to 15 U.S.C. § 1116.

7 **SIXTH CAUSE OF ACTION**

8 **INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS**

9 184. Plaintiffs repeat and re-allege each and every allegation contained in the above  
10 paragraphs as if fully set forth herein.

11 185. Use of the Roblox Services are governed by and subject to the Roblox Terms of  
12 Use.

13 186. At all relevant times, Roblox proximately displayed a hyperlink to the Terms of  
14 Use in a bold, contrasting color on the Sign Up page of both the Roblox desktop and mobile site.

15 187. When a company or individual signs up for a Roblox account, they are presented  
16 with the Roblox Terms of Use and must affirmatively accept the Terms of Use to create an account  
17 and access the Roblox Services.

18 188. Gamefam affirmatively accepted and agreed to the Terms of Use by creating an  
19 account on Roblox and using the Roblox Services.

20 189. The Roblox Terms of Use are a valid contract between Roblox and third-party  
21 Gamefam.

22 190. By assenting to the Roblox Terms of Use, Gamefam “promise[d] and commit[ted]  
23 not to make any use of Classic Avatars or Modified Classic Avatars” that is prohibited by the  
24 Terms.

25 191. Defendants have, and at all relevant times have had, knowledge of Roblox’s  
26 publicly available Terms of Use and Gamefam’s assent to those terms. *See supra* ¶¶ 124-25.

27 192. As set forth more fully above, Defendants deliberately and intentionally interfered  
28 with the contractual relationship between Roblox and Gamefam, thereby causing Gamefam to

1 violate numerous provisions in the Terms. Defendants knew that the disruption of this contractual  
2 relationship was certain or substantially certain to occur through its efforts to license, create, and  
3 market the My Avastars dolls for sale specifically for use with a Roblox experience.

4 193. Defendants continue to deliberately and intentionally interfere with the contractual  
5 relationship between Roblox and Gamefam despite Roblox informing them of the interference  
6 with the contract on July 8, 2022.

7 194. Defendants' inducement of these breaches was a substantial factor in causing, and  
8 continues to cause, substantial harm and injury to Plaintiffs, and Roblox in particular, including  
9 loss of reputation and goodwill; lost revenue from sales of the Avatar Figurines as some purchasers  
10 choose to buy the My Avastars dolls as a substitute for the Avatar Figurines; and loss in value of  
11 potential licensing rights for Roblox Classic Avatars. Plaintiffs' immediate, irreparable injuries  
12 have no adequate remedy at law, and Roblox is entitled to injunctive relief.

13 **SEVENTH CAUSE OF ACTION**

14 **BREACH OF CONTRACT**

15 195. Plaintiffs repeat and re-allege each and every allegation contained in the above  
16 paragraphs as if fully set forth herein.

17 196. Use of the Roblox Services are governed by and subject to the Roblox Terms of  
18 Use.

19 197. At all relevant times, Roblox proximately displayed a hyperlink to the Terms of  
20 Use in a bold, contrasting color on the Sign Up page of both the Roblox desktop and mobile site.

21 198. When a company or individual signs up for a Roblox account, they are presented  
22 with the Roblox Terms of Use and must affirmatively accept the Terms of Use to create an account  
23 and access the Roblox Services.

24 199. Defendants, through their agent and employee Sydney Wiseman, affirmatively  
25 accepted and agreed to the Terms of Use by creating an account on Roblox and using the Roblox  
26 Services.

27 200. The Terms of Use are binding on Defendants.

28 201. The Terms of Use prohibit the off-Platform use of content that Roblox develops



1 and makes available on the Roblox Platform.

2           202. The Terms of Use expressly forbid users from any effort to “lease, lend, sell,  
3 redistribute or sublicense any part of the [Roblox] Services” or otherwise use them “in any manner  
4 that infringes, misappropriates, or otherwise violates any intellectual property right.”

5           203. The Terms of Use grant Users a “non-exclusive, limited, revocable, non-  
6 transferable license to use the Roblox services (including the Roblox Platform) purely for a user’s  
7 own personal, entertainment use.” Similarly, the Terms grant Creators a “non-exclusive, limited,  
8 revocable, non-transferable license to use other content that Roblox develops and makes available  
9 on the Platform solely for use on the Platform in Creator’s UGC.”

10           204. The Terms of Use specify that, “to the extent that a Creator has or obtains any right,  
11 title, or interest in any Modified Classic Avatar, Creator hereby assigns to Roblox all such right,  
12 title and interest.”

13           205. The Terms of Use reserve all rights in Classic Avatars and Modified Classic  
14 Avatars not expressly granted by the Terms, “including the exclusive right to create derivative  
15 works incorporating Classic Avatars and Modified Classic Avatars.”

16           206. The Terms of Use prohibit the use of Classic Avatars in connection with off-  
17 Platform physical or digital merchandise.

18           207. The Terms of Use prohibit users from using “the Roblox name” on “physical  
19 products or commercial content” or in connection with the “distribution or sale of any products or  
20 services.”

21           208. The Terms of Use further prohibit the use of UGC in any “manner which is intended  
22 or reasonably likely to suggest or imply that Creator is affiliated with Roblox or that Roblox  
23 endorses Creator or its use of the applicable UGC.”

24           209. The Terms of Use restrict third parties from selling in-game items on the Roblox  
25 Platform, prohibiting the use of “third-party services or products to sell, either directly or as a  
26 bundle: in-experience items, exclusive features, or other in-experience enhancements” for the  
27 Roblox Platform.

28           210. As set forth more fully above, Defendants breached the Terms of Use by accessing

1 the Roblox Platform, copying the Roblox Classic Avatar design to make the My Avastars dolls,  
2 and promoting and selling those dolls off-Platform with codes that Defendants claim can be  
3 redeemed within a Roblox experience.

4 211. Defendants’ breaches of the Terms have been willful and systematic.

5 212. Roblox has performed all conditions, covenants, and promises required of it in  
6 accordance with the Terms of Use.

7 213. Defendants’ conduct was a substantial factor in causing, and continues to cause,  
8 irreparable harm and injury to Roblox, including harm to Roblox’s reputation, brand, and goodwill.  
9 Roblox’s immediate, irreparable injuries have no adequate remedy at law, and Roblox is entitled  
10 to injunctive relief.

11 **EIGHTH CAUSE OF ACTION**

12 **FALSE ADVERTISING – CAL. BUS. & PROF. CODE § 17500**

13 214. Plaintiffs repeat and re-allege each and every allegation contained in the above  
14 paragraphs as if fully set forth herein.

15 215. Defendants have made multiple false and misleading statements of facts implying  
16 an association with Roblox. These include comments to consumers in TikTok video  
17 advertisements by WowWee’s Vice President, on June 18 and 22, 2022, stating that it was not  
18 stealing Roblox’s brand and would not get sued because WowWee was “working with top roblox  
19 developers.” They also include repeated use of video of Roblox experiences in advertising the My  
20 Avastars dolls, as well as frequent mention of Roblox in the text of advertising videos and Internet  
21 hashtags, including in videos posted on June 18, 25, and 27, 2022. *See supra*, ¶¶ 96-98.

22 216. Each of these false or misleading statements was made in the context of a  
23 commercial advertisement or promotion, including TikTok video product promotions, sales  
24 websites, and product packaging.

25 217. WowWee knew that these statements were false or, at a minimum, misleading, as  
26 it was well aware that it was not partnering with, associated with, licensed by, or otherwise  
27 endorsed or sponsored by Roblox.

28 218. These statements have and are likely to continue deceiving consumers into

1 believing that My Avastars dolls are associated with, endorsed by, licensed by, or created in  
 2 collaboration with Roblox. Internet comments confirm that consumers have been actively  
 3 deceived on this point.

4 219. This deception is also material, as it is likely to cause a consumer to purchase a My  
 5 Avastars doll on the strength of Roblox’s brand and the attempted association with Roblox’s  
 6 reputation.

7 220. As a result of Defendants’ false and misleading statements, Plaintiffs have suffered  
 8 substantial damages through lost sales of the Avatar Figurines and lost profits, as well as  
 9 continuing damage to Plaintiffs’ business, goodwill, and reputation. Plaintiffs have suffered and  
 10 continue to suffer immediate and irreparable injury for which there is no adequate remedy at law,  
 11 and unless Defendants are enjoined from making such false and misleading statements, will  
 12 continue to suffer irreparable injury. Plaintiffs are entitled to injunctive relief.

### 13 NINTH CAUSE OF ACTION

#### 14 UNFAIR COMPETITION – CAL. BUS. & PROF. CODE § 17200

15 221. Plaintiffs repeat and re-allege each and every allegation contained in the above  
 16 paragraphs as if fully set forth herein.

17 222. As set forth above, Defendants have engaged in unlawful business acts or practices,  
 18 including copyright infringement, trademark infringement, intentional interference with  
 19 contractual relations, violations of the Lanham Act, and violations of Cal. Bus. & Prof. Code  
 20 § 17500—all in an effort to gain unfair competitive advantage by trading on Roblox’s efforts and  
 21 reputation.

22 223. Defendants’ acts and conduct constitute unlawful competition as defined by  
 23 California Bus. & Prof. Code §§ 17200, *et seq.*

24 224. Defendants have also engaged in advertising that is false, misleading, deceptive,  
 25 and likely to deceive members of the public, as alleged above. This advertising constitutes “unfair  
 26 competition” and a “fraudulent business act” as defined by California Bus. & Prof. Code §§ 17200,  
 27 *et seq.*

28 225. In light of Defendants’ conduct, it would be inequitable to allow Defendants to

1 retain the benefit of any funds obtained through the unauthorized and unlawful use of that property.

2 226. As a result of Defendants' unfair competition, Plaintiffs have suffered substantial  
3 damages through lost sales of Avatar Figurines, lost profits, and lost or diminished licensing fees,  
4 as well as the continuing damage to Plaintiffs' business, goodwill, and reputation. Plaintiffs have  
5 suffered and continue to suffer immediate and irreparable injury for which there is no adequate  
6 remedy at law, and unless Defendants are enjoined from such unfair competition, will continue to  
7 suffer irreparable injury. Plaintiffs are entitled to injunctive relief.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs pray for judgment from this Court against Defendants as follows:

10 1. A preliminary and permanent injunction enjoining and restraining Defendants, and  
11 all persons or entities acting in concert with Defendants, during the pendency of this action and  
12 thereafter perpetually, from:

13 a. Selling, marketing, reproducing, distributing, offering for sale, and/or  
14 publicly displaying any of the My Avastars dolls, or copies or derivative works of the  
15 Registered Avatars or Roblox trade dress;

16 b. Engaging in advertising or commercial promotion that is likely to cause  
17 confusion or mistake or to deceive consumers as to an association between Roblox and/or  
18 Jazwares, and the My Avastars products;

19 c. Violating the Roblox Terms of Use, including all terms and policies  
20 incorporated therein;

21 d. Accessing or using the Roblox Services for any commercial purpose;

22 e. Engaging in sales, advertising, or other activities that will place Gamefam  
23 in further breach of the Roblox Terms of Use;

24 f. Using the ROBLOX Mark, or any other mark likely to cause confusion with  
25 the ROBLOX Mark, in, on, or with any products or services, in connection with the  
26 advertising, marketing, or promotion, distribution, offering for sale, or sale, of any products  
27 or services, including the My Avastars dolls, and including on any social media websites,  
28 apps, or platforms;

1 g. Using any false designation of origin, false representation, or any false or  
2 misleading description of fact that can, or is likely to, lead the consuming public or  
3 individual members thereof, to believe that any products or services produced, offered,  
4 promoted, marketed, advertised, provided, sold, or otherwise distributed by Defendants is  
5 in any manner associated or connected with Roblox and/or Jazwares, or is licensed,  
6 approved, or authorized in any way by Roblox and/or Jazwares;

7 h. Representing, suggesting in any fashion to any third party, or performing  
8 any act that may give rise to the belief that the Defendants, or any of their products or  
9 services, are related to, or authorized or sponsored by, Roblox and/or Jazwares; and

10 i. Unfairly competing with Roblox and/or Jazwares in any manner  
11 whatsoever, or engaging in any unfair, fraudulent, or deceptive business practices that  
12 relate in any way to the production, distribution, marketing, and/or sale of products and  
13 services bearing the ROBLOX Mark or any other mark likely to cause confusion with the  
14 ROBLOX Mark.

15 2. An order pursuant to 15 U.S.C. § 1116(a), directing Defendants to file with the  
16 Court and serve upon Plaintiffs' counsel, within thirty (30) days after service of the order of  
17 injunction, a report in writing under oath setting forth in detail the manner and form in which the  
18 Defendants have complied with the injunction.

19 3. An order finding that, by the acts complained of above, Defendants have infringed  
20 Roblox's federally registered copyrighted works, in violation of 17 U.S.C. § 106.

21 4. An order finding that, by the acts complained of above, Defendants have created a  
22 false designation of origin and false representation of association in violation of  
23 15 U.S.C. § 1125(a).

24 5. An order, pursuant to 17 U.S.C. § 504, awarding Plaintiffs damages for the  
25 Copyright Infringement claim in an amount to be determined, all profits resulting from  
26 Defendants' sale of the My Avastars dolls and any other products infringing on Roblox's federally  
27 registered copyrights, and prejudgment and post-judgment interest on any such money judgment.

28 6. An order pursuant to 15 U.S.C. § 1117(a) awarding Plaintiffs actual damages, as

1 well as all of Defendants' profits or gains of any kind from its acts of trademark infringement,  
2 including a trebling of those damages and profits.

3 7. An order pursuant to 15 U.S.C. § 1117(a) awarding Plaintiffs all of their costs,  
4 disbursements, and other expenses incurred due to Defendants' unlawful trademark infringement.

5 8. An order pursuant to 15 U.S.C. § 1117(a) finding that this is an exceptional case  
6 and awarding Plaintiffs their reasonable attorneys' fees.

7 9. Such other and further relief as the Court may deem proper.

8 **DEMAND FOR JURY TRIAL**

9 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by  
10 jury of all issues so triable.

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1 Dated: August 2, 2022

Respectfully submitted,  
LATHAM & WATKINS LLP

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