

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
(WESTERN DIVISION)**

---

EPIC GAMES, INC.,

Plaintiff,

v.

SHENZHEN TAIRUO TECHNOLOGY CO.,  
LTD. (d/b/a NREAL, formerly known as  
HANGZHOU TAIRUO TECHNOLOGY CO.),

Defendant.

---

)  
)  
)  
)  
) **No. 5:21-CV-224**  
)  
)

) **JURY TRIAL DEMANDED**  
)  
)  
)  
)

**COMPLAINT FOR TRADEMARK INFRINGEMENT, FALSE DESIGNATION  
OF ORIGIN, STATUTORY AND COMMON LAW UNFAIR COMPETITION,  
AND REFUSAL OF REGISTRATION**

Plaintiff Epic Games, Inc. (“Epic”) brings this Complaint against Shenzhen Tairuo Technology Co., Ltd. (d/b/a Nreal, formerly known as Hangzhou Tairuo Technology Co.) (“Nreal”) for trademark infringement, false designation of origin, unfair competition, and refusal of registration. Epic alleges as follows:

**NATURE OF THE ACTION**

1. Founded in 1991 by Tim Sweeney, Epic has grown into one of the most successful software companies in the world. Not only does Epic create immersive digital content itself, but it also publishes the world’s leading software, Unreal Engine, for the creation of three-dimensional and immersive content. Over the last two decades, Unreal Engine has become the gold-standard engine and development tool for digital content. Unreal Engine enables creators to deliver cutting-edge content, interactive experiences, and immersive virtual worlds. In recognition of its

innovative technology, Unreal Engine has won numerous awards. It has more than 11 million users and hundreds of millions of people enjoy entertainment experiences created with Unreal Engine, including increasingly popular virtual reality games and simulations. Indeed, Epic entered the virtual reality video game space in 2017 with Robo Recall, a game built and powered by Unreal Engine.

2. Unreal Engine is used across a broad range of industries and is being used by creators in multiple industries to create immersive interactive experiences. For example, Unreal Engine powers simulations for training astronauts as well as for brain surgeons learning to perform intricate and challenging aspects of brain surgeries. Additionally, carmakers use Unreal Engine for automotive design and engineering, as well as for developing digital showrooms so customers can configure their vehicles and view their options with high fidelity visualizations. Finally, Epic expects Unreal Engine to feature prominently in the creation of a virtual Metaverse, a real time three-dimensional social platform where friends meet to interact and have enjoyable experiences.

3. Epic has ten registrations for “UNREAL” alone or in connection with another term for a wide range of goods and services including but not limited to software, video games, virtual worlds, and 3D visualizations, animations, and platforms.

4. Against this backdrop of the critical success of Unreal Engine (and UNREAL-branded games) and Epic’s trademark rights, Nreal recently launched outside the United States, and has indicated it will imminently launch its first product in the United States, Nreal Light mixed reality glasses. Nreal’s glasses project virtual three-dimensional images into the user’s real physical environment. They enable consumers to interact with a wide range of virtual reality software applications, including playing video games and viewing content created with Unreal Engine.

5. It is no coincidence that Nreal named its glasses after the industry-leading engine for creating immersive and interactive three-dimensional content. The developer section of Nreal's website lists Epic's Unreal Engine as one of three development platforms to be available for developers to create content for Nreal's glasses. Nreal was and is well aware of Epic and its UNREAL marks. Nreal does not just sell glasses, it has already developed and sold a game to be used with those glasses. Nreal is willfully trading off Epic's rights, causing confusion, and acting with callous disregard for Epic's prior rights.

6. Nreal's use of NREAL, a trademark that looks and sounds virtually identical to Epic's UNREAL trademark, in connection with products that overlap with Epic's UNREAL-branded products and services is likely to confuse consumers. Not only has Nreal aimed its first product at a segment into which Epic has already entered, Nreal's plans include further encroachment on Epic's rights. According to its pending trademark application, Nreal intends to use the NREAL mark in connection not just with mixed reality glasses that can be used with content created using Unreal Engine, but for "[d]esign and development of computer game software and virtual reality software"—thus positioning itself squarely as a direct competitor to Epic.

7. Nreal is also targeting the same industries as Epic. Nreal's website reflects its focus on gaming, entertainment, retail, medical, office environments, industry, and other market segments. Nreal also recently announced the launch of its enterprise edition of its glasses.<sup>1</sup>

8. In a proceeding pending before the Trademark Trial and Appeal Board, Epic has opposed Nreal's attempt to obtain a trademark registration for NREAL in the United States.

---

<sup>1</sup> "Nreal unveils enterprise edition of mixed-reality glasses", Venture Beat, February 22, 2021, available at <https://venturebeat.com/2021/02/22/nreal-unveils-enterprise-edition-of-mixed-reality-glasses/>

Despite ongoing discussions surrounding Epic's concerns that Nreal's use of NREAL will cause consumer confusion, Nreal has persisted in its efforts to use NREAL in connection with its products. Protracted settlement talks have been fruitless, and Epic has no choice but to file this lawsuit.

9. Epic files this lawsuit to prevent newcomer Nreal from trading on Epic's industry-leading reputation in the developer community and extensive family of UNREAL trademarks. Epic seeks this Court's assistance in obtaining an injunction to protect all consumers from being misled. Epic also requests damages to compensate Epic for the harm it has suffered, is suffering and will continue to suffer as a result of Nreal's infringement.

### **PARTIES**

10. Plaintiff Epic Games, Inc. is a Maryland corporation with its principal place of business in Cary, North Carolina. Through Unreal Engine, the Epic Games Store, and Epic Online Services, Epic provides an end-to-end digital ecosystem for developers and creators to build, distribute, and operate games and other content.

11. On information and belief, Defendant Shenzhen Tairuo Technology Co., Ltd. (d/b/a Nreal, formerly known as Hangzhou Tairuo Technology Co.) is a Chinese corporation with its principal place of business in Beijing, China. It is the applicant of record for U.S. Trademark Application number 87,755,578 (the "NREAL Application").

### **JURISDICTION AND VENUE**

12. This action arises under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, and the laws of the State of North Carolina. This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b). Further, this Court has supplemental jurisdiction over Epic's state-law claims pursuant to 28 U.S.C. § 1367(a) because those claims are substantially related to Epic's federal claims.

13. This Court has personal jurisdiction over Nreal and venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c). Epic is located and being harmed in this district. Additionally, on information and belief, Nreal conducts business across the United States (including in this district) by marketing Nreal Light glasses online (including on Nreal's website and through various solicited press in United States media), by providing downloads of Nreal's software developer kit ("SDK") for Nreal Light glasses in the United States, by providing to consumers downloads of Nreal Tower in the United States, and by making "pre-order" sales of "Dev Kits" comprised of the Nreal Light glasses and related hardware in the United States. Additionally, the activities about which Epic complains, including trademark infringement and customer confusion, have taken place, and are continuing to take place, in this district.

### **FACTUAL ALLEGATIONS**

#### **Epic's Award-Winning Unreal Products and Services**

14. Epic was founded in 1991 by then college student Tim Sweeney, working out of his parents' basement. Since that time, it has grown into one of the most successful companies creating three-dimensional and immersive content and tools.

15. In 1998, Epic released Unreal, a first-person shooter video game, the first in Epic's Unreal series of games. The game launched to widespread critical success and was heralded for its groundbreaking graphics. For example, in a June 25, 1998 article, the New York Times said, "[d]espite what it says on the box, this world isn't unreal. It's hyperreal. Everything you see and hear has been sharpened. Crystallized. Heightened. . . . That's the difference between real and Unreal: great postproduction."<sup>2</sup> A screenshot from the original Unreal game appears below:

---

<sup>2</sup> J.C. Herz, *Holding the Reins of Reality*, New York Times (June 25, 1998), available at <https://archive.nytimes.com/www.nytimes.com/library/tech/98/06/circuits/game-theory/25game.html>.



16. Since then, Epic has released additional Unreal games including the sequel Unreal II: The Awakening, Unreal Tournament and Unreal Championship. Each of the Unreal games bears the UNREAL mark and has been highly successful.



17. At the heart of the original Unreal game's revolutionary graphics and gameplay was Unreal Engine. Unreal Engine quickly garnered attention as its exceptional graphics showcased its power.

18. Unreal Engine is a software suite available to third-party developers to create three-dimensional and immersive digital content for use in games and other applications. Unreal Engine users also enjoy free access to products and services developed by Epic affiliates, including Quixel

Megascans, an online scan library of photorealistic three-dimensional content, and Twinmotion architectural visualization tools. Epic also offers the Unreal Engine Marketplace, an e-commerce platform through which developers can create and sell art, animation, textures, and other assets to use with Unreal Engine projects.

19. Another important aspect of Unreal Engine is its broad cross-platform capabilities. Since 2004, Unreal Engine has supported software developed to run on Windows PC, PlayStation 3, and Xbox 360. Over the ensuing years, Epic expanded Unreal Engine's capability to support iOS, Android OS, macOS, Google Stadia, Nintendo Switch, and a variety of other Xbox and PlayStation environments.

20. Popular video games that rely on Unreal Engine include PUBG, Minecraft Dungeons, Rocket League, Batman: Arkham Series, Star Wars Jedi: Fallen Order, Mortal Kombat, Street Fighter V, Final Fantasy VII Remake, Tony Hawk 1-2 Remastered, Bioshock, Borderlands, Infinity Blade, Mass Effect, Tom Clancy's Rainbow Six, and Gears of War 1-4.

21. Epic's most popular game, Fortnite, was released widely in 2017 and is powered by Unreal Engine. As of June 2020, Fortnite had over 350 million registered accounts worldwide and can be played on Microsoft Windows, macOS, PlayStation 4, Xbox One, and Nintendo Switch.

22. Unreal Engine is also the development platform and engine behind Robo Recall—heralded as the standard-bearer for virtual reality gaming:





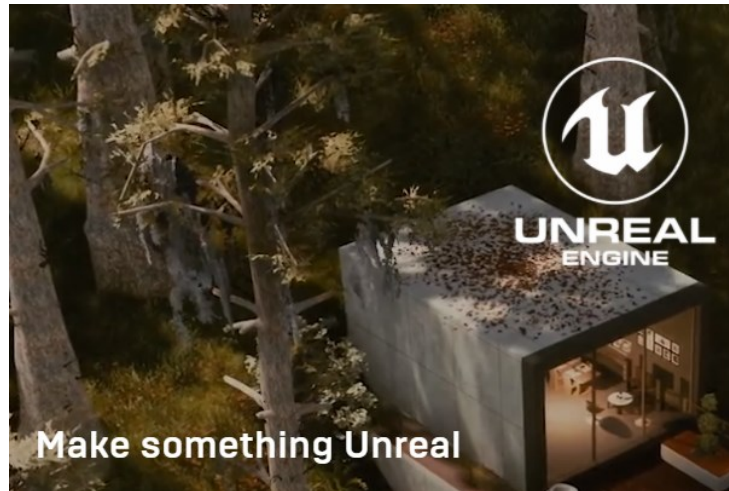


23. Hundreds of millions of people in the United States and around the world play games created using Unreal Engine, including increasingly popular virtual reality games. Unreal Engine has now been used to create hundreds of those games including Vader Immortal, Creed: Rise to Glory, IONIA: Rhythm of the Universe, Phantom: Covert Ops, and Lies Beneath.

24. The applications for Unreal Engine are far broader than the video game industry.

25. Over the last two decades, Unreal Engine has become the world's most open and advanced real-time three-dimensional environment creation tool. Unreal Engine's software suite is available to and employed by third-party developers across myriad industries. It allows developers to create two- and three-dimensional and immersive content for use in games, movies, technology, architecture, art, virtual reality, immersive experiences, and other applications. Below is an example of a photorealistic rendering created using Unreal Engine:





26. Unreal Engine has been used in many popular movies and videos—over 100 productions since 2016. For example, Industrial Light & Magic used Unreal Engine to create revolutionary real-time renderings of the robot K-2SO in the movie *Rogue One: A Star Wars Story*, a screenshot of which is reproduced below:



27. Additionally, virtually every background and set seen in *The Mandalorian*—Disney’s television series in the *Star Wars* franchise—was created using Unreal Engine. The

series was filmed on a stage with a huge oval LED display, which displayed the Unreal Engine-powered background and sets as the actors performed.

28. On October 29, 2020, in recognition of its accomplishments, Epic was one of only seven companies worldwide to receive an Emmy Award for exceptional engineering developments, specifically because of its role in developing virtual and augmented reality programming. “Broadcasters choose Unreal Engine to deliver cutting-edge content, virtual sets and AR-enriched programming with much higher fidelity than traditional broadcast graphics engines.”<sup>3</sup>

29. Unreal Engine has also been used in the automotive industry. Prominent carmakers, including Audi and Ford, have used Unreal Engine for such purposes as automotive design and engineering and developing digital showrooms in which customers can configure their vehicles with high fidelity visuals.

30. In the aerospace field, both NASA and Boeing use Unreal Engine to train astronauts using virtual reality. And Gulfstream uses Unreal Engine to visualize its jets for employees and clients.

31. Unreal Engine has also been used in the medical field, where it helps brain surgeons train for and perform some of the most intricate and challenging aspects of brain surgeries by allowing for detailed real-time digital anatomy simulations.

32. Epic distributes both the Unreal games and Unreal Engine online through various digital marketplaces, including Epic’s website. Epic markets Unreal Engine as a tool to develop augmented reality, virtual reality, and mixed reality content and has an entire page on its website devoted to that purpose.

---

<sup>3</sup> <https://www.emmys.com/news/awards-news/engineering-201008>.

33. Unreal Engine has been critically acclaimed. In 2014, Guinness World Records named it the most successful video game engine in history. And Epic has received countless other awards, including:

- Hollywood Professional Association Engineering Excellence Award in 2019;
- British Academy of Film and Television Arts Special Award in 2019;
- Emmy award for technology and engineering in 2019;
- Develop Industry Excellence Awards' Best Game Engine award in 2009, 2010, 2011, 2013, 2016, 2017, and 2018;
- Polycount Greentooth Award for Exceptional Software in 2017;
- RedShark Awards' Best CGI award in 2017;
- Siggraph's Best Real-Time Graphics and Interactivity award in 2015, 2016, and 2017; and
- Develop Industry Excellence Awards' Best Tools Provider award in 2008 and 2012.

34. As recently reported, Epic obtained \$1 billion in new funding, including an additional \$200 million strategic investment from Sony Group Corporation, to establish a metaverse of linked games and services. As one online publication noted, “[c]reating an early metaverse of flatscreen games, and more importantly building out the underlying architecture within Unreal Engine itself, could be a big step in creating a large-scale, VR metaverse as the companies inevitably push the confines of it to include immersive headsets.”<sup>4</sup>

---

<sup>4</sup> See <https://www.roadtovr.com/epic-games-unreal-engine-1b-investment/>.


### **Epic's Distinctive UNREAL Trademark**

35. Epic first began using the earliest of its UNREAL and UNREAL ENGINE marks in 1996. Since then, Epic has continually used UNREAL, UNREAL ENGINE, and other UNREAL-formative marks (collectively, the “UNREAL Marks”) in connection with video games and development tools. These marks are found on Epic’s games, featured prominently on games developed using Unreal Engine, and used extensively in association with Unreal Engine, as shown in the images above.

36. Additionally, Epic uses and maintains the domain unrealengine.com and maintains dedicated Unreal Engine social media accounts. Epic also uses the UNREAL Marks at media events relating to Unreal Engine, including at the annual “State of Unreal” event, and in connection with its efforts to promote the advancement of developers and other users of Unreal Engine, including through its Unreal Online Learning programs, Unreal Fellowship, and Unreal Dev Grants.

37. In addition to common law rights through its wide use of the UNREAL Marks, Epic is the owner of 12 trademark registrations for various UNREAL Marks, including U.S. Trademark Registration Nos. 2,263,802; 2,532,596; 2,841,063; 3,248,665; 4,442,968; 4,586,882; 4,956,962; 5,664,599; 5,664,600; 5,814,454; 5,910,610; and 5,910,611. Copies of Epic’s trademark registrations for the UNREAL Marks are attached as **Exhibit 1**. Epic’s trademark registrations for its UNREAL Marks are set forth below:

<u>Registration Number</u>	<u>Mark</u>	<u>Description</u>
2,263,802	<b>UNREAL</b>	<u>First Use Date:</u> May 22, 1998 <u>Registration Date:</u> July 20, 1999 <u>Goods &amp; Services:</u> Computer game software for personal, computers, home video game consoles and arcade based video game consoles

<u>Registration Number</u>	<u>Mark</u>	<u>Description</u>
2,532,596	UNREAL TOURNAMENT	<p><u>First Use Date</u>: November 22, 1998</p> <p><u>Registration Date</u>: January 22, 2002</p> <p><u>Goods &amp; Services</u>: Computer game software for use with personal computers, for use with home video game consoles for use with televisions, and for use with arcade-based video games consoles for use with televisions</p>
2,841,063	UNREAL CHAMPIONSHIP	<p><u>First Use Date</u>: January 1, 2002</p> <p><u>First Use In Commerce</u>: November 13, 2002</p> <p><u>Registration Date</u>: May 11, 2004</p> <p><u>Goods &amp; Services</u>: Computer game software for use with personal computers, for use with home video game consoles for use with televisions, and for use with arcade-based video game consoles for use with televisions; printed matter, namely, instruction and user manuals, reference guides, in the fields of computer games and computer gaming software</p>
3,248,665	UNREAL	<p><u>First Use Date</u>: April 1, 1998</p> <p><u>Registration Date</u>: May 29, 2007</p> <p><u>Goods &amp; Services</u>: Video game user manuals; video game hint books</p>
4,442,968	UNREAL ENGINE	<p><u>First Use Date</u>: 1996</p> <p><u>Registration Date</u>: December 3, 2013</p> <p><u>Goods &amp; Services</u>: Downloadable software for use in video game development, film production, television production, video production, and 3D animations, simulations, and visualizations</p>
4,586,882	UNREAL	<p><u>First Use Date</u>: 1996</p> <p><u>Registration Date</u>: August 19, 2014</p> <p><u>Goods &amp; Services</u>: Downloadable software for use in video game development, film production, television production, video production, and 3D animations, simulations, and visualizations</p>
4,956,962		<p><u>First Use Date</u>: October 1, 2014</p> <p><u>Registration Date</u>: May 10, 2016</p> <p><u>Goods &amp; Services</u>: Video game software for personal computers, home video game</p>

<u>Registration Number</u>	<u>Mark</u>	<u>Description</u>
		consoles, multi-media smart phones, wireless mobile devices, and portable media players
5,664,599	UNREAL ENGINE	<p><u>First Use Date:</u> July 12, 1996  <u>Registration Date:</u> January 29, 2019  <u>Relevant Goods &amp; Services:</u> Computer software, namely, game engine software for video game development and operation; Computer software, namely, software development tools for the creation of computer-generated imagery and graphics for the production of video games; Computer software, namely, software development tools for the creation of computer-generated imagery and graphics for the production of content for virtual worlds and 3D platforms; Computer software, namely, software development tools for the creation of computer-generated imagery and graphics for the production of motion pictures, television shows, videos, 3D animations, 3D simulations, 3D visualizations, virtual reality motion pictures, virtual reality television shows; Computer software, namely, software development tools for the creation of computer-generated imagery and graphics for the production of virtual reality video games; Virtual reality game software; Virtual reality software for creating multimedia content; Augmented reality game software; Augmented reality software for use in mobile devices for integrating electronic data with real world environments for the purposes of entertainment</p>
5,664,600	UNREAL	<p><u>First Use Date:</u> July 12, 1996  <u>Registration Date:</u> January 29, 2019  <u>Goods &amp; Services:</u> Computer software, namely, game engine software for video game development and operation; Computer software, namely, software development tools for the creation of computer-generated imagery and graphics for the production of video games; Computer software, namely, software development tools for the creation of</p>



<u>Registration Number</u>	<u>Mark</u>	<u>Description</u>
		computer-generated imagery and graphics for the production of content for virtual worlds and 3D platforms; Computer software, namely, software development tools for the creation of computer-generated imagery and graphics for the production of motion pictures, television shows, videos, 3D animations, 3D simulations, 3D visualizations, virtual reality motion pictures, and virtual reality television shows; Augmented reality game software; Augmented reality software for use in mobile devices for integrating electronic data with real world environments for the purposes of entertainment; Virtual reality game software; Virtual reality software for creating multimedia content; Computer software, namely, software development tools for the creation of computer-generated imagery and graphics for the production of virtual reality video games
5,814,454	UNREAL STUDIO	<u>First Use Date:</u> March 31, 2018 <u>Registration Date:</u> July 23, 2019 <u>Goods &amp; Services:</u> Computer software, namely, software development tools for the creation of computer-generated imagery and graphics for the production of content for virtual worlds and 3D platforms; computer software, namely, software development tools for the creation of computer-generated imagery and graphics for the production of motion pictures, television shows, videos, 3D animations, 3D simulations, 3D visualizations, virtual reality motion pictures, and virtual reality television shows; virtual reality software for creating multimedia content; downloadable software for use in film production, television production, video production, and 3D animations, simulations, and visualizations; computer software, namely, software development tools for the creation of computer-generated imagery and graphics for use in architecture, product design, and manufacturing; downloadable

<u>Registration Number</u>	<u>Mark</u>	<u>Description</u>
		software for the creation of fully immersive and interactive animations, simulations, and visualizations for use in architecture, product design, and manufacturing
5,910,610	UNREAL ENGINE	<p>First Use Date: September 27, 2018 (downloadable software); September 3, 2014 (online retail store services)</p> <p>Registration Date: November 12, 2019</p> <p>Goods &amp; Services: Downloadable software for use in creating, manipulating and participating in virtual environments; Recorded software for use in creating, manipulating and participating in virtual environments; Downloadable virtual goods, namely, computer programs featuring avatars, clothing, pets, vehicles, weapons, tools, toys, emotes and gestures for use in virtual environments created for entertainment purposes; Recorded virtual goods, namely, computer programs featuring avatars, clothing, pets, vehicles, weapons, tools, toys, emotes and gestures for use in virtual environments created for entertainment purposes; Downloadable virtual goods, namely, computer programs featuring avatars, clothing, pets, vehicles, weapons, tools, toys, emotes and, gestures for use in online virtual worlds; Recorded virtual goods, namely, computer programs featuring avatars, clothing, pets, vehicles, weapons, tools, toys, emotes and, gestures for use in online virtual worlds; Online retail store services featuring virtual goods, namely, avatars, characters, environments, structures, props, furniture, vehicles, weapons, tools, toys, emotes, and gestures for use in online virtual worlds;</p> <p>Online retail store services featuring virtual goods, namely, avatars, characters, environments, structures, props, furniture, vehicles, weapons, tools, toys, emotes, and gestures for use in online virtual worlds</p>

<u>Registration Number</u>	<u>Mark</u>	<u>Description</u>
5,910,611	UNREAL	<p><u>First Use Date</u>: September 27, 2018 (downloadable software); September 3, 2014 (online retail store services)</p> <p><u>Registration Date</u>: November 12, 2019</p> <p><u>Goods &amp; Services</u>: Downloadable software for providing access to an online multimedia virtual environment; Recorded software for providing access to an online multimedia virtual environment; Downloadable computer software for use in creating, manipulating, and participating in virtual environments; Recorded computer software for use in creating, manipulating, and participating in virtual environments; Downloadable computer software for providing access to an online virtual environment; Recorded computer software for providing access to an online virtual environment; Downloadable software for use in creating, manipulating and participating in virtual environments; Recorded software for use in creating, manipulating and participating in virtual environments; Downloadable virtual goods, namely, computer programs featuring avatars, clothing, pets, vehicles, weapons, tools, toys, emotes and gestures for use in virtual environments created for entertainment purposes; Recorded virtual goods, namely, computer programs featuring avatars, clothing, pets, vehicles, weapons, tools, toys, emotes and gestures for use in virtual environments created for entertainment purposes; Downloadable virtual goods, namely, computer programs featuring avatars, clothing, pets, vehicles, weapons, tools, toys, emotes and gestures for use in online virtual worlds; Recorded virtual goods, namely, computer programs featuring avatars, clothing, pets, vehicles, weapons, tools, toys, emotes and gestures for use in online virtual worlds;</p> <p>Online retail store services featuring virtual goods, namely, avatars, characters,</p>

<u>Registration Number</u>	<u>Mark</u>	<u>Description</u>
		environments, structures, props, furniture, vehicles, weapons, tools, toys, emotes, and gestures for use in online virtual worlds

38. Epic also has pending trademark applications for additional UNREAL-formative marks including:

<u>US Serial Number</u>	<u>Mark</u>	<u>Description</u>
88,920,970	UNREAL LUMEN	<p><u>Application Filing Date:</u> May 18, 2020</p> <p><u>Goods &amp; Services:</u> Downloadable software that implements a Global Illumination System (GIS), the foregoing being an integral component of software, software development tools, and a real-time 2D and 3D creation platform for use in the creation, development, production, and operation of 2D and 3D games, 2D and 3D interactive game and non-game worlds and virtual environments, virtual reality, augmented reality, mixed reality and extended reality experiences, 2D and 3D animations, simulations and visualizations, and real-time 3D sites;</p> <p>Downloadable software that implements a Global Illumination System (GIS), the foregoing being an integral component of software, software development tools, and a real-time 2D and 3D creation platform for use in the creation, development, and production of motion pictures, television programs, videos, animations, simulations, visualizations, and digital media</p>
88,764,912	UNREAL VERSE	<p><u>Application Filing Date:</u> January 18, 2020</p> <p><u>Goods &amp; Services:</u> Downloadable computer software development tools</p>

39. These registrations constitute *prima facie* evidence of Epic's ownership of and exclusive rights to use the UNREAL Marks in connection with the goods and services recited in the registrations.

### **Nreal's Infringement**

40. Nreal uses **nreal**, "nreal," "Nreal," "nreal light," or "Nreal Light" (collectively the "Infringing Marks") in association with mixed reality glasses.

41. Nreal was formed in 2017 in China. According to its founder, Nreal's goal is to bring mixed reality "applications to as many people as possible by developing a product [it] could offer at a lower price." Nreal fixed its sights on the United States last year, when it began pre-launch marketing at the Consumer Electronics Show (CES).<sup>5</sup>

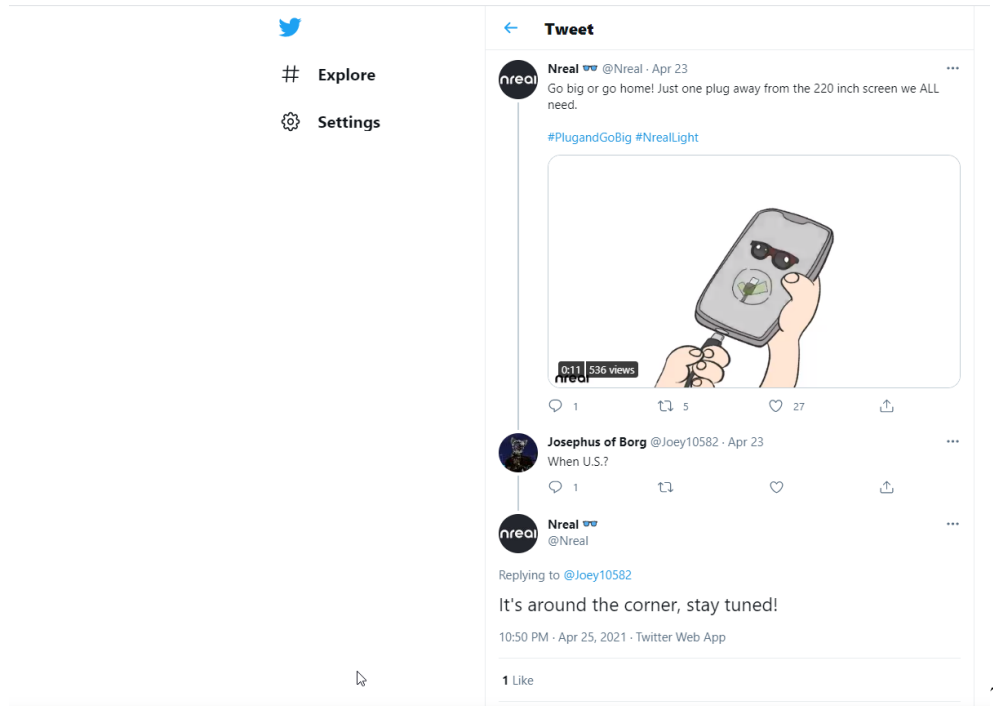
42. Nreal's glasses project three-dimensional images into the real world to show the user a mixed view of both virtual content and the user's actual surroundings. The technology also allows users to interact with these virtual images.

43. Nreal's glasses can be used with a variety of different software applications to create different user experiences. For example, in a press release, Nreal said its glasses can be used with augmented reality, mixed reality, and virtual reality games.<sup>6</sup> They can also be used to watch videos. Nreal has partnered with several major mobile communications providers in Europe and Asia, including Samsung, LG and Deutsche Telecom (known in the United States as T-Mobile), and seems poised to follow that same path here in the United States.

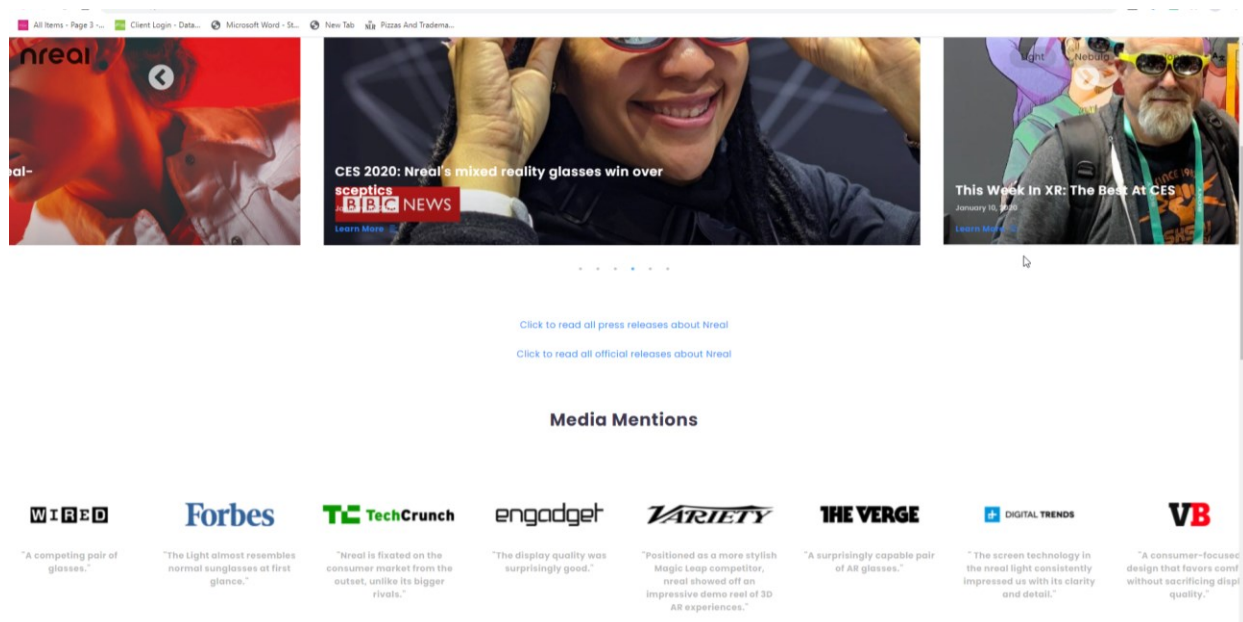
---

<sup>5</sup> See <https://www.nreal.ai/press/official/2020-jan-ces/>

<sup>6</sup> *Nreal Introduces XR Game Compatibility with NetEase AR*, PRNewswire (Mar. 19, 2019).



44. With those marketing partners, Nreal has been able to attract significant attention in the tech, entertainment, and gaming media throughout the United States.



<sup>7</sup> Available on Nreal's Twitter feed (<https://twitter.com/Nreal/status/1385624302670782464>), last accessed on May 13, 2021.



45. Before beginning to sell its glasses to consumers, Nreal made an SDK available for download on its website. Nreal also released hardware based “Dev Kits” comprised of the Nreal Light glasses and related hardware. Both the SDK and the Dev Kits are targeted at software developers who will use them to create apps and content for Nreal’s glasses.

46. Nreal uses the brand name “nreal” depicted in all lowercase letters. Nreal’s glasses feature prominent “nreal” branding:



47. Nreal’s website, [nreal.ai](https://nreal.ai), also features prominent “nreal” branding. A screenshot from the Nreal website landing page appears below:



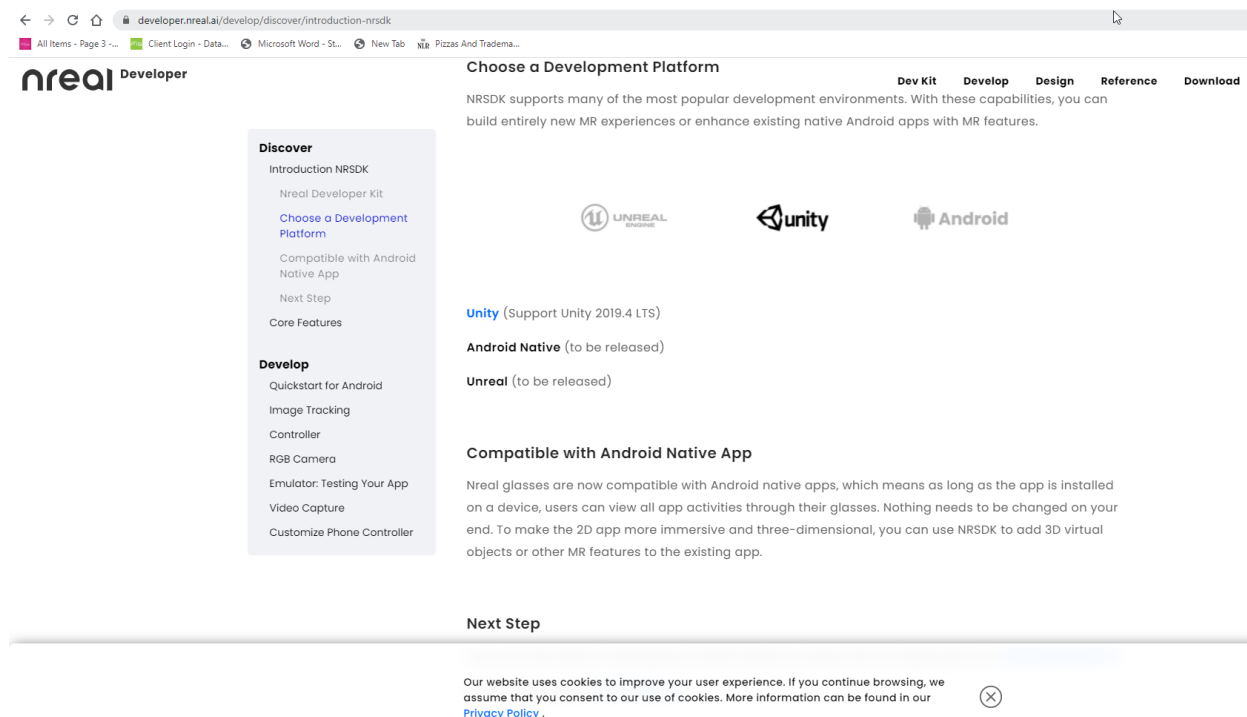
48. Nreal’s glasses are complementary and intimately related to Epic’s goods and services, as they are designed to work with the same goods and services Epic markets under the UNREAL Marks. Epic’s Unreal Engine is used to design virtual, augmented reality and mixed reality games and content, while Nreal-branded glasses are used to play and experience that content.

49. For example, Nreal launched a game called Nreal Tower—an augmented reality game of the type Unreal Engine is designed to create and power. This game is available for download in the United States, including in North Carolina. Nreal also recently launched the Nebula app, available on the Google Play Store. Nebula turns any existing Android app, including those created with Unreal Engine, into a mixed reality app for use with Nreal’s glasses.

50. Moreover, Nreal has made clear that it seeks direct competition with Unreal: Nreal’s pending trademark application (discussed below) explicitly covers software for processing images, graphics, and text as well as the “[d]esign and development of computer game software and virtual reality software.”

51. Nreal is well aware of Epic as well as Unreal Engine’s suitability for developing applications and content for Nreal’s glasses: On its website for developers, Nreal identifies Unreal

Engine as one of only three development platforms on which it plans to allow developers to create content for Nreal's glasses.<sup>8</sup>



52. Like goods and services marketed under the UNREAL Marks, Nreal's glasses are available for purchase online. And, like Epic, Nreal promotes its products online through websites and social media aimed at gamers.

53. Not only do Unreal and Nreal look very similar, they sound virtually identical. Nreal is a play on the word "unreal." They mean the same thing.

54. Additionally, the consumer bases for Nreal's glasses and the goods and services provided under the UNREAL Marks substantially overlap: Nreal and Epic market their respective Nreal and Unreal products broadly to consumers of video games and immersive, three-dimensional graphic experiences.

---

<sup>8</sup> <https://developer.nreal.ai/develop/discover/introduction-nrsdk>

55. Nreal's adoption of a name that sounds virtually identical to the industry-leading product used to develop the type of content that Nreal's glasses are made to display is telling.

56. On information and belief, Nreal was aware of Epic's prior rights in the UNREAL Marks before selecting and using the Infringing Marks, and has acted willfully in creating, marketing and selling its nreal-branded products.

57. Epic has not consented to Nreal's use of the Infringing Marks in connection with Nreal's glasses.

58. Nreal's use of the Infringing Marks, particularly in conjunction with a product that is so closely related to Epic's Unreal games and Unreal Engine, is likely to cause consumer confusion with the products and services provided under the UNREAL Marks. Consumers are familiar with Epic's groundbreaking Unreal games and Unreal Engine, acclaimed for powering stunning immersive visuals, and are likely to believe that Nreal's glasses are hardware associated with, affiliated with, or sponsored by the same source as the goods and services provided by Epic under the UNREAL Marks. Moreover, as Nreal rides a wave of publicity with video game players who may be less familiar with the Unreal Engine, Epic's ability to distinguish its own ever-expanding offerings of product and services from those of a newcomer with significant marketing partners will be irreparably harmed.

#### **Nreal Launches Nreal Light Glasses in the Face of Epic's Opposition to Nreal's Trademark Application**

59. In January 2018, Nreal filed with the U.S. Patent and Trademark Office the NREAL Application (number 87,755,578) to register **nreal**. This application was filed on an intent-to-use basis.

60. In its application, Nreal identified a plethora of goods and services including "[d]ownloadable software for tablet computers for organizing, editing, modifying, transmitting,

storing and sharing data and information; . . . [v]irtual reality headsets; Smartglasses; 3D spectacles; . . . Software for processing images, graphics and text; Computer software for the databasing, visualization, manipulation, visual reality immersion and integration of geographic information with on-line member communities; Eyeglasses; . . . Design and development of computer game software and virtual reality software[.]”

61. In December 2018, Epic opposed Nreal’s application due to the likelihood of confusion between **nreal** and the UNREAL Marks. That opposition proceeding is suspended at the parties’ request.

62. Since Epic filed its opposition, the parties have engaged in discussions to resolve their dispute, but to no avail. In August 2020, Nreal began selling Nreal Light glasses to consumers in Korea. Shortly thereafter, Nreal began selling Nreal Light glasses to consumers in Japan and Germany and announced plans to launch in the United States in the second quarter of 2021.

63. NREAL has also recently posted on its Twitter page that it has “big news” and that “something you’ve all been waiting for is on its way,” signaling its imminent launch in the United States.<sup>9</sup>

---

<sup>9</sup> Available on Nreal’s Twitter feed ([https://twitter.com/Nreal?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauth](https://twitter.com/Nreal?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauth)), last accessed on May 13, 2021.



Nreal 🕶️ @Nreal · 13h

...

📢 SAVE THE DATE 📅 May 20th, 2021

In 7 days, something you've all been waiting for is on its way...

Sign up to stay updated about the big news! ➡️ [eepurl.com/g0Tbub](https://eepurl.com/g0Tbub)

#NextMillion



💬 6

↻ 12

❤️ 30



64. If permitted to continue, Nreal's use of the Infringing Marks will damage and irreparably injure Epic, the UNREAL Marks, and Epic's reputation and goodwill associated with the UNREAL Marks. Nreal should not be permitted to reap the benefits of Epic's extensive efforts to build a valuable brand in its UNREAL Marks or, with funding from the substantial marketing budgets of its significant business partners (Samsung, LG, and Deutsche Telecom), swamp the ability of Epic to expand its offerings under the UNREAL Marks without being associated with Nreal.

65. Nreal's use of the Infringing Marks is also detrimental to the public's interest in being free from confusion as to the source, sponsorship, and/or affiliation of Nreal's and Epic's



products. In particular, Nreal's use of the Infringing Marks is likely to cause confusion, mistake, and/or deception as to the source and/or origin of both Nreal's and Epic's products and commercial activities, and is likely to falsely suggest a sponsorship, connection, license, and/or association between Nreal and Epic, as well as their respective products and services.

## **COUNT I**

### **Trademark Infringement Under Section 32(a) of the Lanham Act (15 U.S.C. § 1114(a))**

66. Epic repeats and re-alleges the allegations set forth in all other Paragraphs contained in this Complaint as if fully set forth herein.

67. Epic is the owner of numerous UNREAL trademarks registered with the United States Patent and Trademark Office, including Reg. Nos. 2,263,802; 2,532,596; 2,841,063; 3,248,665; 4,442,968; 4,586,882; 4,956,962; 5,664,599; 5,664,600; 5,814,454; 5,910,610; and 5,910,611. Epic first began using the mark UNREAL in 1996 and it, as well as the subsequently introduced UNREAL-formative marks, have been in continuous use in the United States.

68. The UNREAL Marks are valid and enforceable, and certain of the UNREAL Marks have attained incontestable status.

69. Nreal's use of the Infringing Marks is likely to cause confusion amongst relevant consumers and thus constitutes infringement of a registered mark in violation of 15 U.S.C. § 1114.

70. As a direct and proximate result of Nreal's wrongful acts, Epic has suffered, is suffering, and will continue to suffer and/or is likely to suffer damages to its trademarks, business reputation, and goodwill. Unless restrained, Nreal will continue to use the Infringing Marks or other marks confusingly similar to the UNREAL Marks and will cause irreparable damage to Epic.

71. Epic has no adequate remedy at law and is entitled to an injunction restraining Nreal, its officers, agents, and employees, and all persons acting in concert with Nreal, from engaging in further acts of infringement.

## **COUNT II**

### **Trademark Infringement, False Designation of Origin and Unfair Competition Under Section 43(a)(1)(A) of the Lanham Act (15 U.S.C. § 1125(a)(1)(A))**

72. Epic repeats and re-alleges the allegations set forth in all other Paragraphs contained in this Complaint as if fully set forth herein.

73. Epic first began using the mark UNREAL no later than 1996 and it, as well as the subsequently introduced UNREAL-formative marks, have been in continuous use in the United States.

74. The UNREAL Marks are valid and enforceable and certain of the UNREAL Marks have attained incontestable status.

75. Nreal's actions constitute a false designation of origin, affiliation, or sponsorship in violation of 15 U.S.C. § 1125(a).

76. Nreal's use of the Infringing Marks is likely to cause confusion amongst relevant consumers and thus constitutes a false designation of origin, affiliation, and/or sponsorship, and a false designation or representation that wrongfully and falsely designates Nreal's products and those of Epic as originating from the same source, and falsely suggests that the two companies are associated, affiliated, or connected with one another.

77. As a direct and proximate result of Nreal's wrongful acts, Epic has suffered, is suffering, and will continue to suffer and/or is likely to suffer damage to its trademarks, business reputation, and goodwill. Unless restrained, Nreal will continue to use the confusingly similar

Infringing Marks or other marks confusingly similar to the UNREAL Marks and will cause irreparable harm to Epic.

78. Epic has no adequate remedy at law and is entitled to an injunction restraining Nreal, its officers, agents, and employees, and all persons acting in concert with Nreal, from engaging in further acts of infringement.

### **COUNT III**

#### **Violations of NC Unfair and Deceptive Trade Practices (N.C. Gen. Stat. § 75-1.1, *et seq.*)**

79. Epic repeats and re-alleges the allegations set forth in all other Paragraphs contained in this Complaint as if fully set forth herein.

80. Nreal's wrongful acts set forth above, including acts of infringement and unfair competition, cause confusion and deceive consumers as to the origin and source of the products promoted and sold with the Infringing Marks, the origin and source of Epic's products and services, and the relationship between the two companies. By reason of the foregoing, Nreal has been, and is, engaged in unfair and deceptive acts or practices in violation of N.C. Gen. Stat. § 75-1.1, *et seq.*, including through the use of the marks NREAL and **nreal** for its glasses and related video game software development, all of which are so closely associated with Epic's Unreal products and services.

81. Nreal's conduct is in or affecting commerce throughout the United States and in North Carolina.

82. Nreal's acts complained of herein have damaged Epic in North Carolina and elsewhere. Unless restrained, Nreal's acts will continue to cause irreparable injury to Epic and to Epic's goodwill and reputation that cannot be adequately compensated by monetary damages.

83. Pursuant to N.C. Gen. Stat. § 75-16, Epic is entitled to a judgment against Nreal for actual damages, and that those damages be trebled.

84. Epic is also entitled to recover its attorneys' fees pursuant to N.C. Gen. Stat. § 75-16.1.

#### **COUNT IV**

##### **Common Law Unfair Competition**

85. Epic repeats and re-alleges the allegations set forth in all other Paragraphs contained in this Complaint as if fully set forth herein.

86. By reason of the foregoing, Nreal has been, and is, engaged in acts of unfair competition in violation of the common law, including through the use of the marks NREAL and **nreal** for its glasses and related video game software development, all of which are so closely associated with Epic's Unreal products and services.

87. Nreal's acts complained of herein have damaged and will continue to damage Epic irreparably. Epic has suffered damage to its goodwill and reputation in the marketplace that money cannot compensate.

88. Due to Nreal's actions alleged herein, Epic has no adequate remedy at law and is entitled to an injunction restraining Nreal from engaging in further acts of unfair competition.

#### **COUNT V**

##### **Common Law Trademark Infringement**

89. Epic repeats and re-alleges the allegations set forth in all other Paragraphs contained in this Complaint as if fully set forth herein.

90. Nreal's actions as alleged herein, including the use of the marks NREAL and **nreal** for its glasses that are so closely associated with Epic's Unreal products and services, constitute trademark infringement in violation of North Carolina common law.

91. Epic is the owner of the UNREAL Marks. The UNREAL Marks are valid and enforceable.

92. Nreal's use of the Infringing Marks is likely to cause consumer confusion as to whether Nreal's products originate from Epic or are associated, affiliated, or connected with or approved or sponsored by Epic or vice versa, and whether Nreal and Epic are associated, affiliated, or connected with one another.

93. As a direct and proximate result of Nreal's wrongful acts, Epic has suffered and continues to suffer and/or is likely to suffer damages to its business reputation and goodwill. Unless restrained, Nreal will continue to use the Infringing Marks and will cause irreparable damage to Epic. Epic has no adequate remedy at law and is entitled to an injunction restraining Nreal, its officers, agents, and employees, and all persons acting in concert with Nreal, from engaging in further uses of the Infringing Marks or any confusingly similar variations of Epic's valuable UNREAL Marks.

## **COUNT VI**

### **Refusal of Registration Under 15 U.S.C. § 1052(d)**

94. Epic repeats and re-alleges the allegations set forth in all other Paragraphs contained in this Complaint as if fully set forth herein.

95. Epic's rights in and to the UNREAL Marks developed long prior to any use of the Infringing Marks by Nreal.

96. Nreal's use of the Infringing Marks is likely to cause confusion or to cause mistake or to deceive consumers as to the affiliation, connection or association between Nreal and Epic, and/or as to the origin, sponsorship or approval of Nreal's and Epic's goods in violation of 15 U.S.C. § 1052(d).

97. As a result of the foregoing, Nreal's registration of the Infringing Marks, as reflected in the NREAL Application, is inconsistent with Epic's rights in the UNREAL Marks,

Nreal is not entitled to register the Infringing Marks, and the NREAL Application should not proceed to registration, pursuant to 15 U.S.C. § 1119.

98. Epic has no adequate remedy at law and is entitled to an injunction restraining Nreal, its officers, agents, and employees, and all persons acting in concert with Nreal, from registering the Infringing Marks or any confusingly similar variations thereof.

### **PRAYER FOR RELIEF**

WHEREFORE, Epic demands trial by jury, and respectfully prays that the Court enter judgment in its favor on each and every claim for relief set forth above and award it relief including, but not limited to, the following:

A. A permanent injunction barring Nreal, its officers, agents, and employees, and all persons acting in concert with Nreal, from trademark infringement and unfair competition as described herein;

B. An order directing Nreal to withdraw the NREAL Application;

C. Damages in an amount to be determined at trial;

D. Nreal's unjust enrichment and/or disgorgement of Nreal's profits;

E. Trebling of damages for willful infringement and unfair competition;

F. Exemplary and punitive damages;

G. Treble damages pursuant to N.C. Gen. Stat. § 75-16;

H. Attorneys' fees pursuant to N.C. Gen. Stat. § 75-16.1;

I. Pre-judgment interest at the legally allowable rate on all amounts owed;

J. Costs and expenses;

K. Attorneys' fees and other fees under, among others, 15 U.S.C. § 1117(a), *et seq.*, as an exceptional case;

L. Restitution; and



M. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Epic demands trial by jury in this action of all issues triable by jury in this matter.

**Dated:** May 14, 2021

**WILLIAMS MULLEN**

By: /Robert C. Van Arnam/  
Robert C. Van Arnam  
[rvanarnam@williamsmullen.com](mailto:rvanarnam@williamsmullen.com)  
WILLIAMS MULLEN  
301 Fayetteville Street, Suite 1700  
P.O. Box 1000 (27602)  
Raleigh, NC 27601  
Telephone: 919.981.4000  
Facsimile: 919.981.4300

Of Counsel:

**KIRKLAND & ELLIS LLP**

Dale Cendali  
[dale.cendali@kirkland.com](mailto:dale.cendali@kirkland.com)  
KIRKLAND & ELLIS LLP  
601 Lexington Avenue  
New York, NY 10022  
Telephone: +1 212 446 4800  
Facsimile: +1 212 446 6460

Diana Torres  
[diana.torres@kirkland.com](mailto:diana.torres@kirkland.com)  
Lauren Schweitzer  
[lauren.schweitzer@kirkland.com](mailto:lauren.schweitzer@kirkland.com)  
Maria Beltran  
[maria.beltran@kirkland.com](mailto:maria.beltran@kirkland.com)  
KIRKLAND & ELLIS LLP  
2049 Century Park East, Suite 3700  
Los Angeles, CA 90067  
Telephone: +1 310 552 4200  
Facsimile: +1 310 552 5900

*Attorneys for Plaintiff Epic Games, Inc.*