

The Honorable Thomas S. Zilly

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HARMONY GOLD U.S.A., INC.,

Plaintiff,

v.

HAREBRAINED SCHEMES LLC,  
HAREBRAINED HOLDINGS, INC., JORDAN  
WEISMAN, PIRANA GAMES INC.,  
INMEDIARES PRODUCTIONS, LLC and  
DOES 1-10,

Defendants.

Case No. 2:17-cv-00327

ANSWER TO AMENDED  
COMPLAINT

**ANSWER**

Defendants Harebrained Holdings, Inc., Harebrained Schemes, LLC, and Jordan Weisman (collectively, the “Harebrained Defendants”) answer Plaintiff’s Amended Complaint as follows. To the extent that any allegation in the complaint is not specifically admitted, the allegation is denied.

**PARTIES**

1. Plaintiff Harmony Gold U.S.A., Inc., is a California corporation with its principal place of business in Los Angeles, California.

1            ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
2 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

3  
4            2. Defendant Harebrained Schemes LLC is a limited liability company formed  
5 under the laws of the State of Washington with its principal place of business in Kirkland,  
6 Washington.

7            ANSWER: The Harebrained Defendants admit Harebrained Schemes LLC is a  
8 Washington limited liability company with a place of business in Kirkland, Washington. The  
9 Harebrained Defendants deny the allegations of this paragraph that are otherwise inconsistent  
10 with the above admission(s).

11  
12            3. Defendant Harebrained Holdings, Inc., is a corporation formed under the laws of  
13 the State of Washington with its principal place of business in Bellevue, Washington. On  
14 information and belief, Harebrained Holdings, Inc., does business under the name Harebrained  
15 Schemes. (Harebrained Schemes LLC and Harebrained Holdings, Inc., are referred to  
16 collectively as “Harebrained Schemes”).

17            ANSWER: The Harebrained Defendants admit Harebrained Holdings Inc. is  
18 incorporated under the laws of the state of Washington with a place of business in Bellevue,  
19 Washington. The Harebrained Defendants deny the remaining allegations in this paragraph.

20  
21            4. Defendant Jordan Weisman (“Weisman”) is an individual who, on information  
22 and belief, resides in Bellevue, Washington. On further information and belief, Weisman is the  
23 CEO and registered agent for Harebrained Schemes LLC, and is a governor of Harebrained  
24 Holdings, Inc. Weisman is the moving, active and conscious force behind Harebrained  
25 Schemes; has directed and controlled the activities of Harebrained Schemes complained of  
26 herein; has participated in, assisted in and/or is responsible for the conduct alleged herein; and  
27

1 entered into the Settlement Agreement with Harmony Gold at issue in the breach-of-contract  
2 claim set forth in this Complaint.

3 ANSWER: The Harebrained Defendants admit Jordan Weisman is an individual who  
4 resides in Bellevue, Washington, and that Mr. Weisman is the CEO and registered agent for  
5 Harebrained Schemes LLC. The Harebrained Defendants also admit Mr. Weisman signed a  
6 document entitled “Settlement Agreement and Mutual General Release” on December 10,  
7 1996. The Harebrained Defendants deny the remaining allegations in this paragraph.

8  
9 5. Defendant Piranha Games Inc. (“Piranha Games”) is a corporation created under  
10 the laws of British Columbia, Canada, with its principal place of business in Vancouver, British  
11 Columbia, Canada.

12 ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
13 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

14  
15 6. Defendant InMediaRes Productions, LLC, is a limited liability company formed  
16 under the laws of the State of Washington, with its principal place of business in Lake Stevens,  
17 Washington. On information and belief, InMediaRes Productions, LLC, operates the imprint  
18 game production company Catalyst Game Labs, and hereinafter is referred to as “Catalyst  
19 Game Labs”.

20 ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
21 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

22  
23 7. On information and belief, Does 1-10 (collectively, the “Doe Defendants”) are  
24 individuals and business entities who have participated or assisted in the conduct alleged herein  
25 or are otherwise responsible therefor. The identities of these Doe Defendants presently are not  
26 and cannot be known to Harmony Gold, but these persons and/or entities will be added as  
27 named defendants to this action as and when they are identified (collectively, Harebrained

1 Schemes LLC, Harebrained Holdings, Inc., Weisman, Piranha Games, Catalyst Game Labs and  
2 the Doe Defendants are referred to herein as “Defendants”).

3 ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
4 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

5  
6 **JURISDICTION AND VENUE**

7 8. This Court has jurisdiction because (i) this action arises under the Copyright  
8 Act, 17 U.S.C. § 101 *et seq.*, and jurisdiction is specifically conferred by 28 U.S.C. §§ 1331  
9 and 1338(a); and (ii) this is an action between citizens of different states in which the value of  
10 the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00), exclusive of  
11 interest and costs, jurisdiction being conferred in accordance with 28 U.S.C. § 1332.

12 Jurisdiction for the Washington State common law claim is conferred in accordance with the  
13 principles of supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a).

14 ANSWER: The allegations in this paragraph are legal conclusions to which no  
15 response is required. To the extent a response is required, the Harebrained Defendants deny the  
16 allegations.

17  
18 9. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) in that Defendants  
19 Harebrained Schemes LLC, Harebrained Holdings, Inc., Weisman and Catalyst Game Labs  
20 reside in this judicial district. Venue is proper under 28 U.S.C. § 1391(c)(3) in that Defendant  
21 Piranha Games is a foreign resident based in Vancouver, British Columbia, Canada, and on  
22 information and belief there is no other judicial district in which venue would be more  
23 appropriate. Venue is also proper under 28 U.S.C. § 1391(b)(2) as a substantial part of the  
24 events or omissions giving rise to the claims herein occurred in this judicial district.

25 ANSWER: The Harebrained Defendants admit they reside in this judicial district. The  
26 remaining allegations in this paragraph are legal conclusions to which no response is required.

1 To the extent a response is required, the Harebrained Defendants deny the remaining  
2 allegations.

3  
4 **FACTS**

5 Harmony Gold and the History of “Robotech”

6 10. This case involves animated giant warrior robots. In about 1980, Japan-based  
7 Tatsunoko Production Company, Ltd. (“Tatsunoko”), created a series of original warrior robots  
8 and incorporated them into an animated television series in Japan named “Macross.” Tatsunoko  
9 was the exclusive owner and producer of the Macross television series in Japan.

10 ANSWER: The Harebrained Defendants admit the Complaint appears to allege claims  
11 involving animated giant warrior robots. The Harebrained Defendants lack knowledge or  
12 information sufficient to form a belief about the truth of the allegations in this paragraph, and  
13 on that basis deny them.

14  
15 11. In the 1980s, Tatsunoko produced two additional animated television series in  
16 Japan that incorporated its futuristic warrior robots — “Mospeada” and “The Southern  
17 Cross”—for which it was also the exclusive owner in Japan.

18 ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
19 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

20  
21 12. In 1984, Tatsunoko granted entertainment production company Harmony Gold  
22 an exclusive license to adapt the Macross, Mospeada and The Southern Cross series for a  
23 television series in the United States, which Harmony Gold named “Robotech.” In 1985, the  
24 first of 85 episodes of the Harmony Gold-produced Robotech animated series aired in the  
25 United States. (Hereinafter, all of Harmony Gold’s Macross, Mospeada, The Southern Cross  
26 and Robotech shows, characters, products and derivative works are referred to as “Robotech.”)  
27

1            ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
2 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

3  
4            13.        Tatsunoko also granted Harmony Gold an exclusive license to market in the  
5 United States products incorporating Robotech warrior robots, such as books, toys, video  
6 games, films, comic books and apparel. Harmony Gold possesses this exclusive license to this  
7 day.

8            ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
9 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.


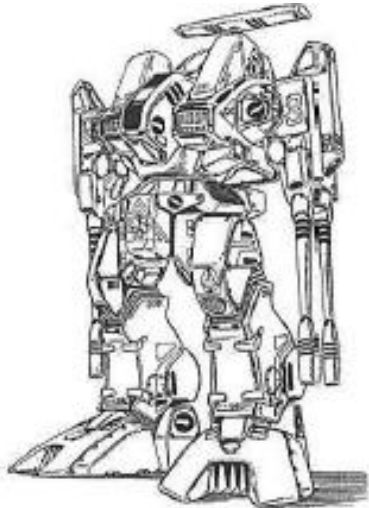
10  
11            14.        Harmony Gold and Tatsunoko are owners of a large portfolio of United States  
12 Copyright Registrations for animated programs, books, comic books and other materials  
13 incorporating images of the Robotech warrior robots, including the following:

- 14            • “Macross: Booby Trap” (PA 252,486); February 7, 1985 registration date
- 15            • “Mospeada” (PAu 740,321); March 28, 1985 registration date
- 16            • “Southern Cross” (PAu 740,322); March 28, 1985 registration date
- 17            • “Macross” (PAu 740,323); March 28, 1985 registration date
- 18            • “Robotech” (PA 260,432); August 22, 1985 registration date
- 19            • “Robotech II: The Sentinels” (PA 370,656); August 11, 1987 registration date
- 20            • “Robotech II: The Sentinels; Episodes 1, 2 and 3” (PAu 1,117,191); August 11,  
21            1987 registration date
- 22            • “Robotech 3000” (PAu 2,415,945); May 26, 1999 registration date.

23            The certificates for these registrations are attached as Exhibit A.

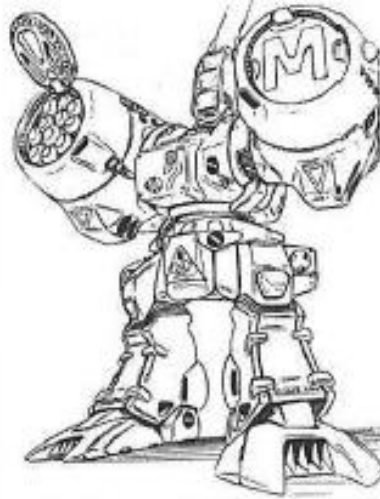
1            ANSWER: The Harebrained Defendants admit there are documents attached as Exhibit  
 2 A to the complaint that appear to be copies of copyright registrations. The Harebrained  
 3 Defendants lack knowledge or information sufficient to form a belief about the truth of the  
 4 remaining allegations in this paragraph, and on that basis deny them.

5  
 6            15.     The warrior robots depicted in the Robotech copyright registrations owned by  
 7 Harmony Gold include, but are not limited to, the following:

Robotech Warrior Robot Name	Robotech Warrior Robot Image
<p>9                      10                      11                      12                      13 Armored Valkyrie                      14                      15                      16                      17</p>	
<p>18                      19                      20                      21 Destroid Defender                      22                      23                      24                      25                      26                      27</p>	

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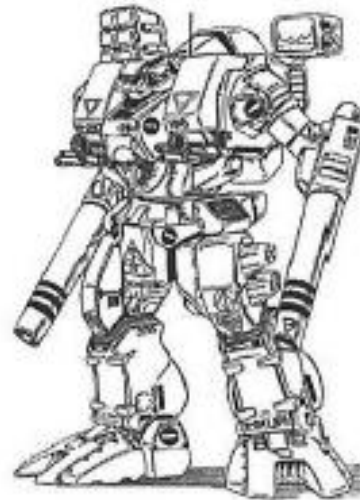
Destroid Phalanx



Destroid Spartan



Destroid Tomahawk





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Officer's Pod (Glaug)



Super Valkyrie



Valkyrie VF-1A



ValkyrieVF-1S



ANSWER: The Harebrained Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

16. Harmony Gold has the exclusive right to make copies of, distribute, publicly perform, display and make derivative works of the Robotech warrior robots in the United States.

ANSWER: The Harebrained Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

Harmony Gold's Prior Litigation Against Weisman

17. In 1995, Harmony Gold filed a copyright infringement and unfair competition complaint against FASA Corporation, which was owned by Weisman, and Virtual World Entertainment for infringement of the Robotech copyrights by the warrior robot designs in the defendants' "BattleTech" virtual reality computer games, role playing games, merchandise and a planned animated television series and toy line.

ANSWER: The Harebrained Defendants admit Harmony Gold USA, Inc. filed suit against FASA Corporation in or around 1995 alleging copyright infringement. The

1 Harebrained Defendants presently lack knowledge or information sufficient to form a belief  
2 about the truth of the remaining allegations in this paragraph, and on that basis denies them.

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4 18. This prior litigation concluded when the parties agreed to a “Settlement  
5 Agreement and Mutual General Release” (the “Settlement Agreement”), which had an effective  
6 date of December 19, 1996, and to which Weisman was a signatory. In addition to agreeing to  
7 a monetary payment, Weisman and his co-defendants agreed that they would not “make any  
8 use, and will not authorize [their] licensees to make any use, of the visual design images of the  
9 twelve (12) Battlemechs listed below except as provided in this agreement.” These 12  
10 “Battlemechs” include those detailed below in Paragraph 28, which presents side-by-side  
11 comparisons of Harebrained Schemes’ and Weisman’s current warrior robot designs and the  
12 corresponding Harmony Gold Robotech designs. Weisman also agreed to the entry of a  
13 permanent injunction and acknowledged that violating the use restriction would cause  
14 Harmony Gold “irreparable harm.” Further, Weisman agreed that he would not “contest, nor  
15 [would he] assist any other person or entity in contesting, Harmony Gold’s exclusive ownership  
16 worldwide, excluding Japan,” of the Robotech merchandising rights. This Settlement  
17 Agreement is confidential, and therefore has not been attached to this Complaint.

18 ANSWER: The Harebrained Defendants admit Mr. Weisman signed a document  
19 entitled “Settlement Agreement and Mutual General Release” on December 10, 1996. To the  
20 extent the remainder of the paragraph purports to interpret and give legal effect to that  
21 document, such allegations are legal conclusions to which no response is required. To the  
22 extent a response is required, the Harebrained Defendants deny the remaining allegations.

23  
24 Current Unauthorized Copying by Defendant Piranha Games

25 19. Defendant video game production company Piranha Games developed and  
26 distributes an online game named “MechWarrior Online” incorporating warrior robots, which it  
27 calls “A BattleTech Game.” In April 2013, Piranha Games submitted a proposed design to

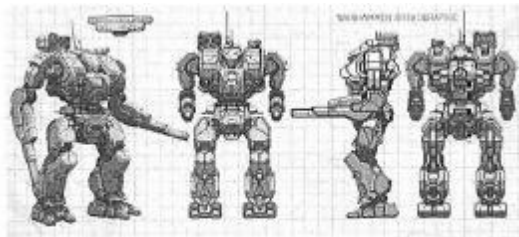
1 Harmony Gold for an animated warrior robot for use in MechWarrior Online to get an opinion  
2 from Harmony Gold if this new design infringed Harmony Gold's Robotech copyrights.  
3 Harmony Gold determined that Piranha Games' design was derivative of its copyrighted  
4 Destroid Tomahawk warrior robot, and Harmony Gold's outside counsel sent an e-mail to  
5 Piranha Games' founder and president Russ Bullock informing him of that decision. On  
6 information and belief, Piranha Games never used this proposed 2013 design.

7 ANSWER: The Harebrained Defendants admit Piranha Games is a video game  
8 production company that developed and distributes an online game named "MechWarrior  
9 Online," a game which incorporates warrior robots and is referred to as "A BattleTech Game."  
10 The Harebrained Defendants lack knowledge or information sufficient to form a belief about  
11 the truth of the remaining allegations in this paragraph, and on that basis deny them.

12  
13 20. In May 2013, Mr. Bullock sent another proposed design for a MechWarrior  
14 Online warrior robot to Harmony Gold's counsel. Harmony Gold determined that Piranha  
15 Games' new design was derivative of Harmony Gold's copyrighted Zentradei OBP warrior  
16 robot, and therefore infringed Harmony Gold's registered copyrights. Harmony Gold's counsel  
17 again informed Mr. Bullock of that determination via e-mail. On information and belief,  
18 Piranha Games never used this other proposed 2013 design.

19 ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
20 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

21  
22 21. In July 2016, Harmony Gold discovered infringing images that were derivative  
23 works of its Destroid Tomahawk warrior robot featured on the website of Catalyst Game Labs,  
24 a purveyor of board games. A blog post from Catalyst Game Labs reads, "It's been an absolute  
25 blast working withy [sic] Matt Newman, Russ Bullock (and of course their whole great team)  
26 generating these lore vignettes." The following image of the infringing robot warriors appeared  
27 on the blog post by Catalyst:



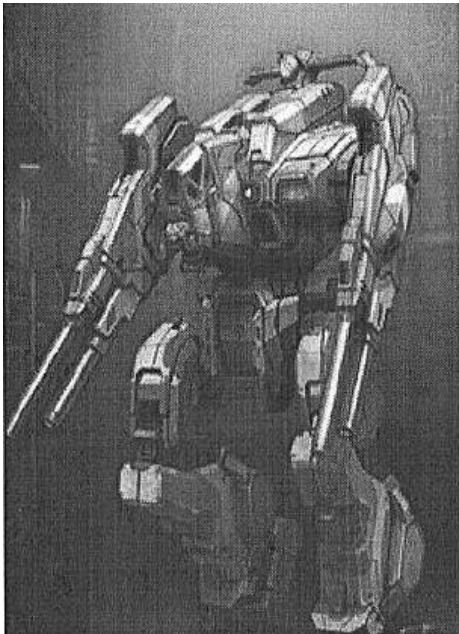
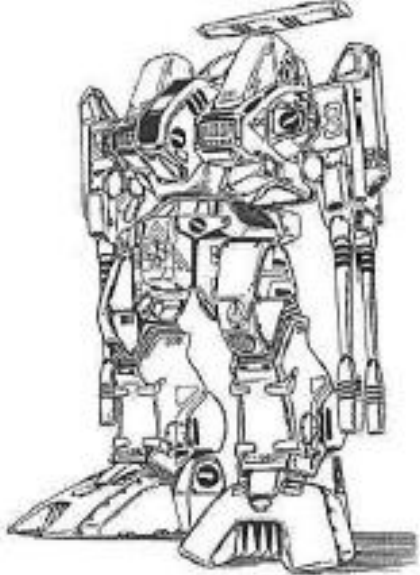
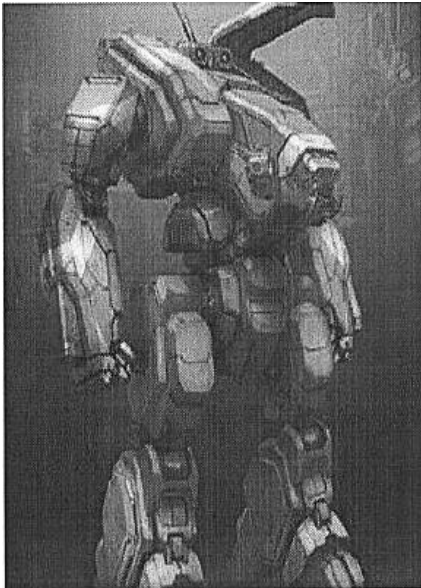
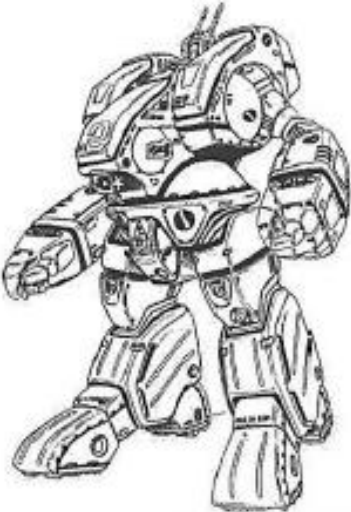
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5        ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
6 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

7  
8        22.     Harmony Gold’s counsel immediately e-mailed Mr. Bullock regarding this  
9 infringement, and in his response Mr. Bullock admitted that Piranha Games had developed  
10 these warrior robot designs, and that Catalyst Game Labs created fan fiction around these  
11 designs. He also wrote: “At Piranha we make no claim to any use or legal right to the Robotech  
12 Macross designs that are owned by Harmony Gold.”

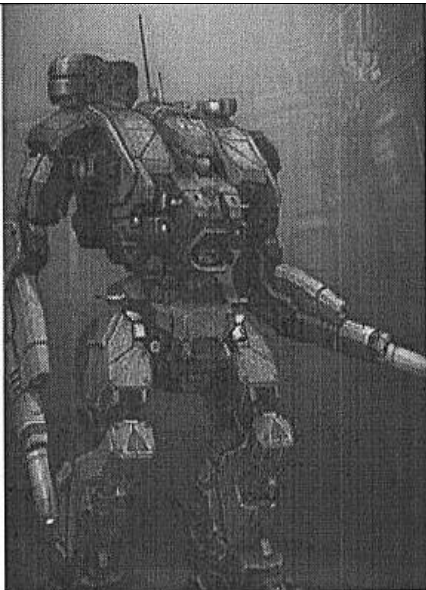
13        ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
14 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

15  
16        23.     Despite Mr. Bullock’s admission that Piranha Games does not have the right to  
17 use Harmony Gold’s copyrighted Robotech designs, Piranha Games is doing exactly that  
18 without Harmony Gold’s permission. Piranha Games operates a website for its MechWarrior  
19 Online game at [www.mwomercs.com](http://www.mwomercs.com). On this site, Piranha Games displays the following  
20 images of robot warriors that infringe Harmony Gold’s copyrights and that appear to be used in  
21 the MechWarrior Online game:

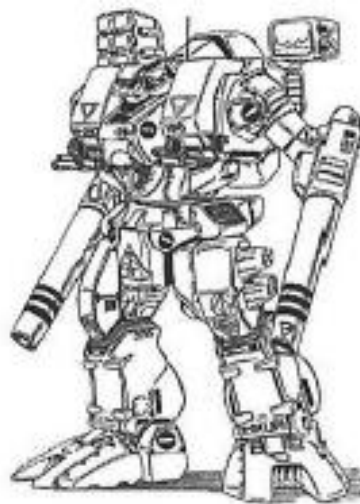
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Piranha Games' Infringing Image	Harmony Gold's Copyrighted Image
 <p data-bbox="207 871 349 905">(Rifleman)</p>	 <p data-bbox="831 871 1068 905">Destroid Defender</p>
 <p data-bbox="207 1522 321 1556">(Archer)</p>	 <p data-bbox="831 1484 1047 1518">Destroid Spartan</p>

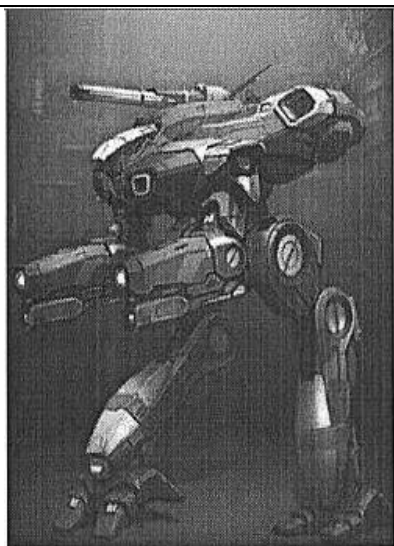
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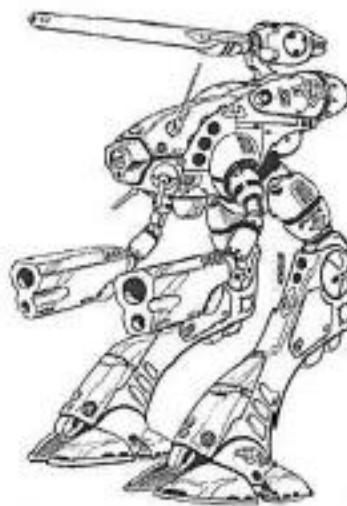
(Warhammer)



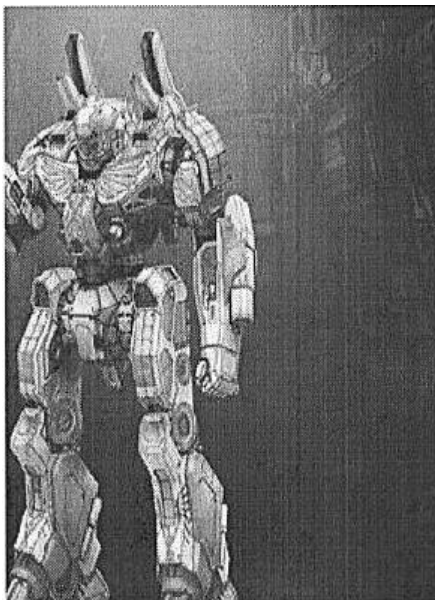
Destroid Tomahawk



(Marauder/Marauder IIC)



Officer's Pod (Glaug)



(Phoenix Hawk)



Super Valkyrie

ANSWER: The Harebrained Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

24. On October 3, 2016, Harmony Gold’s counsel sent a letter to Mr. Bullock and Weisman (as MechWarrior Online is branded as “A BattleTech Game”), demanding that this infringement stop, and demanding that Mr. Bullock and Weisman disclose the relationship between Piranha Games and Harebrained Schemes for the creation of MechWarrior Online. Piranha Games retained U.S. counsel and denied that the robot warriors in MechWarrior Online infringe Harmony Gold’s copyrights.

ANSWER: The Harebrained Defendants admit Harmony Gold’s counsel sent a letter to Mr. Weisman on or around October 3, 2016. That letter speaks for itself, and the Harebrained Defendants deny the allegations in this paragraph to the extent they solely characterize or purport to describe the contents of that letter. The Harebrained Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph, and on that basis deny them.



1 25. To this date, Piranha Games' infringement continues.

2 ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
3 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

4  
5 Current Unauthorized Copying by Defendants Harebrained Schemes and Weisman

6 26. Defendant video game production studio Harebrained Schemes is in the process  
7 of developing a new PC video game named "BattleTech." The BattleTech website at  
8 [www.battlecchgame.com](http://www.battlecchgame.com) reads, "Jordan Weisman, the creator of BattleTech and  
9 MechWarrior, is back with the first turn-based BattleTech game for PC in over two decades.  
10 BATTLETECH will feature modern turn-based combat, PVP multiplayer, and a story-driven,  
11 Mercenaries-style campaign set in the 3025 era of the BattleTech universe."

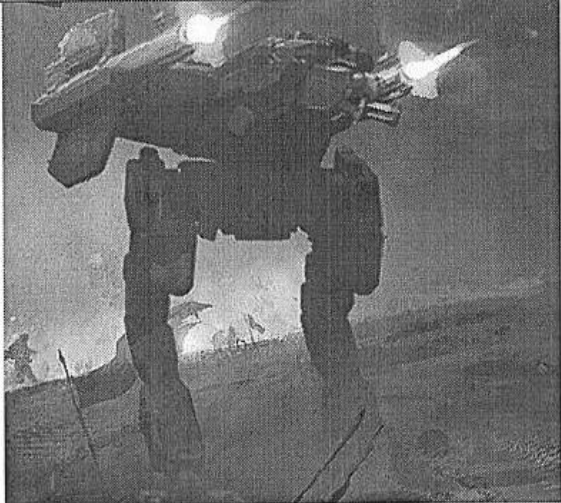
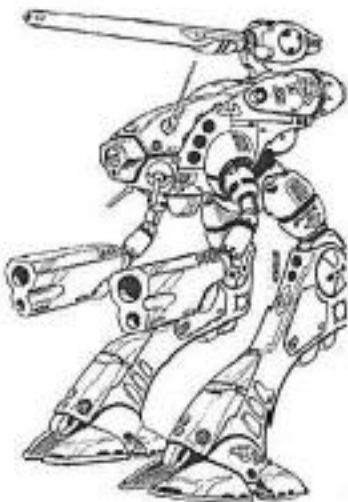
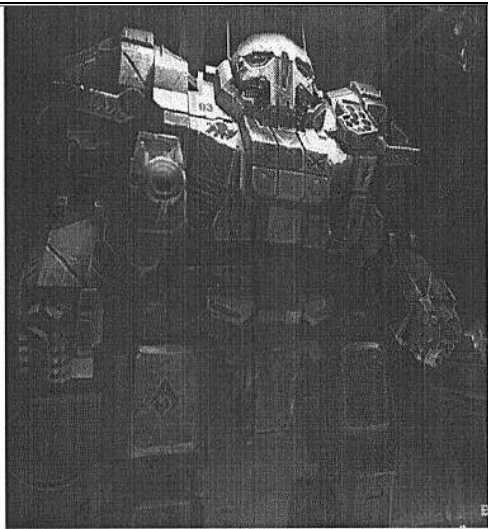

12 ANSWER: The Harebrained Defendants admit Harebrained Schemes is developing a  
13 PC video game, and that the website at [www.battletechgame.com](http://www.battletechgame.com) contains certain statements  
14 about Mr. Weisman and the game. Those statements speak for itself. The Harebrained  
15 Defendants deny the allegations of this paragraph that are otherwise inconsistent with the above  
16 admissions.

17  
18 27. Harebrained Schemes held two crowdfunding campaigns for its BattleTech  
19 game. As of February 28, 2017, its Kickstarter campaign had raised \$2,785,537.13 from 41,733  
20 backers, and its BackerKit campaign had raised \$433,058.95 from 49,404 backers.

21 ANSWER: The Harebrained Defendants admit Harebrained Schemes held several  
22 crowdfunding campaigns for its BattleTech game. The Harebrained Defendants lack  
23 knowledge or information sufficient to form a belief about the truth of the remaining  
24 allegations in this paragraph, and on that basis deny them.

25  
26 28. On its websites at [www.harebrained-schemes.com](http://www.harebrained-schemes.com) and  
27 [www.battletechgame.com](http://www.battletechgame.com), Harebrained Schemes displays the following images of robot

1 warriors that infringe Harmony Gold’s copyrights. On information and belief, these are  
 2 depictions of the warrior robots that will be featured in the upcoming BattleTech video game:

3 Harebrained Schemes’ Infringing Image	Harmony Gold’s Original Image
<p>4 5 6 7 8 9 10 11</p> 	<p>12 13</p>  <p>14 Officer’s Pod (Glaug)</p>
<p>15 16 17 18 19 20 21</p> 	<p>22 23 24 25 26 27</p>  <p>28 Armored Valkyrie</p>



Destroid Spartan

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ANSWER: The Harebrained Defendants admit Harebrained Schemes operates [www.harebrained-schemes.com](http://www.harebrained-schemes.com) and [www.battletechgame.com](http://www.battletechgame.com). The Harebrained Defendants deny that any of the images purported in this paragraph to be displayed by Harebrained Schemes on certain websites infringe any valid, existing copyright of Harmony Gold. The Harebrained Defendants deny the remaining allegations in this paragraph.

29. Joe DiNunzio, Chief Financial Officer for Harebrained Holdings, Inc., responded on November 7, 2016, to the October 3, 2016, letter from Harmony Gold's counsel described above in Paragraph 24. In that letter, he claimed that, "Our use of these designs and images is solely through licenses we have obtained from Piranha Games. Our relationship with Piranha Games is solely as a licensee of certain intellectual property."

ANSWER: The Harebrained Defendants admit that on or around November 7, 2016, Joe DiNunzio wrote a letter to Harmony Gold's counsel. That letter speaks for itself. The Harebrained Defendants deny the allegations of this paragraph that are otherwise inconsistent with the above admissions.

1           30.     Subsequently, on November 18, 2016, counsel for Weisman and Harebrained  
2 Schemes responded to the October 3 letter from Harmony Gold’s counsel as follows:

3                   HBS entered into a license agreement with Piranha Games to  
4 license certain content for use in a HBS game. We have certain  
5 confidentiality obligations with respect to the license agreement  
6 so we cannot comment as to specific details. However, we can  
7 say that the license agreement makes general commitments about  
8 Piranha’s rights in the licensed materials provided to HBS, but  
9 that the parties did not specifically address the ownership of the  
10 2016 designs.

11           ANSWER: The Harebrained Defendants admit that on or around November 18, 2016,  
12 counsel for Harebrained Schemes and Mr. Weisman wrote a letter to Harmony Gold’s counsel.  
13 That letter speaks for itself. The Harebrained Defendants deny the allegations of this paragraph  
14 that are otherwise inconsistent with the above admissions.

15           31.     To this date, Harebrained Schemes’ and Weisman’s infringement continues.

16           ANSWER: The Harebrained Defendants deny the allegations in this paragraph.

17                   Current Unauthorized Copying By Defendant Catalyst Game Labs

18           32.     Catalyst Game Labs produces a board game and roleplaying game named  
19 “BattleTech.”

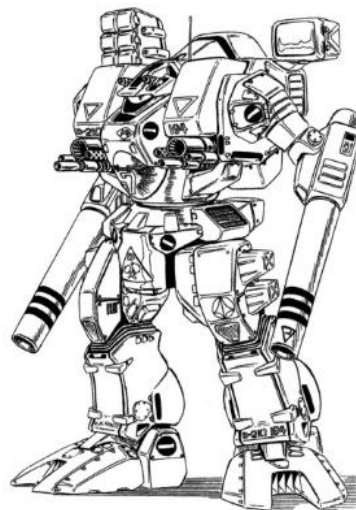
20           ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
21 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

22           33.     For its BattleTech game, Catalyst Game Labs develops, releases, distributes and  
23 sells sourcebooks to create new playing scenarios for players of the game. In 2016, Catalyst  
24 Game Labs released a BattleTech sourcebook named “Combat Manual: Mercenaries.” This  
25 sourcebook contains numerous images of robot warriors that infringe Harmony Gold’s  
26 copyrights, including the following:  
27

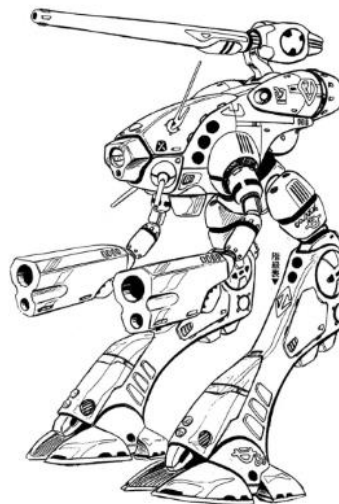
Catalyst Game Labs' Infringing Image in  
Combat Manual: Mercenaries



Harmony Gold's Copyrighted Image



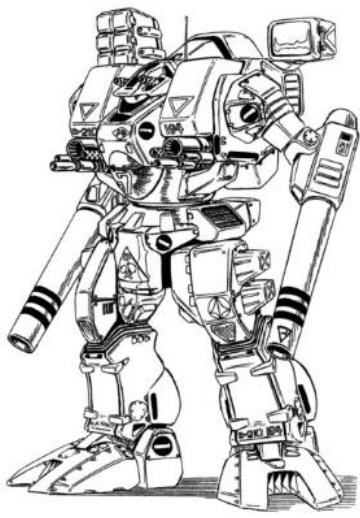
(Destroid Tomahawk)



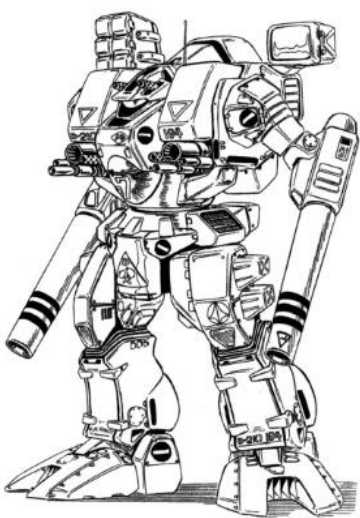
(Officer's Pod/Glaug)

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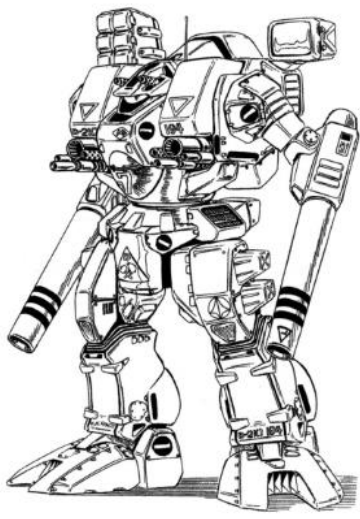
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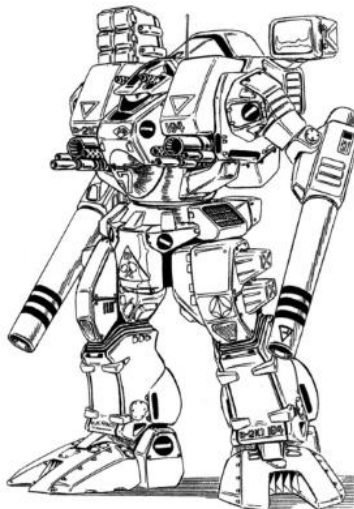
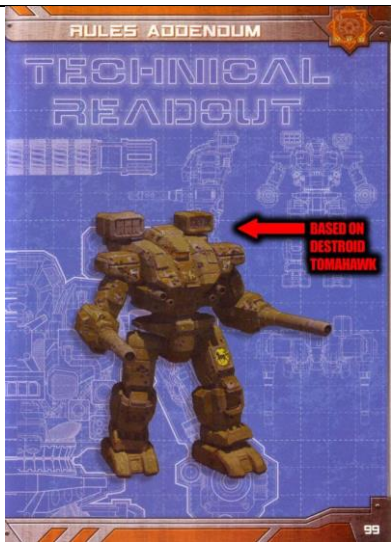


(Destroid Tomahawk)

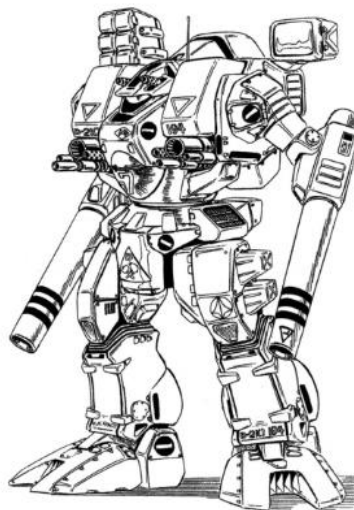


(Destroid Tomahawk)

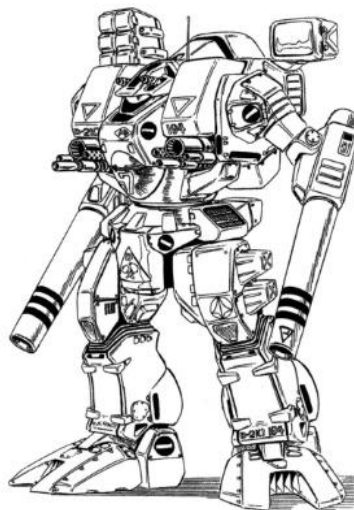
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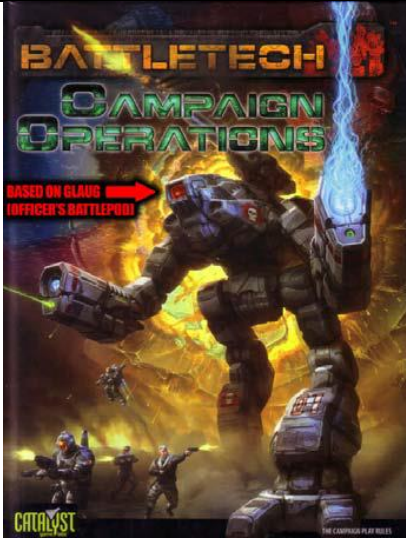
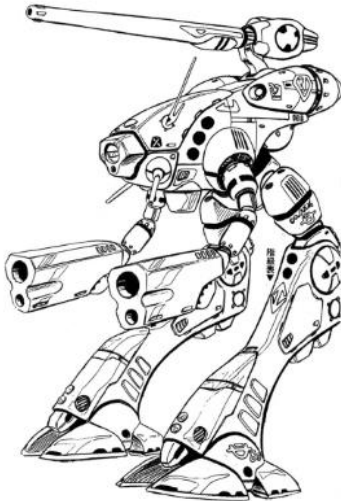

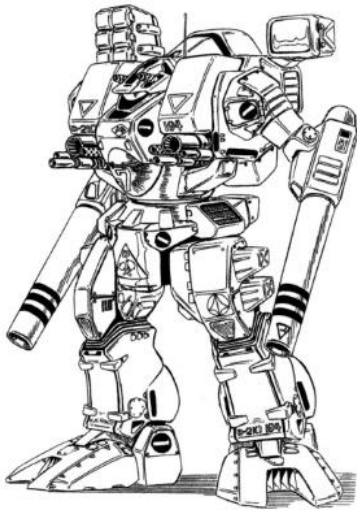
(Destroid Tomahawk)



(Destroid Tomahawk)

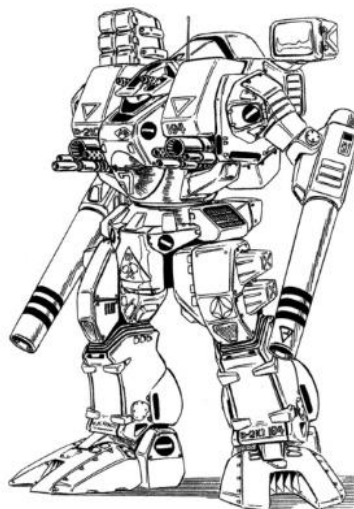
1 ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
 2 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

3  
 4 34. Catalyst Game Labs also develops, releases, distributes and sells new rule books  
 5 for its BattleTech game. In 2016, it released a new rule book named “BattleTech: Campaign  
 6 Operations.” This rule book contains several images of robot warriors that infringe Harmony  
 7 Gold’s copyrights, including the following:

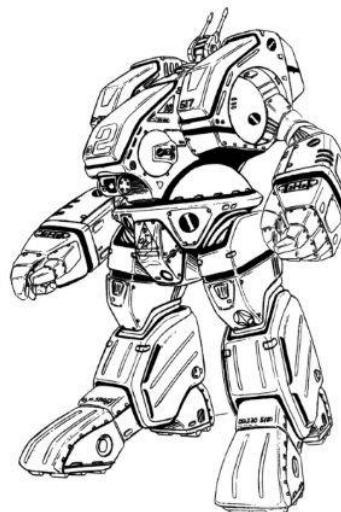
Catalyst Game Labs’ Infringing Image in BattleTech Manual: Campaign Operations	Harmony Gold’s Copyrighted Image
	 <p>(Officer’s Pod/Glaug)</p>
	 <p>(Destroid Tomahawk)</p>



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(Destroid Tomahawk)



(Destroid Spartan)

ANSWER: The Harebrained Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

**COUNT I  
COPYRIGHT INFRINGEMENT — ALL DEFENDANTS**

35. Harmony Gold repeats and realleges the allegations contained in Paragraphs 1 through 34 as if fully set forth herein.

1            ANSWER: The Harebrained Defendants repeats and incorporates by references each of  
2 its above responses to those paragraphs.

3  
4            36.     Harmony Gold owns the copyrights to numerous Robotech warrior robots,  
5 including those identified above.

6            ANSWER: The Harebrained Defendants lack knowledge or information sufficient to  
7 form a belief about the truth of the allegations in this paragraph, and on that basis deny them.

8  
9            37.     Defendants have infringed Harmony Gold's copyrights to these warrior robots  
10 through their unauthorized copying, distribution and display of warrior robots that are  
11 substantially similar to those owned by Harmony Gold, and that are derivative of the  
12 copyrighted Robotech warrior robots owned by Harmony Gold.

13            ANSWER: The Harebrained Defendants deny the allegations in this paragraph as they  
14 pertain to the Harebrained Defendants. The Harebrained Defendants lack knowledge or  
15 information sufficient to form a belief about the truth of the remaining allegations in this  
16 paragraph, and on that basis deny them.

17  
18            38.     Defendants had access to Harmony Gold's copyrighted Robotech images prior  
19 to Defendants' unauthorized and infringing uses of the images.

20            ANSWER: The Harebrained Defendants deny the allegations in this paragraph as they  
21 pertain to the Harebrained Defendants. The Harebrained Defendants lack knowledge or  
22 information sufficient to form a belief about the truth of the remaining allegations in this  
23 paragraph, and on that basis deny them.

24  
25            39.     Defendants' actions have irreparably damaged and, unless enjoined, will  
26 continue to irreparably damage Harmony Gold. Harmony Gold has no adequate remedy at law  
27 for these wrongs and injuries. Harmony Gold is, therefore, entitled to a preliminary and

1 permanent injunction restraining and enjoining Defendants and their agents, servants,  
2 employees, attorneys and all persons acting in concert with them from infringing Harmony  
3 Gold's copyrights.

4 ANSWER: The allegations in this paragraph are legal conclusions to which no  
5 response is required. To the extent a response is required, the Harebrained Defendants deny the  
6 allegations in this paragraph as they pertain to the Harebrained Defendants. The Harebrained  
7 Defendants lack knowledge or information sufficient to form a belief about the truth of the  
8 remaining allegations in this paragraph, and on that basis deny them.

9  
10 40. Defendants have infringed Harmony Gold's copyrights willfully.

11 ANSWER: The Harebrained Defendants deny the allegations in this paragraph as they  
12 pertain to the Harebrained Defendants. The Harebrained Defendants lack knowledge or  
13 information sufficient to form a belief about the truth of the remaining allegations in this  
14 paragraph, and on that basis deny them.

15  
16 41. Harmony Gold is entitled to recover damages sustained from Defendants'  
17 unlawful conduct, including Defendants' profits; Harmony Gold's damages; or, alternatively, at  
18 Harmony Gold's election, statutory damages.

19 ANSWER: The allegations in this paragraph are legal conclusions to which no  
20 response is required. To the extent a response is required, the Harebrained Defendants deny the  
21 allegations in this paragraph as they pertain to the Harebrained Defendants. The Harebrained  
22 Defendants lack knowledge or information sufficient to form a belief about the truth of the  
23 remaining allegations in this paragraph, and on that basis deny them.

**COUNT II  
(BREACH OF CONTRACT AGAINST WEISMAN AND  
HAREBRAINED SCHEMES)**

1  
2 42. Harmony Gold repeats and realleges the allegations contained in Paragraphs 1  
3 through 34 as if fully set forth herein.

4 ANSWER: The Harebrained Defendants repeats and incorporates by references each of  
5 its above responses to those paragraphs.  
6

7 43. Harmony Gold and Weisman entered into a contract (i.e., the Settlement  
8 Agreement) in December 1996, which is still valid and in effect today. The Settlement  
9 Agreement prohibits Weisman from using colorable imitations of certain Robotech warrior  
10 robots owned by Harmony Gold, including making derivative works of these warrior robots.

11 ANSWER: The Harebrained Defendants admit Mr. Weisman signed a document  
12 entitled "Settlement Agreement and Mutual General Release" on December 10, 1996. To the  
13 extent the remainder of the paragraph purports to interpret and give legal effect to that  
14 document, such allegations are legal conclusions to which no response is required. To the  
15 extent a response is required, the Harebrained Defendants deny the remaining allegations.  
16

17 44. As shown in Paragraphs 26–31 above, Weisman, through and with Harebrained  
18 Schemes, has created and announced plans to copy, display and distribute warrior robots that  
19 are unauthorized derivative works of Harmony Gold's Robotech warrior robots which  
20 Weisman agreed in the Settlement Agreement not to use. Therefore, under the law of the State  
21 of Washington, Weisman and Harebrained Schemes have breached the Settlement Agreement.  
22

23 ANSWER: The Harebrained Defendants deny the allegations in this paragraph.

24 45. As a result of this breach of the Settlement Agreement through Weisman's own  
25 actions and those of his company Harebrained Schemes, Harmony Gold has suffered and is  
26 suffering monetary damages in an amount to be determined at trial.  
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ANSWER: The allegations in this paragraph are legal conclusions to which no response is required. To the extent a response is required, the Harebrained Defendants deny the allegations in this paragraph.

**AFFIRMATIVE DEFENSES**

The Harebrained Defendants assert the following defenses to Plaintiff’s claims. By setting forth these affirmative defenses, the Harebrained Defendants do not assume any burden of proof as to any fact issue or other element of any cause of action that properly belongs to Plaintiff. The Harebrained Defendants reserve the right to amend or supplement their affirmative defenses.

1. Plaintiff’s claims fail to state a claim upon which relief may be granted.

2. Plaintiff’s claims are barred, in whole or in part, because Plaintiff’s copyrights are invalid and/or unenforceable, including by reason of lack of originality and lack of copyrightable subject matter.

3. Plaintiff’s claims are barred, in whole or in part, because the alleged violations of copyrights by the Harebrained Defendants are *de minimis*, nominative, and/or fair uses permitted under law.

4. Plaintiff’s claims are barred, in whole or in part, because the Harebrained Defendants’ conduct was in good faith and with non-willful intent, at all times.

5. Plaintiff’s claims are barred, in whole or in part, because critical parts or portions of Plaintiff’s alleged protected copyrights are invalid due to consisting of unprotectable scenes a faire.

6. Plaintiff’s claims are barred, in whole or in part, because Plaintiff does not own some or all of the works of authorship that form the subject of the claims for relief.

7. Plaintiff’s claims are barred, in whole or in part, because some or all of the works of authorship that form the subject of the claims for relief are not original to Plaintiff and, therefore, Plaintiff lacks standing to pursue these claims.

1 8. The occurrences referred to in Plaintiff’s Complaint and all damages, if any,  
2 resulting therefrom were caused by the acts or omissions by third parties over whom the  
3 Harebrained Defendant had no control.

4 **PRAYER FOR RELIEF**

5 The Harebrained Defendants respectfully request that the Court (a) dismiss Plaintiff’s  
6 claims with prejudice; (b) deny all relief requested by Plaintiff; (c) award the Harebrained  
7 Defendants their reasonable attorneys’ fees and costs in defending this action; and (d) grant  
8 such other and further relief as may be just and proper.

9  
10 DATED this 15th day of May, 2017.

11 DAVIS WRIGHT TREMAINE LLP  
12 *Attorneys for the Harebrained Defendants*

13 By s/ James Harlan Corning  
14 Warren J. Rheume, WSBA #13627  
15 James Harlan Corning, WSBA #45177  
16 1201 Third Avenue, Suite 2200  
17 Seattle, WA 98101-3045  
18 Phone: (206) 622-3150  
19 Fax: (206) 757-7700  
20 E-mail: warrenrheume@dwt.com  
21 jamescorning@dwt.com  
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**CERTIFICATE OF SERVICE**

I hereby certify that I caused the document to which this certificate is attached to be delivered to the following as indicated:

Damon C. Elder, WSBA #46754	<input type="checkbox"/>	Messenger
Email: damone@calfoeakes.com	<input type="checkbox"/>	U.S. Mail, postage prepaid
Andrew R.W. Hughes, WSBA #49515	<input type="checkbox"/>	Federal Express
Email: andrewh@calfoeakes.com	<input type="checkbox"/>	Facsimile
CALFO EAKES & OSTROVSKY PLLC	<input type="checkbox"/>	Email
1301 Second Avenue, Suite 2800	<input checked="" type="checkbox"/>	ECF
Seattle, WA 98101		

Brett A. August ( <i>pro hac vice</i> to be filed)	<input type="checkbox"/>	Messenger
Email: baa@pattishall.com	<input type="checkbox"/>	U.S. Mail, postage prepaid
Jason Koransky ( <i>pro hac vice</i> to be filed)	<input type="checkbox"/>	Federal Express
Email: jmk@pattishall.com	<input type="checkbox"/>	Facsimile
PATTISHALL, MCAULIFFE,	<input type="checkbox"/>	Email
NEWBURY, HILLIARD &	<input checked="" type="checkbox"/>	ECF
GERALDSON LLP		
200 South Wacker Drive, Suite 2900		
Chicago, IL 60606		

Paul T. Meiklejohn WSBA #17477	<input type="checkbox"/>	Messenger
Email: meiklejohn.paul@dorsey.com	<input type="checkbox"/>	U.S. Mail, postage prepaid
J. Michael Keyes, WSBA # 29215	<input type="checkbox"/>	Federal Express
Email: keyes.mike@dorsey.com	<input type="checkbox"/>	Facsimile
Todd S. Fairchild, WSBA # 17654	<input type="checkbox"/>	Email
Email fairchild.todd@dorsey.com	<input checked="" type="checkbox"/>	ECF
Ryan B.Meyer, WSBA #37832		
Email: meyer.ryan@dorsey.com		
DORSEY & WHITNEY LLP		
Columbia Center		
701 Fifth Avenue, Suite 6100		
Seattle, WA 98104-7043		

Declared under penalty of perjury under the laws of the state of Washington, and dated at Seattle, Washington this 15th day of May, 2017.

s/ James Harlan Corning  
James Harlan Corning