

1 Michael R. Reese (SBN 206773)
2 Carlos F. Ramirez (*pro hac vice* to be filed)
3 **REESE LLP**
4 100 West 93rd Street, 16th Floor
5 New York, New York 10025
6 Telephone: (212) 643-0500
7 Facsimile: (212) 253-4272
8 Email: *mreese@reesellp.com*
9 *cramirez@reesellp.com*

7 George V. Granade (SBN 316050)
8 **REESE LLP**
9 8484 Wilshire Boulevard
10 Los Angeles, California 90211
11 Telephone: (212) 643-0500
12 Facsimile: (212) 253-4272
13 *ggranade@reesellp.com*

12 *Counsel for Plaintiff and the Proposed Class*

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 BRANDON LETIZE, individually, and on
17 behalf of a class of similarly situated persons,

18 Plaintiff,

19 v.

20 ELLATION, LLC, a Delaware limited
21 liability company, and RARE BITS, INC., a
22 Delaware corporation.

23 Defendants

Case No: 20-cv-3739

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff Brandon Letize (“Plaintiff”), individually and on behalf of all others similarly
2 situated (the “Class,” as defined below), brings this Class Action Complaint against Ellation LLC
3 doing business as Crunchyroll (“Crunchyroll” or “Defendant”) and Rare Bits, Inc. (“Rare Bits” or
4 “Defendant” and, together with Crunchyroll, “Defendants”), and respectfully alleges as follows.
5 Plaintiff bases the allegations herein on personal knowledge as to matters related to, and known to,
6 him. As to all other matters, he bases his allegations on information and belief, through
7 investigation of his counsel. Plaintiff believes substantial evidentiary support exists for his
8 allegations, and he seeks a reasonable opportunity for discovery.

9 **JURISDICTION AND VENUE**

10 **Jurisdiction**

11 1. This Court has personal jurisdiction over all causes of action asserted herein pursuant
12 to 28 U.S.C. § 1332(d) because the aggregate claims of Plaintiff and members of the Class, which
13 exceeds 100 persons, exceed the sum or value of \$5,000,000 and there is diversity of citizenship
14 between at least one member of the Class and Defendants.

15 **Venue**

16 2. Venue is appropriate in this District pursuant to U.S.C. § 1391(a)(1) and (2) .
17 Defendants conduct substantial business throughout California and their headquarters and principal
18 places of business are located in this District.

19 **NATURE OF THE ACTION**

20 3. This is a proposed nationwide class action against Defendants for misleading
21 consumers about whether, and how long, they could use the Digital Drops application or “app,” and
22 the digital stickers and other digital collectible items purchased by consumers via that app (the
23 “Products”).

24 4. Digital Drops was an app that sold rare collectible digital anime stickers and other
25 digital collectible items. Anime is the Japanese term for animation, which refers to all forms of
26 animated media.

27 5. Defendants launched the Digital Drops app around August 2019.

1 6. The Products sold via the Digital Drops app were touted by Defendants as “*rare*” and
2 “*highly collectible*” digital stickers and other digital collectible items from dozens of anime shows.

3 7. Once purchased, the anime digital stickers could be kept as part of a collection or
4 traded with other persons on the Digital Drops app.

5 8. Like any other collectible, the rarer the digital sticker the more valuable. In addition,
6 like any other collectible, the value of rare stickers would rise over time. Defendants prominently,
7 and frequently, touted these themes throughout the course of their marketing and advertising of
8 Digital Drops digital collectibles.

9 9. In addition, during the marketing and advertising of the Digital Drop app and digital
10 collectibles, Defendants prominently and conspicuously represented that the Products, once
11 purchased, would be online indefinitely or, at least, for a reasonable length of time from the date of
12 release.

13 10. In early February 2020, Defendants announced that on February 17, 2020 at 11:59
14 p.m. PST, Defendants would shut down the servers running the Digital Drops app and that the
15 Products would no longer be accessible by its owners.

16 11. Thus, on and after February 18, 2020 —just six months after Defendants launched
17 the Digital Drops app—Plaintiff and the Class members would no longer be able to use the Digital
18 Drops app at all, and Defendants will have eliminated all of the collectible anime content purchased
19 by consumers.

20 12. As detailed below, Plaintiff brings this action on behalf of himself and the Class
21 members, seeking an order requiring Crunchyroll to reinstate the Digital Drops app so that
22 consumers can once again gain access to property they purchased for valuable consideration.
23 Plaintiff prays only for injunctive relief consistent with the relief that the California Supreme Court
24 discussed in *McGill v. Citibank, N.A.*, 393 P.3d 85 (Cal. 2017) and the Ninth Circuit in *Blair v.*
25 *Rent-a-Center Inc.*, 928 F.3d 819 (9th Cir. 2019).

26

27

28

PARTIES

Plaintiff Brandon Letize

13. Plaintiff Brandon Letize resides in Vallejo, California. Plaintiff has no intention of changing his residence.

Defendants Ellation LLC and Rare Bits Inc.

14. Defendant Ellation LLC, is a limited liability company organized under the laws of the State of Delaware that does business under the name Crunchyroll.

15. Ellation LLC's principal executive office is located at 444 Bush Street, San Francisco, California 94108.

16. Defendant Rare Bits, Inc. is a corporation organized under the laws of the State of Delaware.

17. Rare Bits's principal executive office is located at 239 Duncan Street, San Francisco, California 94131.

ALLEGATIONS COMMON TO ALL CLAIMS

18. Digital Drops was a digital anime stickers and collectibles app available for iOS and Android devices.

19. Through their Digital Drops app, Defendants sold digital collectibles based on anime (Japanese animated) television shows.

20. In an announcement discussing the release of the Digital Drops app and the Products, Defendants encouraged consumers to "join the chase to collect *rare digital stickers* from your favorite anime, including Black Clover, The Time I Got Reincarnated as a Slime, Crunchyroll-Hime, Miss Kobayashi's Dragon Maid, and more." Crunchyroll Press Release dated August 28, 2019 (available at <https://www.crunchyroll.com/anime-news/2019/08/28/crunchyrolls-latest-app-crunchyroll-digital-drops-is-now-live>)(emphasis added)(last visited on June 3, 2020).

21. Defendants also stated, "From iMessage to WhatsApp to Gboard, collectibles can be used as stickers in all the most popular chat applications." *Id.*

22. Indeed, Defendants aggressively marketed the exclusivity and rarity of the

1 collectibles over the course of time. To that extent, Defendants noted that, “***Each collectible is***
2 ***individually numbered*** with a print number. Get lucky with mystery packs or trade with friends to
3 ***lay claim to the most valuable ones.***” *Id.* (emphasis added).

4 23. Defendants further reinforced that theme by stating: “***Super Rare*** - Get ‘Em Before
5 They’re Gone. ***Each sticker set is limited edition*** - complete your collection before it sells out.” *Id.*
6 (emphasis added).

7 24. If any single theme was repeated over and over by Defendants, it was that their
8 digital collectibles were rare and, as such, had the potential of growing in value over the course of
9 time. In a description of the Digital Drops app in an app store, Defendants noted:

10
11 Crunchyroll Digital Drops is our new destination for digital stickers and ***super***
12 ***rare*** e-memorabilia from your favorite series and characters in the Crunchyroll
13 universe. With new content dropping regularly, join other anime fans on a chase
14 to find ***rare, covetable digital collectibles***. Each collectible is ***guaranteed unique***
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.