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Counsel for Plaintiffs

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

DANTE DEMARTINI, CURTIS BURNS JR.,  
NICHOLAS ELDEN, JESSIE GALVAN,  
CHRISTOPHER JOSEPH GIDDINGS-LAFAYE,  
STEVE HERRERA, HUNTER JOSEPH  
JAKUPKO, DANIEL DERMOT ALFRED  
LOFTUS, BEOWULF EDWARD OWEN, and  
IVAN CALVO-PÉREZ,

Plaintiffs,

v.

MICROSOFT CORPORATION, a Washington  
corporation,

Defendant.

Case No.

**COMPLAINT TO PROHIBIT THE  
ACQUISITION OF ACTIVISION  
BLIZZARD BY MICROSOFT  
CORPORATION IN VIOLATION OF  
SECTION 7 OF THE CLAYTON  
ANTITRUST ACT, 15 U.S.C. § 18**

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## INTRODUCTION

1  
2 1. This is a private antitrust action seeking an order of the Court prohibiting the  
3 proposed acquisition of Activision Blizzard, Inc. by Microsoft Corporation as a violation of Section  
4 7 of the Clayton Antitrust Act (15 U.S.C. § 18). The threatened loss or damage to the Plaintiffs and  
5 to the public at-large by the merging of two giants in the video game industry is extensive and broad.

6 2. On January 18, 2022, Microsoft announced plans to acquire Activision Blizzard.  
7 Microsoft agreed to pay \$68.7 billion (\$68,700,000,000), or approximately \$95 per share in an  
8 all-cash transaction. Under the proposed terms of the merger, Microsoft would acquire all the  
9 outstanding stock of Activision Blizzard. Upon completion of the deal, Activision Blizzard would  
10 be wholly owned by Microsoft.

11 3. The proposed acquisition price of \$68.7 billion in cash demonstrates the merger is  
12 significant and non-trivial. Indeed, if the acquisition is allowed to proceed, it would be the largest  
13 merger of technologies companies ever.

14 4. Microsoft and Activision Blizzard are each significant rivals in the video game  
15 development, publishing, and distribution markets.

16 5. Microsoft and Activision Blizzard both develop, publish, and distribute gaming  
17 content for purchase by consumers, and they directly compete in this market.

18 6. Microsoft and Activision Blizzard are two of the largest gaming corporations in the  
19 United States with significant market share in the video game markets for developing, publishing  
20 and distributing video games.

21 7. Microsoft owns and sells the Xbox gaming consoles and the Windows operating  
22 system, two of the primary platforms on which games are played.

23 8. The development and publishing of video games for these and other platforms are  
24 critical inputs to the popularity and continued viability of gaming platforms.

25 9. The development and publishing of video games are also critical inputs to new  
26 gaming platforms and distribution methods, such as multi-game subscription services and cloud-  
27 based gaming.  
28

1           10.     In addition to the elimination of a significant rival, the proposed acquisition may  
2 give Microsoft far-outsized market power in the video game industry and may enable Microsoft to  
3 foreclose rivals to critical inputs and important markets.

4           11.     The current trend toward concentration, the lessening of competition, and the  
5 tendency to create a monopoly in the video game industry was already harming competition at an  
6 alarming rate before the proposed acquisition was announced. Both companies are the products  
7 of substantial campaigns to acquire, merge with, and consolidate numerous video game  
8 companies to achieve their current stature in the video game industry.

9           12.     If Microsoft's proposed acquisition of Activision Blizzard is allowed to proceed,  
10 the video game industry may lose substantial competition, and Microsoft may have far-outsized  
11 market power, with the ability to foreclose rivals, limit output, reduce consumer choice, raise  
12 prices, and further inhibit competition.

13           13.     The proposed acquisition is a violation of Section 7 of the Clayton Antitrust Act  
14 (15 U.S.C. § 18) in that the effect of the potential consolidation "may be substantially to lessen  
15 competition or tend to create a monopoly" in various markets in the video game industry.

16           14.     This private action is authorized under Section 16 of the Clayton Antitrust Act (15  
17 U.S.C. § 26), which provides in relevant part that "any person...shall be entitled to sue and have  
18 injunctive relief ...against threatened loss or damage by a violation of the antitrust laws." The  
19 remedy afforded to private plaintiffs includes injunctive relief prohibiting any potential unlawful  
20 acquisition as well as divestiture.

21           15.     The Clayton Act codifies Congress' "intent to encourage vigorous private  
22 litigation against anticompetitive mergers" that may substantially lessen competition. *California*  
23 *v. Am. Stores Co.*, 495 U.S. 271, 284 (1990).

24           16.     Plaintiffs bring this action under the authority of Section 16 of the Clayton  
25 Antitrust Act and allege that the proposed acquisition of Activision Blizzard by Microsoft  
26 constitutes a substantial threat of injury to the Plaintiffs and the public because the acquisition  
27  
28

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