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PAUL REICHE III and ROBERT FREDERICK FORD

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

13 STARDOCK SYSTEMS, INC.,

14 Plaintiff,

15 v.

16 PAUL REICHE III and ROBERT  
FREDERICK FORD,

17 Defendants.

18  
19 PAUL REICHE III and ROBERT  
FREDERICK FORD,

20 Counter-Claimants,

21 v.

22 STARDOCK SYSTEMS, INC.,

23 Counter-Defendant.  
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Case No. 4:17-CV-07025-SBA

**DEFENDANTS AND COUNTER-CLAIMANTS PAUL REICHE III AND ROBERT FREDERICK FORD'S AMENDED COUNTERCLAIM FOR:**

**1) COPYRIGHT INFRINGEMENT – 17 U.S.C. § 501**

**2) DECLARATORY JUDGMENT RE: OWNERSHIP OF COPYRIGHTS**

**3) UNFAIR COMPETITION – LANHAM ACT § 43(a) (15 U.S.C. § 1125(a))**

**4) COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION**

**5) UNFAIR COMPETITION (CAL. BUS. & PROF. CODE § 17200 ET SEQ.)**

**6) CANCELLATION OF U.S. TRADEMARK REGISTRATION NO. 2,046,036**

**7) CONVERSION**

**8) DECLARATORY JUDGMENT RE: TRADEMARK RIGHTS**

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**9) FRAUD  
DEMAND FOR JURY TRIAL**

**AMENDED COUNTERCLAIM**

Defendants and Counter-Claimants Paul Reiche III (“Reiche”) and Robert Frederick Ford (“Ford”) (collectively, “Reiche and Ford”) hereby file the following Amended Counterclaim against Plaintiff and Counter-Defendant Stardock Systems, Inc. (“Stardock”) as follows:

**INTRODUCTION**

1. Reiche and Ford bring this Amended Counterclaim to take back control over their rights to the Star Control and Star Control II computer games, including their exclusive rights to make derivative works from those games, to stop Stardock from infringing on their copyrights to the games and engaging in other forms of unfair competition, and to defeat Stardock’s false claims that it owns trademark rights to all of the characters and features in the games.

2. Reiche and Ford created and developed Star Control and Star Control II between 1988 and 1992. The games quickly acquired a cult status among computer game enthusiasts, and ultimately grew to be regarded as some of the all-time classic and best computer games in history. Reiche initially licensed the games to be published by a company called Accolade, Inc. (“Accolade”), which later became Atari, Inc. (“Atari”), but the license agreement expired and all rights to the games reverted back to Reiche in 2001. Reiche and Ford then released an open-source version of Star Control II called The Ur-Quan Masters in 2002, which reinvigorated interest in the game and introduced it to a new generation of gamers. In fact, The Ur-Quan Masters has proven to be far more popular than any prior release. Since that time, Reiche and Ford have always planned to return to their Star Control universe and develop a sequel to The Ur-Quan Masters, once they were ready to take a step back from their positions as directors of the video game studio they founded nearly 30 years ago, Toys for Bob.

3. In 2013, Stardock purportedly acquired from Atari trademark rights to the Star Control name and partial copyrights for an unsuccessful sequel that Accolade had published in 1996 called Star Control 3. Stardock then requested Reiche and Ford’s assistance in developing a

1 new Star Control game, and a license to use material from Star Control and Star Control II.  
2 Reiche and Ford repeatedly declined both requests as they had their own plans.

3 4. Undeterred, and notwithstanding Stardock's repeated prior admissions that Reiche  
4 and Ford own all rights to Star Control and Star Control II, including The Ur-Quan Masters,  
5 Stardock recently embarked on a series of unlawful actions in a transparent effort to steal these  
6 rights from Reiche and Ford. Stardock now claims that it owns copyrights to all of the Star  
7 Control games and trademark rights to all of the characters and features in the games, and that  
8 Reiche and Ford did not create Star Control and Star Control II and falsely took credit for the  
9 games, all of which are outright lies. Reiche and Ford tried hard to resolve this matter informally  
10 with Stardock. Unfortunately, Stardock's decision to file suit, while at the same time expanding  
11 its infringement of Reiche and Ford's intellectual property rights and filing numerous fraudulent  
12 trademark applications on names of characters and features from the games to prevent Reiche and  
13 Ford from making their own derivative work, leaves them with no choice but to seek relief  
14 through this action.

#### 15 **PARTIES**

16 5. Counter-Claimant Paul Reiche III is an individual who resides in Novato,  
17 California.

18 6. Counter-Claimant Robert Frederick Ford is an individual who resides in Novato,  
19 California.

20 7. On information and belief, Counter-Defendant Stardock Systems, Inc. is a  
21 Michigan corporation located in Plymouth, Michigan, but until recently and during most of the  
22 events set forth herein, had a location in Sunnyvale, California.

#### 23 **JURISDICTION AND VENUE**

24 8. This Court has related claim jurisdiction over this counterclaim under 28 U.S.C.  
25 § 1367, and also has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338.

26 9. This Court has personal jurisdiction over Stardock because of its filing this action,  
27 and because on information and belief, Stardock transacts substantial business in California and in  
28 this District, and moreover: a) it purposefully directed its activities toward California and/or

1 availed itself of the benefits afforded by California’s laws; b) the claims arise out of or relate to  
2 Stardock’s forum-related activities; and c) the exercise of jurisdiction comports with fair play and  
3 substantial justice.

4 10. Venue is proper in this district under 28 U.S.C. § 1391 because a substantial part of  
5 the events giving rise to the counterclaim occurred here.

6 **INTRADISTRICT ASSIGNMENT**

7 11. Assignment to this Division is proper because this action arises in Marin County in  
8 that a substantial part of the events or omissions which give rise to the claims occurred in Marin  
9 County.

10 **FACTUAL BACKGROUND**

11 ***Reiche and Ford’s Creation and Development of Star Control and Star Control II***

12 12. In the Summer of 1988, Reiche created the concept for Star Control and made a  
13 proposal to develop it to multiple video game publishing companies, including Accolade.

14 13. Effective October 7, 1988, Accolade and Reiche entered into a License Agreement,  
15 attached hereto as **Exhibit 1** (“1988 License Agreement”), whereby Reiche (the “Developer”)  
16 agreed to develop Star Control and two other computer games and to grant Accolade (the  
17 “Publisher”) an exclusive license to publish such games for the Sales Term of the agreement, in  
18 exchange for Accolade paying certain royalties and advances to Reiche. The “Sales Term” of the  
19 1988 License Agreement would run as long as the licensed work generated royalties of at least  
20 \$1,000 per year.

21 14. Paragraph 7.1 of the 1988 License Agreement provided that if Accolade became  
22 bankrupt, then unless the bankruptcy was terminated within ninety (90) days, all rights to all Work  
23 and Derivative Work would revert to Reiche. Paragraph 7.2 provided that all licenses granted  
24 under the agreement would automatically be deemed assigned to Reiche concurrently with the  
25 termination of the agreement, but that termination of the agreement would not affect Accolade’s  
26 obligation to pay royalties for sale of the Work or Derivative Works.

27 15. Paragraph 10.2 of the 1988 License Agreement provided that in the event of  
28 termination of the agreement, each party would return all property including “plans, drawings,

1 specifications, papers, computer hardware or related equipment, documents, manuals, computer  
2 programs, and other records, including all copies thereof, belonging to the other party ... .”

3 16. Paragraph 11.4 of the 1988 License Agreement provided that “[Reiche] shall be the  
4 owner of the copyright and all other proprietary rights in the Work” – the three computer software  
5 programs – “and all Derivative Works by [Reiche],” and that “[Accolade] shall be the owner of  
6 the copyright and all other proprietary rights in all Derivative Works by [Accolade] ... subject to  
7 [Reiche]’s copyright in the Work and all Derivative Works by [Reiche] and the provisions of  
8 Paragraph 7.”

9 17. Paragraphs 11.4-11.5 of the 1988 License Agreement also provided that  
10 “[Accolade] shall be the owner of the title, packaging concept and packaging design for the Work  
11 and Derivative Works,” and that “[a]ny trademarks adopted and used by [Accolade] in the  
12 marketing of the Work, Derivative Works ... are the sole property of [Accolade].”

13 18. Paragraph 12.1 of the 1988 License Agreement provided that it could not be  
14 assigned by Accolade without Reiche’s consent, and that it was binding on any permitted  
15 successors and assigns.

16 19. Paragraph 12.2 of the 1988 License Agreement provided that all disputes arising in  
17 connection with the agreement would be resolved by arbitration by the International Chamber of  
18 Commerce, and that the prevailing party in any such proceeding would be entitled to reasonable  
19 attorneys’ fees and costs.

20 20. From around February 1989 through June 1990, Reiche and Ford created and  
21 developed Star Control, and Accolade published the game around July 1, 1990.

22 21. From around the Summer of 1990 through late 1992, Reiche and Ford created and  
23 developed Star Control II as the second game under the 1988 License Agreement, and Accolade  
24 published the game around November 1, 1992.

25 22. Reiche and Ford were the primary authors of most of the creative materials  
26 incorporated into both games, including, without limitation, the game design, narrative fiction, art,  
27 sound effects, software code, and other materials. Others collaborated in varying ways and  
28 degrees in the development of the games as more specifically described and credited in each

1 game's respective game manual. However, Stardock's new claim that in light of this  
2 collaboration, Reiche and Ford did not create Star Control and Star Control II, is like saying that  
3 George Lucas did not create Star Wars because he had help from other people in making the  
4 movies.

5 23. On information and belief, as required by the 1988 License Agreement, Accolade  
6 placed on each copy of Star Control the copyright notice "© 1990 Paul Reiche III & Fred Ford"  
7 and on each copy of Star Control II the copyright notice "© 1992 Paul Reiche III & Fred Ford."

8 24. Star Control and Star Control II were both successful in terms of sales, and  
9 received substantial critical acclaim around the time of their release and in subsequent years. For  
10 example, in 1996, *Computer Gaming World* ranked Star Control II as the 29th best game of all  
11 time, and Star Control as the 127th best game of all time. More recently, in 2005, IGN named Star  
12 Control II the 17th best game of all time. Reviewers praised the graphics, dialogue, and quality of  
13 the gameplay, among other things. A few years ago, Star Control II emerged as the consistent  
14 favorite in a crowd-sourced list of the best PC games of all time:

15 <https://kotaku.com/the-game-that-won-our-classic-pc-games-list-if-it-ha-1349952997>

16 25. Accolade ultimately decided not to move forward with the third game proposed by  
17 Reiche and Ford to be developed under the 1988 License Agreement.

18 26. Effective November 19, 1993, Accolade and Reiche entered into Addendum No. 1  
19 to the 1988 License Agreement, a copy of which is attached as **Exhibit 2**, in which they agreed  
20 that the Product Development Term was over. Addendum No. 1 allowed Reiche to develop and a  
21 company called Crystal Dynamics, Inc. to publish a 3DO version of Star Control II in exchange  
22 for the payment of an advance and royalties to Accolade. The 3DO version of Star Control II was  
23 released in the first half of 1994 with the copyright notice "© 1994 Fred Ford & Paul Reiche III."

24 ***Star Control 3 and 4 and Expiration of the 1988 License Agreement***

25 27. Effective February 1, 1995, Accolade and Reiche entered into Addendum No. 2 to  
26 the 1988 License Agreement, a copy of which is attached as **Exhibit 3**, to allow Accolade to  
27 develop and publish "Star Control III" without Reiche but using "characters, names, likenesses,  
28 characteristics, and other intellectual property rights pertaining to Star Control I and Star Control

1 II in which Reiche has an ownership interest” (hereinafter “Reiche’s Preexisting Characters”), in  
2 exchange for the payment of an advance and royalties to Reiche. Star Control 3 was ultimately  
3 developed by a company called Legend Entertainment, and published by Accolade on or about  
4 August 31, 1996 with the notice “based upon characters created and used under license from Paul  
5 Reiche III and Fred Ford.” Star Control 3 was not as well-received as Star Control and Star  
6 Control II.

7 28. Star Control, Star Control II, and Star Control 3 are hereinafter collectively referred  
8 to as the “Classic Star Control Games.”

9 29. In January 1997, Accolade met with Reiche and Ford to discuss future plans for the  
10 Star Control franchise. Accolade offered to purchase all rights to Star Control, Star Control II, and  
11 any other Star Control products from Reiche. Accolade admitted then that Reiche and Ford  
12 created and owned Star Control, including “its themes, settings, plot lines, characters, its ‘essence’  
13 as entity unique from any other science-fiction game,” and that Star Control 3 was created with  
14 Reiche and Ford’s permission under agreements with Accolade. The parties continued to  
15 negotiate but could not come to agreement on the purchase price or other terms at that time.

16 30. In November 1997, Accolade asked instead for a perpetual exclusive license to the  
17 classic background material for Star Control and Star Control II for use in a new Star Control  
18 game and potential future sequels. Accolade stated that “[c]urrently, Accolade owns the rights to  
19 the title Star Control, and [Reiche and Ford] own the rights to the classic background material  
20 created for Star Control and Star Control 2,” and that “[Accolade] would like to unify the Star  
21 Control license ... .” Reiche and Ford rejected the offer because they believed that over the long  
22 haul: a) the Star Control universe was significantly more valuable; b) they would someday want  
23 to explore those opportunities; and c) accepting Accolade’s proposal would mean losing this  
24 chance forever. Accolade then asked Reiche and Ford to “identify the material that we should  
25 steer clear of in our game so that we can avoid any conflict with your material.”

26 31. In December 1997, Accolade made another offer to Reiche and Ford and they were  
27 ultimately able to agree on terms of a new license to Reiche and Ford’s material.

28



1           32.       Effective April 1, 1998, Accolade and Reiche entered into Addendum No. 3 to the  
2 1988 License Agreement, a copy of which is attached as **Exhibit 4**, to allow Accolade to develop  
3 and publish new versions and sequels to the Classic Star Control Games using “all characters,  
4 names, likenesses, characteristics, plot line, setting, source code, and any proprietary rights that  
5 Reiche has in and to” the Classic Star Control Games, and any Derivative Works, in exchange for  
6 the payment of an advance and royalties to Reiche.

7           33.       Paragraph 1.5 of Addendum No. 3 stated that:

8           “Reiche Intellectual Property” means the copyright and other intellectual property  
9 rights (excluding trademarks) owned by Reiche, as set forth in the Agreement and  
10 Addenda Nos. 1 and 2 to the Agreement, in and to (a) Star Control I for PC, Amiga  
11 and Sega, (b) Star Control II for PC and 3DO, (c) any accompanying  
12 documentation, and (d) the Star Control II cluebook. The Reiche Intellectual  
13 Property shall include proprietary rights in and to any source code, names (of  
14 starships and alien races), characters, plot lines, setting, terminology unique to the  
15 Star Control products, and music in and to (a) – (d) above.

16           34.       Paragraph 4.1 of Addendum No. 3 provided that the term of the agreement was  
17 three years, with an option to renew for another three years only if Accolade published a new Star  
18 Control game in the meantime, and that upon expiration or termination, “all rights granted and  
19 obligations imposed hereunder shall terminate and rights to the Reiche Intellectual Property  
20 granted hereunder shall revert to Reiche.”

21           35.       Paragraph 7 of Addendum No. 3 provided that if Accolade did not publish any new  
22 versions or sequels to Star Control, then it would negotiate in good faith with Reiche a license to  
23 any trademarks adopted and used to market the Classic Star Control Games.

24           36.       On information and belief, on or around April 1, 1999, Accolade was acquired by  
25 Infogrames.

26           37.       Accolade never paid Reiche any advances or royalties under Addendum No. 3 after  
27 the initial advance of \$10,000 in 1998 because it never released another Star Control game. On  
28 information and belief, Accolade also paid no royalties to Reiche and Ford for sales of the Classic  
Star Control Games after 2000 at the latest, indicating that it had stopped selling them. Thus, the  
1988 License Agreement and Addenda Nos. 1-3 expired and terminated no later than April 1,  
2001, either by virtue of expiration of the term set forth therein and/or Accolade’s failure to pay



1 royalties. Thus, all rights to Star Control, Star Control II, and Reiche’s Preexisting Characters  
2 used in Star Control 3 reverted to Reiche on or about April 1, 2001.

3 *Accolade’s Successors’ Abandonment and Fraudulent Renewal*  
4 *of the Registration for the Star Control Trademark*

5 38. In mid-2002, Accolade and Reiche and Ford negotiated regarding transfer of the  
6 Star Control trademark rights, and Accolade indicated that it was no longer using the name and  
7 had no plans to do so in the future. Nevertheless, the parties did not reach agreement on terms.

8 39. On November 25, 2002, Accolade assigned U.S. Trademark Registration No.  
9 2,046,036 for STAR CONTROL to Infogrames, and on March 17, 2003, Infogrames filed with the  
10 United States Patent and Trademark Office (“USPTO”) a Declaration of Use and Incontestability  
11 attaching a picture of the Star Control II packaging from 1994 as the Specimen of Use. On  
12 information and belief, this was a fraudulent statement to the USPTO because Accolade had not  
13 sold any Star Control game, including the pictured version of Star Control II, since at least 2000  
14 and perhaps even earlier, as evidenced by the lack of royalty payments to Reiche and Ford since  
15 that time.

16 40. In or around May 2003, Infogrames was renamed Atari.

17 41. On September 18, 2007, Atari filed with the USPTO a Declaration of Use in  
18 Commerce and Application for Renewal of Registration for the STAR CONTROL mark. On  
19 information and belief, this was a fraudulent statement to the USPTO because Atari was not using  
20 the STAR CONTROL mark in interstate commerce at that time, nor had it done so since at least  
21 2000. Indeed, as part of a valuation of its IP in late 2006, Atari reported that it made no sales of  
22 Star Control from at least 2001 through November 2006, and thus, the Star Control trademark was  
23 deemed to have no value at that time. Further, on information and belief, Atari did not use the  
24 STAR CONTROL mark through at least early 2011.

1                    *Reiche and Ford's Continued Development of the Star Control Universe*  
2                    *Through The Ur-Quan Masters and Agreement with Atari to Resume Sales*  
3                    *of the Classic Star Control Games*

4            42.        On August 1, 2002, having regained all rights to their games, Reiche and Ford  
5 released an open source edition of Star Control II derived from the 3DO version which was free to  
6 use in a non-commercial context. As they could not reach agreement with Accolade to acquire or  
7 use the Star Control trademark rights, they released the game under the name “The Ur-Quan  
8 Masters,” which Accolade knew and did not object to. Reiche and Ford have used the mark THE  
9 UR-QUAN MASTERS at least since then in connection with distributing the open source edition  
10 of Star Control II.

11           43.        Star Control, Star Control II, including The Ur-Quan Masters, and Reiche’s  
12 Preexisting Characters used in Star Control 3 are hereinafter referred to as “Reiche and Ford’s Star  
13 Control Games.”

14           44.        Over the years since their various releases, Reiche, Ford, and Reiche and Ford’s  
15 Star Control Games themselves have acquired a valuable fame, reputation and goodwill among the  
16 purchasing public.

17           45.        In addition, Reiche and Ford own U.S. Copyright Registration No. PA 2-071-496  
18 for the work titled “Star Control II,” which covers all computer program code for that game, and  
19 U.S. Copyright Registration No. PA 2-107-340 for the work titled “Star Control II,” which covers  
20 all of the audiovisual and written content in the game (hereinafter, “Reiche and Ford Registered  
21 Copyrights”). Documentation reflecting registration of the Reiche and Ford Registered  
22 Copyrights is attached hereto as **Exhibits 6 and 7**.

23           46.        In April 2006, Reiche and Ford spoke with Atari about potentially publishing Star  
24 Control and Star Control II through an online video game service called Gametap, but failed to  
25 agree on terms, and Reiche and Ford informed Atari that they did not wish to renew the expired  
26 1988 License Agreement or go forward with any of the potential new deals discussed at that time.

27           47.        On or about April 1, 2011, Reiche and Ford learned that a company called Good  
28 Old Games was selling Star Control and Star Control II on its website, GOG.com (hereinafter

1 “GOG”), without Reiche and Ford’s permission and in violation of their copyrights. On April 19,  
2 2011, Reiche and Ford contacted GOG and informed it that GOG could not sell the games without  
3 Reiche and Ford’s consent. GOG responded that it was doing so pursuant to an agreement with  
4 Atari. On information and belief, such agreement between GOG and Atari was called the “Digital  
5 Distribution Agreement” and was dated March 10, 2010.

6 48. On April 22, 2011, Reiche and Ford notified Atari and GOG that Reiche and Ford  
7 were the authors and owners of Star Control and Star Control II and had not given permission for  
8 Atari to sell them. Reiche and Ford reminded Atari that while Accolade once held the publishing  
9 rights, such rights had expired long ago and that any purported agreement by Atari concerning  
10 Reiche and Ford’s work violated their rights. However, Reiche and Ford invited further  
11 discussion that might enable the continued publishing of their games by GOG.

12 49. On April 25, 2011, Atari responded that its counsel had checked and Reiche and  
13 Ford were correct. Atari notified GOG to remove and take down the Star Control Games and to  
14 remit all revenues from sales of the games to Reiche and Ford.

15 50. On April 29, 2011, Reiche and Ford again invited Atari to engage in further  
16 discussion about how to continue distributing the Star Control Games, perhaps by splitting the  
17 revenue and Atari’s allowing the use of any Star Control trademarks. Atari agreed to discuss it  
18 further.

19 51. On May 17, 2011, GOG informed Reiche and Ford that it had reached an  
20 agreement with Atari, but were discussing whether to execute a three-party agreement or separate  
21 agreements with Reiche and Ford and with Atari. On May 23, 2011, Atari advised Reiche and  
22 Ford that it was amending its agreement with GOG (“Atari-GOG Agreement”) such that Atari  
23 would get 25% of the net revenue from sales of the Classic Star Control Games, while Reiche and  
24 Ford would get 25% of the net revenue under a separate agreement with GOG.

25 52. On January 2, 2012 (with an effective date of April 1, 2011), Reiche and Ford  
26 entered into the Digital Distribution Agreement with GOG Limited (“Ford-GOG Agreement”) to  
27 provide GOG with a non-exclusive license to distribute the Classic Star Control Games in  
28 exchange for royalties of 25% of net revenue.

1           53.     Section 5 of the Ford-GOG Agreement noted that GOG would obtain “the rights  
2 for the Products names and related trademarks ... from the respectful [*sic*] rights holder.”

3                   ***Stardock Purportedly Buys Star Control Trademark and Star Control 3 Copyright***

4           54.     On information and belief, in 2013 Atari filed for bankruptcy and put its assets up  
5 for auction, including the “Star Control Franchise” consisting only of “Star Control 3.” On  
6 information and belief, Atari purportedly sold its “Star Control Assets” to Stardock under a  
7 Purchase Agreement dated July 18, 2013. The Purchase Agreement defined the Purchased Assets  
8 as including the Intellectual Property identified on Schedule 1.01(a), the contracts listed on  
9 Schedule 2.01(b), and certain causes of action related to the Intellectual Property. Any other  
10 assets and properties of Atari were excluded from the Purchased Assets.

11           55.     The Purchase Agreement filed with and approved by the bankruptcy court, a copy  
12 of which is attached hereto as **Exhibit 5**, did not include any Schedule 1.01(a) or Schedule  
13 2.01(b), and thus did not transfer any intellectual property or contract rights to Stardock.

14           56.     Stardock has submitted with its First Amended Complaint purported schedules of  
15 the Intellectual Property encompassed in the Purchased Assets, which list the following  
16 intellectual property purportedly transferred from Atari to Stardock: a) U.S. Trademark  
17 Registration No. 2,046,036 for the STAR CONTROL mark; and b) U.S. Copyright Registration  
18 No. PA 799-000 for Star Control 3.

19           57.     Stardock separately sent Reiche and Ford a purported schedule of the contracts  
20 encompassed in the Purchased Assets, a copy of which is attached as **Exhibit 8**, which lists:

- 21                   • Atari’s Digital Distribution Agreement with GOG Limited (Good Old Games),  
22                   dated 3/1/2010, purportedly only for Star Control 3; and  
23                   • Accolade’s License Agreement with Reiche, dated 10/7/1988, only as to Star  
24                   Control 3.

25           58.     Even if these schedules are authentic, Atari did not purport to sell, nor did it even  
26 own or have the right to sell, any rights to Reiche and Ford’s Star Control Games to Stardock,  
27 including Reiche’s Preexisting Characters used in Star Control 3. Moreover, the 1988 License  
28 Agreement and Addendum No. 2 relating to Star Control 3 had terminated and expired over a

1 decade earlier. Even if it could have been assigned, Reiche never consented to it as required by  
2 Paragraph 12.1 of the 1988 License Agreement.

3 ***Reiche and Ford Repeatedly Reject Stardock's Requests to License Reiche***  
4 ***and Ford's Star Control Games for Use in Stardock's New Game***

5 59. On July 22, 2013, Stardock's CEO, Brad Wardell, introduced himself to Reiche via  
6 email and said he had acquired Atari's rights to Star Control, and wanted to create a new Star  
7 Control game existing "within the 'universe' that [Reiche and Ford] created." Wardell asked to  
8 use Reiche and Ford's game lore and universe in exchange for a license agreement with royalties.  
9 He also asked if Reiche and Ford would be interested and able to help with the new game.

10 60. On July 23, 2013, Reiche responded that he and Ford: a) would consider the  
11 request; b) stated that they personally own the copyrights to Reiche and Ford's Star Control  
12 Games; and c) noted their and Atari's recent agreements with GOG to distribute the games.  
13 Wardell responded "[t]hat is my reading of the agreement too."

14 61. On July 24, 2013, Stardock announced its acquisition and plan to release a new  
15 game inspired by Star Control II but that it would not be a sequel to the Classic Star Control  
16 Games. Wardell admitted that "Atari doesn't actually own the copyright on Star Control 1/2 so  
17 it's not like one could make a Star Control 2 HD or what have you without a license from Paul  
18 Reiche."

19 62. On July 30, 2013, Wardell asked again for Reiche and Ford to be involved in  
20 developing his new game, and to license "the Star Control 1/2 universe (aliens, lore, etc.)" from  
21 Reiche and Ford.

22 63. On August 6, 2013, Wardell asked again if Reiche and Ford could collaborate on a  
23 new Star Control, and they responded the next day that they probably could not. Wardell then  
24 asked again "would you be interested in pursuing a licensing agreement for use of the Star Control  
25 1/2 lore?" He explained that "[w]e'd really like to set the new Star Control game with the aliens  
26 and lore that you previously created."

27 64. On August 14, 2013, Wardell asked again "would you be interested in setting up a  
28 licensing agreement to use your existing Star Control 1/2 lore and aliens?"

1           65.     On September 16, 2013, Reiche and Ford responded that they would not participate  
2 in his new game because, among other things:

3           Fred and I are just not comfortable handing over our world to be developed by  
4 others. We've been discussing this for almost 20 years and we've always regarded  
5 a return to Star Control as our dream project – something we'd work on as soon as  
6 we found the opportunity. I know this will be a disappointment for you and your  
7 team, but Fred and I still have a Star Control plan and we're not ready to give it up  
8 yet. Thanks so much for your interest in and appreciation of our work.

9           66.     Later that day, Wardell acknowledged their response, and over the next six weeks,  
10 tried instead to sell Reiche and Ford “the Star Control IP” that he thought he had acquired from  
11 Atari.

12           67.     On October 29, 2013, Reiche and Ford responded that “we aren't interested in the  
13 Star Control assets you purchased from Atari. Thanks for the offer though.”

14           68.     In summation, Reiche and Ford rejected Stardock's requests to: a) collaborate on a  
15 new Star Control game; b) license Reiche and Ford's Star Control Games or any portion thereof  
16 for use in such a new game; and/or c) sell them the Star Control IP purportedly purchased from  
17 Atari.

18           ***Stardock Begins Making False Statements About Reiche and Ford's Involvement  
19 in Its New Game, and Asks Reiche and Ford Again Repeatedly to License  
20 Their Star Control Games, Which They Refuse***

21           69.     Notwithstanding the above, on January 3, 2014 Wardell gave an interview in which  
22 he made a series of false or misleading statements about connections between Stardock and Reiche  
23 and Ford. For example, Wardell falsely stated that he had “talked to [Reiche and Ford] quite a bit”  
24 and would “be talking to Paul and Fred as we go forward” about Stardock's new game, when in  
25 fact they had never spoken and Reiche and Ford had wholly declined to work with Stardock on the  
26 game. Wardell misleadingly suggested that Reiche and Ford simply could not be “officially”  
27 involved because of their existing jobs, when in fact they actually declined any involvement  
28 because they did not want Stardock or anyone else to further develop their world, and they had  
always planned to work on it themselves in the future. Wardell claimed that the new Star Control  
game would be on a new continuity and be a prequel to Star Control II to allow Reiche and Ford

1 to continue the main Star Control plot in the future. However, he also admitted that the new game  
2 would include one or more of the ships from Reiche and Ford's Star Control Games, as well as the  
3 multiplayer ship-to-ship combat feature called "Super Melee" from Star Control II. He also  
4 indicated that the Classic Star Control Games would remain on sale at GOG.com.

5 70. Later on January 3, 2014, Wardell emailed Reiche and Ford to clarify that "the new  
6 Star Control will not make use of the lore/history/aliens of Star Control 1/2 without your express  
7 consent." However, he asked whether they might be willing to allow certain characters from  
8 Reiche and Ford's Star Control Games to appear in the new game, and offered to pay royalties for  
9 licensing their IP from the Classic Star Control Games. Wardell sent another email later that day  
10 reiterating that "the new Star Control game will not be making use of any of the Star Control 1/2  
11 IP (which in this case means alien names, alien designs, lore, art, music, ship designs) without  
12 your express permission ... ."

13 71. On or about March 4, 2015, Reiche and Ford briefly met Wardell and Derek Paxton  
14 from Stardock for the first and only time at the annual Game Developers Conference in San  
15 Francisco, California. Wardell again asked Reiche and Ford to work on Stardock's new Star  
16 Control game, and they once again said no.

17 72. According to Stardock and unbeknownst to Reiche and Ford, the Atari-GOG  
18 Agreement expired on March 22, 2015, and thus, Stardock contends that all subsequent sales of  
19 the Classic Star Control Games on GOG infringed on its purported trademarks and copyrights.  
20 However, according to GOG, it entered into another agreement with Stardock that covered such  
21 sales.

22 73. On September 24, 2015, Wardell emailed Reiche and Ford and again reiterated that  
23 "the new Star Control won't be making use of the lore or aliens from your universe. We've made  
24 sure to post this publicly repeatedly so that there is a written public record that Stardock has zero  
25 rights to the classic Star Control 2 lore (aliens, ships, story, etc.). The new game will be a reboot  
26 with its own continuity." However, he once again asked if Stardock could have certain characters  
27 from Reiche and Ford's Star Control Games appear in the new game.

28



1           74.     On October 1, 2015, Reiche and Ford responded once again that they would not  
2 participate in Stardock's new game, nor would they license the use of certain characters nor "any  
3 other classic Star Control elements," because "Fred and I want to keep our copywritten material  
4 from Star Control exclusive to our own future project." Wardell acknowledged that this was  
5 "[t]otally understandable."

6           75.     On November 20, 2015, Wardell again reiterated that "[w]e have been making it  
7 very clear that you and Fred personally own the rights to the Star Control classic aliens and lore  
8 and that the new game won't be including them."

9           76.     On December 3, 2015, Wardell emailed Reiche and Ford and asked if they would  
10 be interested in licensing the alien races from Reiche and Ford's Star Control Games for another  
11 Stardock game called Galactic Civilizations III. Reiche and Ford later learned that Wardell had  
12 already "borrowed" heavily from Star Control II for the Galactic Civilizations game. Wardell  
13 previously described the back story for Galactic Civilizations as follows:

14           I must admit, I borrowed some concepts from Star Control 2. The Precursors were  
15 not lifted from Babylon 5 or Stargate or whatever. They were inspired from Star  
16 Control 2. I always dreamed that there'd be a SC3 that would expand on who these  
Precursors and the extra-dimensional beings. I have no idea what they had in mind  
but I thought it was a very cool concept.

17 He elsewhere admitted that "using the in-game custom race creator, I have also made the Ur-Quan  
18 (from Star Control) ... ."

19           77.     On October 12, 2016, Wardell informed Reiche and Ford that the new game would  
20 be called "Star Control: Origins" to avoid any implication that it is a reboot or replacement for the  
21 Classic Star Control Games. He again asked to work with Reiche and Ford in the future on "the  
22 Ur-Quan universe" covering Star Control and Star Control II, and asked "to release an update to  
23 Star Control 1/2 under the existing agreement (50/50) split if we can get your permission for the  
24 25th anniversary."

25           78.     On July 28, 2017, Wardell asked Reiche and Ford if, in light of the upcoming 25th  
26 anniversary of Star Control II, they would do "an interview regarding your work on Star Control  
27 1/2, the Ur-Quan Masters, past, present and future of your universe." Wardell noted that Star  
28 Control: Origins included the Super Melee feature from Star Control II, and a ship designer that

1 would enable players to construct ships from Reiche and Ford's Star Control Games, among other  
2 things. In fact, Wardell revealed previously that a ship from Reiche and Ford's Star Control  
3 Games, the Earthling Cruiser, had already been constructed within Galactic Civilizations III.  
4 Reiche and Ford later learned that many ships and alien races from Reiche and Ford's Star Control  
5 Games appeared in Galactic Civilizations.

6 79. On August 1, 2017, Reiche and Ford responded that they were saving their energy  
7 for their own anniversary plans, which they were not yet ready to talk about.

8 80. On September 15, 2017, Wardell emailed Reiche and Ford again that "the Star  
9 Control alien IP and such belongs to you personally" and asking if Stardock could "license the  
10 Star Control 2 Super Melee ships for the new Super Melee in exchange for a small royalty on  
11 every copy of the new Star Control."

12 81. On September 29, 2017, Wardell emailed Reiche and Ford that Stardock planned to  
13 release "the Super Melee beta" in October and asking if they objected to inclusion of the ships  
14 from Star Control 1 and 2.

15 82. On October 4, 2017, Reiche and Ford responded that they planned to work on "a  
16 sequel to Star Control 2 as a passion project," and that "[w]e will be needing and using all our IP  
17 in this endeavor and do not want to confuse our product with yours by licensing bits of it out (e.g.  
18 the ships from Star Control 1 and 2)."

19 83. Wardell responded later that day and claimed for the first time that Stardock  
20 already had a license to use Reiche and Ford's IP under the 1988 License Agreement, even though  
21 that agreement had terminated and expired in 2001.

22 84. On October 6, 2017, Reiche and Ford reiterated their "plans to release a sequel to  
23 Star Control II - The Ur-Quan Masters," and that:

24 As we've said to you several times over the past years, we do not want Stardock to  
25 use any of our IP, and that remains our position today. ... Despite your suggestion  
26 below, you do not have a license to use our IP. All rights to our work reverted to us  
27 long ago. You (and Atari) previously acknowledged same. Further, time and again  
28 you have asked for a new license, notwithstanding our consistent rejections.  
Kindly do not use our IP in your game. If already added, please remove it before  
release.

1           85.     On October 6, 2017, Wardell responded admitting that “there is no disagreement  
2 that you own the IP,” and that “[y]ou have always owned the IP and that continues to be our  
3 position.” However, he argued that Stardock had publishing rights and licenses to the IP under the  
4 1988 License Agreement. He also claimed that “[a]s you have previously requested, we are not  
5 using your IP in [Star Control: Origins].”

6           86.     Later that day, Wardell sent another email claiming that the 1988 License  
7 Agreement was still in effect because Stardock and Atari before them had been selling the  
8 products and paying royalties for many years. In fact, as noted above, neither Accolade nor Atari  
9 had sold the games or paid any royalties from about 2001-2011, so the 1988 License Agreement  
10 expired in 2001. The Classic Star Control Games were only sold after 2011 pursuant to new  
11 agreements between Reiche and Ford and GOG, and between Atari and GOG. Wardell admitted  
12 again that “Stardock does not contest your ownership of the underlying IP. I have stated on  
13 numerous occasions publicly that the Ur-Quan universe is owned by Paul Reiche and Fred Ford.”

14           87.     On October 7, 2017, Reiche and Ford responded and pointed out that they had  
15 received no royalties for many years and therefore the 1988 License Agreement had expired.  
16 They also notified Wardell that his planned use of “Super Melee” from Star Control II in Star  
17 Control: Origins was not authorized and asked that it not be used.

18           88.     Wardell responded later that day rejecting their requests and threatening litigation.

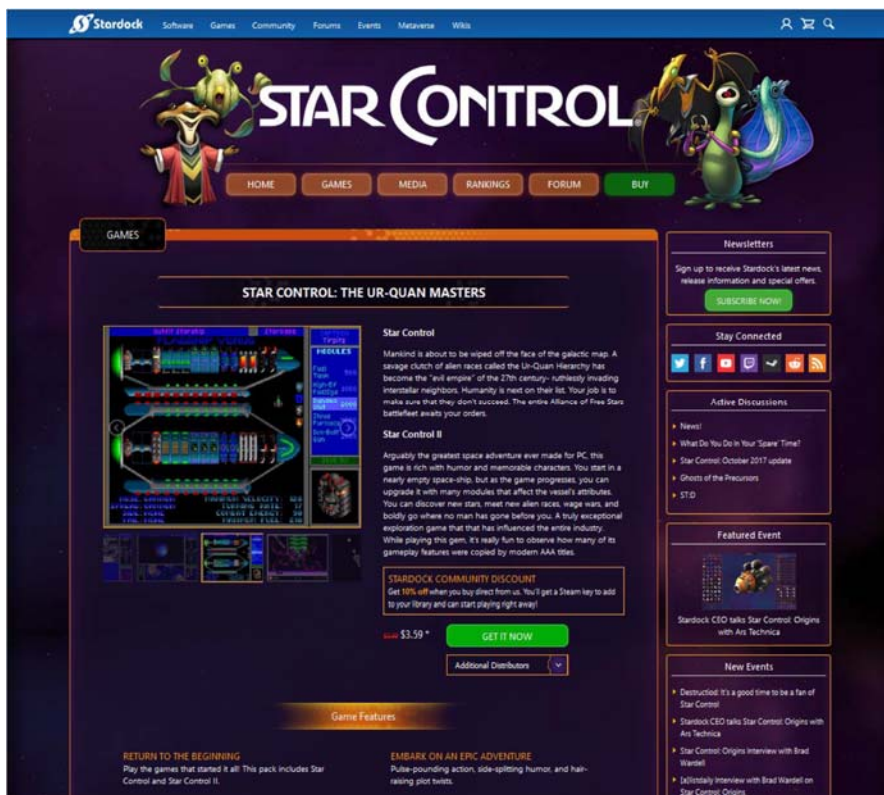
19           89.     On October 9, 2017, Reiche and Ford finally announced their long-awaited plans to  
20 create and develop a new game that would be a sequel to The Ur-Quan Masters to be called  
21 “Ghosts of the Precursors.”

22           ***Stardock’s Copyright and Trademark Infringement and Other Unfair Competition***

23           90.     Seemingly in response to Reiche and Ford’s announcement and refusal to license  
24 their Star Control Games, in October 2017, Reiche and Ford learned that Stardock had begun  
25 selling the Classic Star Control Games through Steam, a digital distribution platform, without  
26 Reiche and Ford’s permission and in violation of their copyrights.

27           91.     Stardock also began improperly using Reiche and Ford’s THE UR-QUAN  
28 MASTERS mark and images from Reiche and Ford’s Star Control Games on Stardock’s website

1 in marketing the Classic Star Control Games. A screenshot of Stardock's website with links to  
 2 buy these games through Steam, and showing an example of Stardock's use of THE UR-QUAN  
 3 MASTERS mark and images from Reiche and Ford's Star Control Games is as follows:



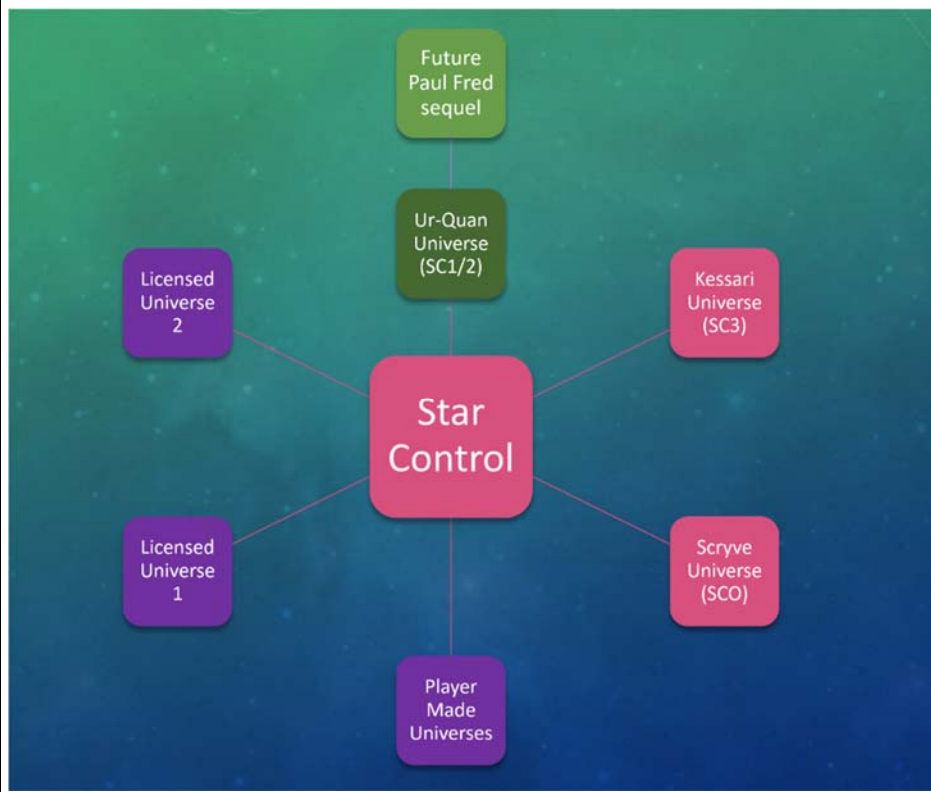
17 92. Stardock and GOG also renamed “Star Control 1+2” on GOG’s website to be  
 18 called “Star Control: The Ur-Quan Masters.”

19 93. In December 2017, Reiche and Ford sent Steam a notice of infringement and  
 20 request to remove the Classic Star Control Games, but Stardock sent Steam a counter-notice, and  
 21 Stardock and Steam continued selling the games unabated until recently. Stardock maintains that  
 22 it may resume selling the games at any time.

23 94. In light of Stardock’s infringement and apparent abandonment of the revenue split  
 24 that had been agreed-upon with Atari in 2011, Reiche and Ford terminated their agreement with  
 25 GOG in or around November 2017 and, at GOG’s request, sent it a notice of infringement and  
 26 request to remove the Classic Star Control Games, which it complied with on or about  
 27 December 6, 2017. But again, Stardock sent GOG a counter-notice and, as a result, GOG resumed  
 28

1 selling the Classic Star Control Games for months, even though Stardock alleges that such sales  
 2 constituted ongoing infringement of its purported trademarks and copyrights.

3 95. Stardock has also done everything possible to create connections in the minds of  
 4 the public between itself and Star Control: Origins, on the one hand, and Reiche and Ford and  
 5 their Star Control Games, on the other hand. For example, on or about October 19, 2017, Wardell  
 6 gave another interview in which he falsely stated that he had been talking with Reiche and Ford  
 7 frequently about Star Control: Origins, when in fact they had only spoken once briefly at the  
 8 Game Developers Conference as described above, and Reiche and Ford had repeatedly declined  
 9 any involvement with Star Control: Origins. Wardell also provided the following graphic that  
 10 misleadingly suggested that Reiche and Ford and their Star Control Games and future sequel were  
 11 connected to Stardock’s new game, identified here as “Scryve Universe (SCO)”:

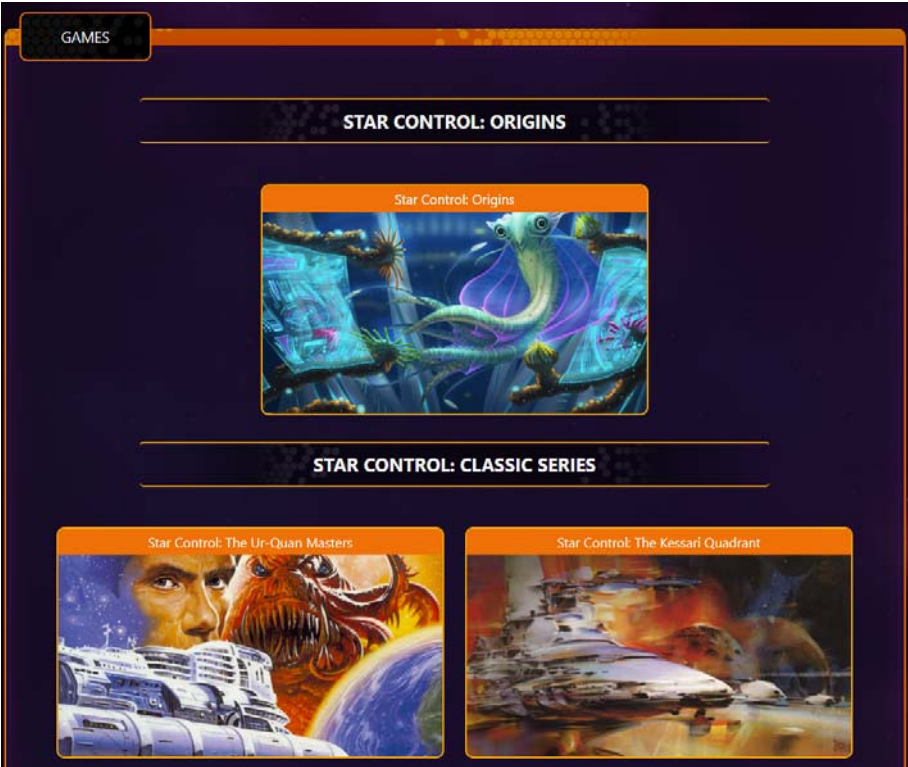


24 96. That same day, Stardock began offering pre-orders of Star Control: Origins  
 25 bundled with “Star Control: The Ur-Quan Masters (Star Control & Star Control II)” as shown  
 26 here:  
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97. Stardock also set up a website showing all the games together:



98. In November 2017, Stardock released a beta version of Star Control: Origins, including content from Reiche and Ford’s Star Control Games without their permission and in violation of their copyrights.

99. For example, on information and belief, Star Control: Origins includes one or more ships from Reiche and Ford’s Star Control Games as shown in this screenshot:





1           100. Star Control: Origins also includes a ship-creator tool that allows players to easily  
2 recreate ships from Reiche and Ford's Star Control Games and then share them with all other  
3 players, as Wardell and Stardock had previously done in its other game Galactic Civilizations. In  
4 fact, Wardell has indicated that the next version of Star Control: Origins will include the ability to  
5 create stars, planets, alien races, narratives, and gameplay scenario missions, and on information  
6 and belief, this will include the ability to easily create all of the content from Reiche and Ford's  
7 Star Control Games, and then share it with all other players, again, as Stardock had previously  
8 done in Galactic Civilizations.

9           101. On information and belief, Stardock has encouraged and enabled beta testers of  
10 Star Control: Origins to recreate ships from Reiche and Ford's Star Control Games, and even the  
11 entire star map from The Ur-Quan Masters, that Stardock intends to include in a new version of  
12 Star Control: Origins to be released in September 2018.

13           102. More recently, Stardock confirmed that a new version of Star Control: Origins now  
14 planned for release in September 2018 will be substantially similar to and/or derived from Reiche  
15 and Ford's Star Control Games. Indeed, Stardock has described Star Control: Origins as a  
16 "reboot" of or "prequel" to Star Control II.

17           103. For example, Star Control: Origins refers to the police force as "Star Control,"  
18 which is part of the lore from Reiche and Ford's Star Control Games, and the main character is  
19 called Commander Hayes, just like in Reiche and Ford's Star Control Games.

20           104. Star Control: Origins refers to the Precursors as an ancient, advanced alien species  
21 that explored the universe long ago but then vanished, which are characters referenced in Reiche  
22 and Ford's Star Control Games and an important part of the plot of the game.

23           105. Players of Star Control: Origins will travel to and explore new star systems and  
24 planets and encounter various alien species via hyperspace travel, just like in Reiche and Ford's  
25 Star Control Games.

26           106. Players of Star Control: Origins will search for Tzo Crystal and earn or collect  
27 resource units to exchange for things, just like in Reiche and Ford's Star Control Games.

28

1           107. On May 11, 2018, Wardell stated on Stardock's website that contrary to many prior  
2 statements, "[f]uture Star Control games will have the classic Star Control aliens in them. ... Only  
3 the most unreasonable person would argue that Star [ ]control games can't have Star Control aliens  
4 simply because an independent contractor of Accolade's claims rights to names he may or may not  
5 of randomly generated 28 years ago."

6           108. Later that month, Wardell conducted an informal survey or vote among potential  
7 purchasers of Star Control: Origins of which aliens to include from Reiche and Ford's Star Control  
8 Games. At the conclusion of the vote, on or about May 21, 2018, he stated that several alien races  
9 that appeared in Star Control II would also be in Star Control: Origins, and that they would play  
10 the same or similar roles as in the original game, e.g. the Arilou would be little green men who  
11 had been watching over earth, and the Melnorme would be a trading species, just as in Star  
12 Control II.

13           109. In June 2018, Wardell revealed video showing that one of the ships in Star Control:  
14 Origins used in game play has the same name – the Earthling Cruiser – and a substantially similar  
15 appearance and weapons to the ship in Star Control I and II.

16           110. On July 4, 2018, Wardell revealed on Reddit that Star Control: Origins would  
17 include aliens from Star Control II called the Chenjesu, and stated more broadly that "the new Star  
18 Control games will have classic aliens in them as well."

19           111. On July 13, 2018, Wardell confirmed that the Arilou, characters from Reiche and  
20 Ford's Star Control Games, will appear in Star Control: Origins.

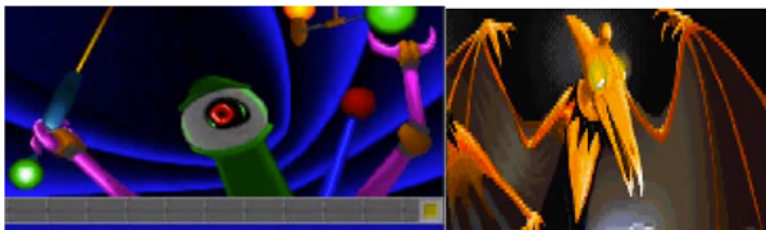
21           112. On or about July 14, 2018, Wardell confirmed that the Melnorme, characters from  
22 Reiche and Ford's Star Control Games, will also appear in Star Control: Origins. Wardell also  
23 revealed that stars would be named after Reiche and Ford, among others, in a further improper  
24 attempt to associate Stardock and Star Control: Origins with Reiche and Ford and their Star  
25 Control Games.

26           113. In addition to infringement in the game itself, Stardock has also extensively used  
27 material from Reiche and Ford's Star Control Games on Stardock's website and in marketing both  
28 the Classic Star Control Games and Star Control: Origins.

1 114. For example, Stardock has copied alien races from Reiche and Ford’s Star Control  
 2 Games for promotional use on its website, despite Reiche and Ford’s repeated refusals to license  
 3 such characters to Stardock, *e.g.*:

4 **Yehat & Spathi in Reiche and Ford’s Star Control Games**

**Yehat and Spathi on Stardock’s Website**



9 **Orz in Reiche and Ford’s Star Control Games**

**Orz on Stardock’s Website**



10 115. The parties engaged in extensive settlement discussions from October–December  
 11 2017, but Stardock ultimately broke off negotiations and filed suit against Reiche and Ford in  
 12 mid-December, claiming for the first time that it owns copyrights to all of the Classic Star Control  
 13 Games, not just Star Control 3, and that Accolade and not Reiche and Ford created Star Control  
 14 and Star Control II, among other things.

15 ***Stardock’s Fraudulent Claims to Trademark Rights to Prevent Reiche and Ford from Making  
 16 Their Own Derivative Work***

17 116. In a further effort to prevent Reiche and Ford from rightfully using their  
 18 copyrighted material to make Ghosts of the Precursors, and to justify Stardock’s infringement of  
 19 the Reiche and Ford Registered Copyrights, Stardock recently filed a series of applications to  
 20 register trademarks on the unique names of many of the aliens and features contained in Star  
 21 Control I and II. Stardock’s strategy also appears to be to multiply the number of adversarial  
 22 proceedings as much as possible in the hopes of outpending Reiche and Ford.  
 23  
 24  
 25  
 26

27 117. On or about December 14, 2017, Stardock filed U.S. Trademark Application No.  
 28 87,720,654 to register the mark THE UR-QUAN MASTERS. Stardock claims therein that it has

1 used the mark since at least August 10, 2013, but this representation is false. Indeed, Stardock  
2 submitted a specimen appearing to consist of: a) a screenshot from the 1992 version of Star  
3 Control II published by Accolade; b) screenshots of GOG's and Steam's websites from in or  
4 around October-November 2017; and c) screenshots of Stardock's website from June 2018.

5 118. At the same time, in this litigation, Stardock claims that this mark was used as a  
6 source identifier by Accolade and then Atari, though it cannot identify any evidence of such use.  
7 Stardock claims that it bought the trademark rights to this mark from Atari, though it cannot  
8 identify any evidence of such purchase. Stardock claims that it has continued to use this mark via  
9 its marketing and sales of Star Control II through GOG and otherwise. Stardock also claims that  
10 Reiche and Ford's use of THE UR-QUAN MASTERS mark constitutes infringement of  
11 Stardock's trademark rights. These claims are false.

12 119. In addition, Stardock filed the following applications:

- 13 • U.S. Trademark Application No. 87,662,697 for the mark SUPER MELEE
- 14 • U.S. Trademark Application No. 87,810,480 for the mark ORZ
- 15 • U.S. Trademark Application No. 87,810,484 for the mark UR-QUAN
- 16 • U.S. Trademark Application No. 87,810,486 for the mark SYREEN
- 17 • U.S. Trademark Application No. 87,810,492 for the mark SPATHI
- 18 • U.S. Trademark Application No. 87,810,495 for the mark ANDROSYNTH
- 19 • U.S. Trademark Application No. 87,810,499 for the mark CHENJESU
- 20 • U.S. Trademark Application No. 87,810,502 for the mark ILWRATH
- 21 • U.S. Trademark Application No. 87,810,516 for the mark PKUNK
- 22 • U.S. Trademark Application No. 87,810,518 for the mark ARILOU
- 23 • U.S. Trademark Application No. 87,810,526 for the mark VUX
- 24 • U.S. Trademark Application No. 87,810,528 for the mark MELNORME
- 25 • U.S. Trademark Application No. 87,825,741 for the mark YECHAT
- 26 • U.S. Trademark Application No. 87,877,907 for the mark TAALO
- 27 • U.S. Trademark Application No. 87,877,969 for the mark DNYARRI

28

- 1 • U.S. Trademark Application No. 88,016,293 for the mark CRIMSON  
2 CORPORATION

- 3 • U.S. Trademark Application No. 88,016,354 for the mark FWIFFO

4 120. Stardock claims that all of these marks were also used as source identifiers by  
5 Accolade and then Atari, though it cannot identify any evidence of such use. Stardock further  
6 claims that it bought the trademark rights to these marks from Atari, though it cannot identify any  
7 evidence of such purchase. Stardock also claims that it has continued to use these marks through  
8 its marketing and sales of Star Control II through GOG and otherwise. Stardock claims that  
9 Reiche and Ford's use of these names in Reiche and Ford's Star Control Games, Ghosts of the  
10 Precursors, or any other derivative work constitutes infringement of Stardock's trademark rights.

11 121. These claims are false. To the extent that Stardock argues that the use of these  
12 names within Star Control I and II constituted use as trademarks in commerce (which is a dubious  
13 claim at best), they were abandoned by Accolade/Atari since at least 2000, and the names have  
14 been used continuously by Reiche and Ford in connection with offering THE UR-QUAN  
15 MASTERS since 2002.

16 122. At the same time, before the USPTO, Stardock filed the aforementioned  
17 applications under 15 U.S. Code § 1051(b), stating that it: a) intends to use the marks in commerce  
18 (but has yet to do so despite having sold Star Control I and II); b) believes it is entitled to use the  
19 marks; and c) that no other person has the right to use the marks in commerce. Again, these  
20 statements are false and directly contradict Stardock's other statements about not using nor having  
21 rights to use the aliens (including the names), and confirming that Reiche and Ford have such  
22 rights.

23 123. Most recently, Stardock filed an opposition to Reiche and Ford's U.S. Trademark  
24 Application No. 87,633,531 for the mark GHOSTS OF THE PRECURSORS.

25 124. In its Notice of Opposition, Stardock falsely claims that it acquired from Atari all  
26 "product names/titles, sub-names/titles, cover art, characters (*e.g.*, aliens), alien race names,  
27 characters names, spaceship names and spaceship designs" from Star Control I, II, and III,  
28 including the purported mark PRECURSORS.





1 Registered Copyrights, including but not limited to the characters, names, plot lines, and all other  
2 audiovisual materials therein.

3 130. Without Reiche and Ford's permission, Stardock has reproduced, copied,  
4 distributed, sold, displayed, and/or created derivative works from the Reiche and Ford Registered  
5 Copyrights, including but not limited to Stardock's selling Reiche and Ford's Star Control Games  
6 and Star Control: Origins, which given the publicly available information appears to be  
7 substantially similar to and/or based on Reiche and Ford's Star Control Games.

8 131. Stardock's actions violate Reiche and Ford's exclusive rights to reproduce,  
9 distribute, display, and create derivative works from the Reiche and Ford Registered Copyrights,  
10 and constitute infringement under 17 U.S.C. § 501.

11 132. Stardock's actions have caused Reiche and Ford injury, and such conduct has been  
12 willful and malicious and without excuse or justification for which Reiche and Ford are entitled to  
13 recover their damages and Stardock's profits or, in the alternative, statutory damages, as well as  
14 their attorneys' fees and costs, under 17 U.S.C. § 504.

15 133. In addition, Stardock's actions described above have caused, and unless enjoined  
16 will continue to cause, irreparable harm to Reiche and Ford for which they have no adequate  
17 remedy at law. Accordingly, Reiche and Ford are entitled to preliminary and permanent  
18 injunctions preventing and restraining Stardock's infringing conduct as to Reiche and Ford's Star  
19 Control Games, including, but not limited to, the Reiche and Ford Registered Copyrights pursuant  
20 to 17 U.S.C. § 502. Such relief includes but is not limited to enjoining Stardock from all future  
21 reproduction, copying, distribution, sales, and display of, and/or creation of derivative works from,  
22 Reiche and Ford's Star Control Games.

23 **SECOND CAUSE OF ACTION**

24 **(Declaratory Judgment re: Ownership of Copyrights)**

25 134. Reiche and Ford reallege and incorporate herein by reference their responses to  
26 paragraphs 1 through 133 above as if set forth in full.

27 135. As explained above, pursuant to the 1988 License Agreement and Addenda Nos.  
28 1-3 with Accolade, Reiche and Ford own the copyrights to Reiche and Ford's Star Control Games.





1 they lack an adequate remedy at law. Accordingly, Reiche and Ford are entitled to preliminary  
2 and permanent injunctions preventing and restraining Stardock from further violating § 43(a) of  
3 the Lanham Act, pursuant to 15 U.S.C. § 1116.

4 **FOURTH CAUSE OF ACTION**

5 **(Common Law Trademark Infringement and Unfair Competition)**

6 144. Reiche and Ford reallege and incorporate herein by reference their responses to  
7 paragraphs 1 through 143 above as if set forth in full.

8 145. Stardock has violated Reiche and Ford's exclusive common law rights in the mark  
9 THE UR-QUAN MASTERS.

10 146. Reiche and Ford have continuously used the mark THE UR-QUAN MASTERS in  
11 connection with offering their goods and services in California and elsewhere since at least 2002.  
12 As such, Reiche and Ford have garnered common law rights in the mark.

13 147. Stardock's unauthorized activities described herein, particularly its use of the mark  
14 THE UR-QUAN MASTERS in connection with Stardock's goods and services, are likely to cause  
15 confusion and mistake in the minds of the public as to the connection to, association with, and/or  
16 sponsorship by Reiche and Ford's goods and services, and therefore constitute trademark  
17 infringement and unfair competition under common law.

18 148. Stardock's activities described herein were and are willful and intentional acts of  
19 trademark infringement.

20 149. As a direct and proximate result, Reiche and Ford have suffered injury and harm,  
21 including damages.

22 150. Stardock's activities have caused, and if not enjoined will continue to cause,  
23 irreparable harm and damage to Reiche and Ford's trademark rights, and they have no adequate  
24 remedy at law.

25 151. Stardock has engaged in its unlawful conduct alleged herein intentionally,  
26 maliciously, fraudulently and oppressively, entitling Reiche and Ford to punitive and exemplary  
27 damages.

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**FIFTH CAUSE OF ACTION**

**(Unfair Competition (Cal. Bus. & Prof. Code § 17200 et seq.))**

152. Reiche and Ford reallege and incorporate herein by reference their responses to paragraphs 1 through 151 above as if set forth in full.

153. Stardock’s actions complained of herein are unlawful and/or fraudulent business acts or practices, constituting unfair competition in violation of California Business and Professions Code § 17200 et seq.

154. As a direct, proximate, and foreseeable result of Stardock’s wrongful conduct as alleged above, Reiche and Ford have suffered injury and are entitled to relief, including disgorgement of all revenues, earnings, profits, compensation, and benefits obtained by Stardock as a result of its unlawful and/or fraudulent business acts or practices.

155. Stardock’s unlawful and/or fraudulent business acts or practices described above are a serious and continuing threat to Reiche and Ford, and if Stardock is allowed to continue its wrongful conduct, Reiche and Ford will suffer further immediate and irreparable injury, loss, and damage. In the absence of preliminary and permanent injunctions, Stardock will continue to engage in the wrongful conduct described above.

**SIXTH CAUSE OF ACTION**

**(Cancellation of U.S. Trademark Registration No. 2,046,036)**

156. Reiche and Ford reallege and incorporate herein by reference their responses to paragraphs 1 through 155 above as if set forth in full.

157. U.S. Trademark Registration No. 2,046,036 was improperly renewed and should be cancelled because it was abandoned and/or was obtained fraudulently as set forth above, pursuant to 35 U.S.C. § 1119.

**SEVENTH CAUSE OF ACTION**

**(Conversion)**

158. Reiche and Ford reallege and incorporate herein by reference their responses to paragraphs 1 through 157 above as if set forth in full.



1 USPTO that Stardock has used this mark in commerce since at least August 10, 2013 was false,  
2 and its specimen of use was also fraudulent.

3 166. To the extent that use of the names of aliens and features in Stardock's trademark  
4 applications within Star Control I and II constitutes use in commerce, Reiche and Ford were also  
5 using them long before Stardock. Registration of such marks would also cause confusion with  
6 Reiche and Ford's goods and services and cause harm to them. Moreover, Stardock's  
7 representations to the USPTO that Stardock intended to use these names as trademarks in  
8 commerce and has sole rights to them were false.

9 167. Stardock's opposition to Reiche and Ford's trademark application to register  
10 GHOSTS OF THE PRECURSORS and claim that their registration and/or planned use of such  
11 mark would infringe on Stardock's purported PRECURSORS mark is baseless, and rests on a  
12 series of false representations to the USPTO.

13 168. Stardock's newer applications to expand the classes of goods and services covered  
14 by its purported STAR CONTROL trademark similarly appear to be based on false representations  
15 to the USPTO about Stardock's purported use of the mark.

16 169. As a result, there exists a substantial controversy of sufficient immediacy and  
17 reality between Reiche and Ford and Stardock to warrant the issuance of a declaratory judgment  
18 that: a) Reiche and Ford are the rightful owners of THE UR-QUAN MASTERS mark; b) Reiche  
19 and Ford have rights to use the names of aliens and features from Reiche and Ford's Star Control  
20 Games in such games, in Ghosts of the Precursors, and in any other derivative works they may  
21 later develop; c) Stardock has no trademark rights to THE UR-QUAN MASTERS or any of the  
22 other names from Reiche and Ford's Star Control Games listed above; d) Reiche and Ford are  
23 entitled to registration of the GHOSTS OF THE PRECURSORS mark; e) invalidating and/or  
24 directing Stardock to immediately withdraw and abandon U.S. Trademark Application Nos.  
25 87,662,697, 87,697,919, 87,720,654, 87,807,839, 87,810,480, 87,810,484, 87,810,486,  
26 87,810,492, 87,810,495, 87,810,499, 87,810,502, 87,810,516, 87,810,518, 87,810,526,  
27 87,810,528, 87,825,741, 87,877,907, 87,877,969, 88,016,293, and 88,016,354; and f) directing  
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1 Stardock to immediately withdraw and abandon its opposition to U.S. Trademark Application No.  
2 87,633,531.

3 **NINTH CAUSE OF ACTION**

4 **(Fraud)**

5 170. Reiche and Ford reallege and incorporate herein by reference their responses to  
6 paragraphs 1 through 169 above as if set forth in full.

7 171. Stardock made representations of material fact in emails from Wardell to Reiche  
8 and Ford that are detailed above to the effect that Stardock stated that Reiche and Ford own the  
9 rights to the content in Star Control I and II and that Stardock would not use any such content,  
10 including aliens, lore, history, and ship designs, among other things, in Star Control: Origins.

11 172. These representations were in fact false. The truth was that Stardock intended to  
12 incorporate numerous elements from Reiche and Ford's Star Control Games into Star Control:  
13 Origins, including aliens, lore, history, and ship designs, among other things, and to launch a  
14 wholesale attack on Reiche and Ford's intellectual property rights in the Star Control games.

15 173. When Wardell made these false representations, he and Stardock knew they were  
16 false.

17 174. Stardock made these false representations with the intent to induce Reiche and Ford  
18 to act as described herein, for example, to allow continued sales of the Classic Star Control Games  
19 on GOG that Stardock now alleges support its claims for infringement and that it has established  
20 trademark rights, among other things, and to forestall Reiche and Ford from halting the  
21 development and release of Star Control: Origins as a derivative work from Reiche and Ford's  
22 Star Control Games.

23 175. At the time Reiche and Ford acted, they were unaware that Stardock's  
24 representations were false and unaware of the concealed facts.

25 176. In justifiable reliance on Stardock's conduct, Reiche and Ford were induced to  
26 allow the continued sales of the Classic Star Control Games on GOG, among other things.

27 177. As a result of Reiche and Ford's reliance on Stardock's conduct, Reiche and Ford  
28 were damaged in that, among other things, the allegedly infringing sales of the Classic Star

1 Control Games continued for another 3-4 years during which Reiche and Ford's liability to  
2 Stardock allegedly accrued, and Reiche and Ford were induced into a false sense of security and to  
3 sit on their laurels while Stardock's plans to steal their copyrights and trademark rights proceeded.

4 178. Stardock's aforementioned acts were undertaken with malice, oppression, and  
5 fraud; therefore, Reiche and Ford are entitled to an award of punitive damages.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Reiche and Ford pray for judgment against Stardock on all causes of  
8 action and for the following relief:

- 9 a. For preliminary and permanent injunctions enjoining Stardock from infringing on  
10 Reiche and Ford's copyrights to the Reiche and Ford Registered Copyrights and  
11 Reiche and Ford's Star Control Games, including, but not limited to, ceasing all  
12 distribution and sales of Star Control, Star Control II, and Star Control 3, and all  
13 use of any creative material from Reiche and Ford's Star Control Games in Star  
14 Control: Origins;
- 15 b. For a declaratory judgment that Reiche and Ford are the owners of the copyrights  
16 to Reiche and Ford's Star Control Games, namely Star Control, Star Control II,  
17 including The Ur-Quan Masters, and Reiche's Preexisting Characters used in Star  
18 Control 3;
- 19 c. For preliminary and permanent injunctions enjoining Stardock from using the mark  
20 THE UR-QUAN MASTERS in connection with its goods and services, and from  
21 making any further statements implying that Reiche and Ford have or had any  
22 involvement or association or relationship with or connection to Stardock or its  
23 goods and services, and/or implying that there is any connection or relationship  
24 between Reiche and Ford's Star Control Games and Star Control: Origins;
- 25 d. For an order to the USPTO to cancel U.S. Trademark Registration No. 2,046,036;
- 26 e. For an injunction compelling Stardock to return the gold masters and source code  
27 to Reiche and Ford, as well as any other property that they developed for Star  
28 Control and Star Control II;



- 1 f. For an order invalidating and an injunction compelling Stardock to immediately
- 2 withdraw and abandon U.S. Trademark Application Nos. 87,662,697, 87,697,919,
- 3 87,720,654, 87,807,839, 87,810,480, 87,810,484, 87,810,486, 87,810,492,
- 4 87,810,495, 87,810,499, 87,810,502, 87,810,516, 87,810.518, 87,810,526,
- 5 87,810,528, 87,825,741, 87,877,907, 87,877,969, 88,016,293, and 88,016,354, and
- 6 enjoining Stardock from filing any further applications to register names of features
- 7 or characters from Reiche and Ford’s Star Control Games;
- 8 g. For an injunction compelling Stardock to immediately withdraw and abandon its
- 9 opposition to U.S. Trademark Application No. 87,633,531.
- 10 h. For an accounting and award of Stardock’s profits and disgorgement of Stardock’s
- 11 revenues, earnings, profits, compensation, and benefits obtained by its infringement
- 12 and/or unlawful and/or fraudulent business acts or practices;
- 13 i. For Reiche’s and Ford’s damages according to proof;
- 14 j. For treble damages for Stardock’s violations of Section 43 of the Lanham Act;
- 15 k. In the alternative, for Stardock’s copyright infringement, statutory damages;
- 16 l. For exemplary and punitive damages;
- 17 m. For attorneys’ fees;
- 18 n. For costs of suit herein incurred;
- 19 o. For pre- and post-judgment interest as ordered by the Court;
- 20 p. For any other remedies to which Reiche and Ford may be entitled under federal or
- 21 state law; and
- 22 q. For any other and further relief the court may deem proper.

**JURY DEMAND**

Reiche and Ford demand a trial by jury on all issues so triable.

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DATED: July 16, 2018

BARTKO ZANKEL BUNZEL & MILLER  
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