Outlook

Copyright Counter Notice o/b/o Saintontas re: The Tragic Downfall of MrPokke

From Rom Bar-Nissim <rom@heahbarnissim.com>
Date Tue 2/17/2026 7:39 AM
To copyright@youtube.com <copyright@youtube.com>
Cc saintontas@gmail.com <saintontas@gmail.com>

To whom it may concern:

Full Legal Name: Rom Bar-Nissim. Attorney for the YouTube channel: Saintontas. I am authorized by Saintontas to submit this counternotification on his behalf. As proof of authorization, Saintontas is cc'ed on this email. Saintontas' email (which is also the email address associated with the YouTube channel) is: saintontas@gmail.com

Physical Mailing Address: Heah Bar-Nissim LLP, 1801 Century Park East, Suite 1800, Los Angeles, California 90067.

Telephone Number: (310) 432-2836

URL for the Saintontas Video Subject to DMCA Takedown: https://www.youtube.com/watch?v=Bn2A0ie2TN4

Legal Statements:

Consent to Jurisdiction: Saintontas consents to jurisdiction of the Federal District Court for the district in which he is located (Northern District of California, San Francisco Division) which is also the district in which YouTube is located, and my firm (as the authorized agent of Saintontas) will accept service of process from the claimant.

Affirmation: Saintontas swears, under penalty of perjury, that he has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.

Statement by Claimant:

The video by Saintontas entitled *The Tragic Downfall of MrPokke* (the "Critique Video") made a fair use of the video by claimant MrPokke entitled *The Art of Gacha War* (the "Subject Video"). Below is Saintontas' analysis explaining why the Critique Video makes a fair use of the Subject Video under each of the four fair use factors under 17 U.S.C. Section 107.

As to the first fair use factor, the Critique Video transforms the Subject Video by directly criticizing the style and substance of the Subject Video. *See Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith*, 598 U.S. 508, 528 & 545 (2023) (quoting 17 U.S.C. § 107; citing *Authors Guild v Google, Inc.*, 804 F.3d 202, 215-216 (2d Cir. 2015)); *see also Hosseinzadeh v. Klein*, 276 F.Supp.3d 34, 41-42, 45-46 (S.D.N.Y. 2017). More specifically, the purpose of the Subject Video is MrPokke addressing criticism Saintontas and others made of MrPokke and his support of the game *Arknights: Endfield* and its gacha

system. Indeed, the Subject Video repeatedly references Saintontas by: (1) showing an image of Saintontas (Subject Video at 02:19); (2) showing the thumbnail of Saintontas' video *I'm Disgusted* where he levies his criticisms against *Arknights: Endfield* and MrPokke shilling for the game (Subject Video at 7:49); and (3) parodying Saintontas' criticisms in the *I'm Disgusted* video (Subject Video at 14:47). Further, in a video made on February 13, 2026 (the "2/13/26 Video"), MrPokke admits that the Subject Video was directed at Saintontas (link to video)

In the Critique Video, Saintontas directly engages with, addresses and refutes the arguments Mr. Pokke makes in the Subject Video about Saintontas – along with critiquing Mr. Pokke himself. Saintontas structures his critique by playing a few seconds of the Subject Video, pausing and then provide his criticism of the portion played for a duration significantly longer than the clip shown from the Subject Video. This structure of: (1) playing a clip from the original video; and (2) providing commentary on the clip shown that eclipses the duration of the clip from the original has consistently been held to be transformative – which weighs strongly in favor of fair use. *Hosseinzadeh*, 276 F.Supp3d at 45-46; *Stebbins v. Alphabet Inc.*, 2025 WL 2233208, *4-5 (N.D. Cal. July 2, 2025).

Critically, Mr. Pokke publicly admitted (albeit unwittingly) that the Critique Video made a highly transformative use of the Subject Video. In the 2/13/26 Video, MrPokke expressly concedes: (1) the Critique Video provided an additional one hour of commentary to the 20 minute Subject Video (timestamped link); and (2) the Critique video repeatedly criticized MrPokke and the points he made in the Subject Video (timestamped links 1, 2, 3, 4, 5) Therefore, even MrPokke concedes that Saintontas' Critique Video made a highly transformative use of the Subject Video.

As to the second fair use factor, the Subject Video was publicly disseminated prior to the Critique Video and is primarily informational – which also weighs in favor of fair use. *See Monge v. Maya Magazines*, *Inc.* 688 F.3d 1164, 1178 (9th Cir. 2012); *McGucken v. Pub Ocean Ltd.,* 42 F.4th 1149, 1161 (9th Cir. 2022).

As to the third fair use factor, the amount and substantiality the Critique Video used of the Subject Video was reasonably necessary for Saintontas' critique of the Subject Video. *See Hosseinzadeh*, 276 F.Supp.3d at 46; *Mattel, Inc. v. Walking Mountain Productions*, 353 F.3d 792, 803-804 (9th Cir. 2003). Here, the Critique Video uses most (but not all) of the Subject Video to critique the contents of the Subject Video and MrPokke. Even if the Critique Video used the entirety of the Subject Video (which it did not), using the entirety of a copyrighted work can still constitute a fair use. *See e.g.*, *Mattel*, 353 F.3d at 803-804; *Swatch Group Management Services Ltd. v. Bloomberg L.P.*, 756 F.3d 73, 89-90 (2d Cir. 2014). This applies with equal force to YouTube reaction videos that critique the original. *See Stebbins*, 2025 WL 2233208, *6.

The reasonableness of the use is readily apparent by watching the Critique Video. The Critique Video will play a few seconds from the Subject Video and surround it with significantly longer commentary and criticism on the clip previously played. *See Hosseinzadeh*, 276 F.Supp.3d at 46. Without using the clips from the Subject Video, the Critique Video's commentary and criticism of the Subject Video would lose all context and utility. *Id.* Therefore, the third fair use factor favors fair use because the amount Saintontas used of the Subject Video in the Critique Video was reasonably necessary for the critique.

As to the fourth fair use factor, there is no legally cognizable market harm resulting from the Critique Video's criticism of the Subject Video or of Mr. Pokke. *Campbell*, 510 U.S. at 591-592; *Hosseinzadeh*, 276 F.Supp.3d at 46-47. Copyright only protects the author's financial interests in the work – not the reputational or privacy interests of the author. *Garcia v. Google, Inc.*, 786 F.3d 733, 745-746 (9th Cir. 2015).

Further, it is readily apparent that the Critique Video does not (and cannot) serve as a market substitute for the original. *Hosseinzadeh*, 276 F.Supp.3d at 46-47 Rather, anyone watching Subject Video will have a very different experience watching Critique Video, which responds to and transforms the Subject Video into fodder for caustic, moment-by-moment commentary and mockery. *Id.*

MrPokke effectively concedes that there was no market harm to the Subject Video from the Critique Video. Rather, MrPokke admits his objective is to silence Saintontas' criticism of him and punish Saintontas for making that criticism. This is evidenced MrPokke's February 11, 2026 Twitter post at 10:00 a.m. PST offering to retract the DMCA takedown if Saintontas: (1) makes "A Public Apology on his main channel"; (2) "Remov[es] all videos about me"; and (3) "Never mentioning me ever again." (Link to Tweet). This was reiterated in the 2/13/26 video (timestamped link) and the statements discussed above in the context of the first fair use factor. Taken together, the fourth factor heavily weighs in favor of fair use.

To conclude, the Critique Video makes an obvious fair use of the Subject Video.

It is equally obvious that MrPokke engaged in misrepresentation as defined by 17 U.S.C. Section 512(f) by sending an abusive takedown notification to silence criticism and failing to conduct the proper analysis to form a subjective good faith belief that Critique Video's use of the Subject Video was infringing. *See Lenz v. Universal Music Corp.*, 815 F.3d 1145, 1154-1155 (9th Cir. 2015). As discussed above, MrPokke admits that the Critique Video provided extensive criticism and commentary on the Subject Video and the only harm was to MrPokke's reputation – not the Subject Video. Also discussed above is MrPokke's desire to punish and silence Saintontas for his criticism. Issuing a DMCA takedown for the purpose of silencing an admitted fair use is the very definition of misrepresentation under 17 U.S.C. Section 512(f).

Therefore, Saintontas respectfully requests that YouTube restore the Critique Video pursuant to 17 U.S.C. Section 512(g)(2)(C).

Rom Bar-Nissim
Partner

P: +1 (310) 432-2836
E: Rom@HeahBarNissim.com
1801 Century Park E #2400 Los Angeles CA 90067

HeahBarNissim.com
HEAH BAR-NISSIM