

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>NINTENDO OF AMERICA INC.</b>	:	<b>CASE NO. 3:20-CV-01076</b>
	:	
<b>Plaintiff,</b>	:	<b>JUDGE HELMICK</b>
	:	
<b>vs.</b>	:	
	:	
<b>TOM DILTS, JR., et al.</b>	:	<b>DEFENDANTS' ANSWER</b>
	:	<b>TO COMPLAINT</b>
<b>Defendants.</b>	:	

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Now comes defendants, Tom Dilts, Jr. and Uberchips, LLC, d/b/a/ Uberchips.com, by and through the undersigned counsel, and for their Answer to plaintiff's Complaint state the following:

1. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 1 of plaintiff's Complaint and therefore deny the same.
2. Defendants deny the allegations contained in paragraph 2 of plaintiff's Complaint.
3. Defendants deny the allegations contained in paragraph 3 of plaintiff's Complaint.
4. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 4 of plaintiff's Complaint and therefore deny the same.

5. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 5 of plaintiff's Complaint and therefore deny the same.

6. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 6 of plaintiff's Complaint and therefore deny the same.

7. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 7 of plaintiff's Complaint and therefore deny the same.

8. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 8 of plaintiff's Complaint and therefore deny the same.

9. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 9 of plaintiff's Complaint and therefore denies the same.

10. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 10 of plaintiff's Complaint and therefore deny the same.

11. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 11 of plaintiff's Complaint and therefore deny the same.

12. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 12 of plaintiff's Complaint and therefore deny the same.

13. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 13 of plaintiff's Complaint and therefore denies the same.

14. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 14 of plaintiff's Complaint and therefore deny the same.

15. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 15 of plaintiff's Complaint and therefore deny the same.

16. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 16 of plaintiff's Complaint and therefore deny the same.

17. Defendants deny the allegations contained in paragraph 17 of plaintiff's Complaint.

18. Defendants deny the allegations contained in paragraph 18 of plaintiff's Complaint.

19. Defendants deny the allegations contained in paragraph 19 of plaintiff's Complaint.

20. Defendants deny the allegations contained in paragraph 20 of plaintiff's Complaint.

21. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 21 of plaintiff's Complaint and therefore deny the same.

22. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 22 of plaintiff's Complaint and therefore deny the same.

23. Defendants deny the allegations contained in paragraph 23 of plaintiff's Complaint.

24. Defendants deny the allegations contained in paragraph 24 of plaintiff's Complaint.

25. Defendants admit the allegations contained in paragraph 25 of plaintiff's Complaint.

26. Defendants deny the allegations contained in paragraph 26 of plaintiff's Complaint.

27. Defendants deny the allegations contained in paragraph 27 of plaintiff's Complaint.

28. Defendants deny the allegations contained in paragraph 28 of plaintiff's Complaint.

29. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 29 of plaintiff's Complaint and therefore deny the same.

30. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 30 of plaintiff's Complaint and therefore deny the same.

31. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 31 of plaintiff's Complaint and therefore deny the same.

32. Defendants admit the allegations contained in paragraph 32 of plaintiff's Complaint.

33. Defendants admit the allegations contained in paragraph 33 of plaintiff's Complaint.

34. Defendants deny the allegations contained in paragraph 34 of plaintiff's Complaint.

35. Defendants deny the allegations contained in paragraph 35 of plaintiff's Complaint.

36. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 36 of plaintiff's Complaint and therefore deny the same.

37. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 37 of plaintiff's Complaint and therefore deny the same.

38. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 38 of plaintiff's Complaint and therefore deny the same.

39. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 39 of plaintiff's Complaint and therefore deny the same.

40. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 40 of plaintiff's Complaint and therefore deny the same.

41. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 41 of plaintiff's Complaint and therefore deny the same.

42. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 42 of plaintiff's Complaint and therefore deny the same.

43. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 43 of plaintiff's Complaint and therefore deny the same.

44. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 44 of plaintiff's Complaint and therefore deny the same.

45. Defendants are without sufficient knowledge or information to form a belief as to the truth to the allegations contained in paragraph 45 of plaintiff's Complaint and therefore deny the same.

46. Defendants are without sufficient knowledge or information to form a belief as to the truth to the allegations contained in paragraph 46 of plaintiff's Complaint and therefore deny the same.

47. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 47 of plaintiff's Complaint and therefore deny the same.

48. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 48 of plaintiff's Complaint and therefore deny the same.

49. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 49 of plaintiff's Complaint and therefore deny the same.

50. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 50 of plaintiff's Complaint and therefore deny the same.

51. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 51 of plaintiff's Complaint and therefore deny the same.

52. Defendants are without sufficient knowledge or information to form a belief as to the truth to the allegations contained in paragraph 52 of plaintiff's Complaint and therefore deny the same.

53. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 53 of plaintiff's Complaint and therefore deny the same.

54. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 54 of plaintiff's Complaint and therefore deny the same.

55. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 55 of plaintiff's Complaint and therefore deny the same.

56. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 56 of plaintiff's Complaint and therefore deny the same.

57. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 57 of plaintiff's Complaint and therefore deny the same.

58. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 58 of plaintiff's Complaint and therefore deny the same.

59. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 59 of plaintiff's Complaint and therefore deny the same.

60. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 60 of plaintiff's Complaint and therefore deny the same.

61. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 61 of plaintiff's Complaint and therefore deny the same.

62. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 62 of plaintiff's Complaint and therefore deny the same.

63. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 63 of plaintiff's Complaint and therefore deny the same.

64. Defendants deny the allegations contained in paragraph 64 of plaintiff's Complaint.



65. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 65 of plaintiff's Complaint and therefore deny the same.

66. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 66 of plaintiff's Complaint and therefore deny the same.

67. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 67 of plaintiff's Complaint and therefore deny the same.

68. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 68 of plaintiff's Complaint and therefore deny the same.

69. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 69 of plaintiff's Complaint and therefore deny the same.

70. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 70 of plaintiff's Complaint and therefore deny the same.

71. Defendants deny the allegations contained in paragraph 71 of plaintiff's Complaint.

72. Defendants deny the allegations contained in paragraph 72 of plaintiff's Complaint.

73. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 73 of plaintiff's Complaint and therefore deny the same.

74. Defendants deny the allegations contained in paragraph 74 of plaintiff's Complaint.

75. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 75 of plaintiff's Complaint and therefore deny the same.

76. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 76 of plaintiff's Complaint and therefore deny the same.

(a) Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 76(a) of plaintiff's complaint and therefore deny the same.

(b) Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 76(b) of plaintiff's complaint and therefore deny the same.

(c) Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 76(c) of plaintiff's complaint and therefore deny the same.

77. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 77 of plaintiff's Complaint and therefore deny the same.

78. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 78 of plaintiff's Complaint and therefore deny the same.

COUNT ONE

79. Defendants incorporate each of their averments and denials above in paragraphs 1 through 78 as if fully restated and rewritten herein in response to paragraph 79 of plaintiff's Complaint.

80. Defendants state that 17 U.S.C. § 1201(a)(2) speaks for itself and therefore no response is required. However, to the extent a response is required, Defendants deny the allegations contained in paragraph 80, including subparagraphs (A) through (C), of plaintiff's Complaint.

81. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 81 of plaintiff's Complaint and therefore denies the same.

82. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 82 of plaintiff's Complaint and therefore denies the same.

83. Defendants deny the allegations contained in paragraph 83 of plaintiff's Complaint.

84. Defendants deny the allegations contained in paragraph 84 of plaintiff's Complaint.

85. Defendants deny the allegations contained in paragraph 85 of plaintiff's Complaint.

86. Defendants deny the allegations contained in paragraph 86 of plaintiff's Complaint.

87. Defendants deny the allegations contained in paragraph 87 of plaintiff's Complaint.

88. Defendants deny the allegations contained in paragraph 88 of plaintiff's Complaint.

89. Defendants deny the allegations contained in paragraph 89 of plaintiff's Complaint.

COUNT TWO

90. Defendants incorporate each of their averments and denials above in paragraphs 1 through 89 as if fully restated and rewritten herein in response to paragraph 90 of plaintiff's Complaint.

91. Defendants state that 17 U.S.C. § 1201(b) speaks for itself and therefore no response is required. However, to the extent a response is required, Defendants deny the allegations contained in paragraph 91, including subparagraphs (A) through (C), of plaintiff's Complaint.

92. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 92 of plaintiff's Complaint and therefore denies the same.

93. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 93 of plaintiff's Complaint and therefore denies the same.

94. Defendants deny the allegations contained in paragraph 94 of plaintiff's Complaint.

95. Defendants deny the allegations contained in paragraph 95 of plaintiff's Complaint.

96. Defendants deny the allegations contained in paragraph 96 of plaintiff's Complaint.

97. Defendants deny the allegations contained in paragraph 97 of plaintiff's Complaint.

98. Defendants deny the allegations contained in paragraph 98 of plaintiff's Complaint.

99. Defendants deny the allegations contained in paragraph 99 of plaintiff's Complaint.

100. Defendants deny the allegations contained in paragraph 100 of plaintiff's Complaint.

FIRST AFFIRMATIVE DEFENSE

101. Plaintiff has failed to state a claim against Defendants for which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

102. Plaintiff has failed to join all necessary and indispensable parties pursuant to Civ. R. 19 and 19.1.

THIRD AFFIRMATIVE DEFENSE

103. The relief sought by plaintiff is barred by the applicable statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

104. Defendants hereby reserve the right to amend their answer and affirmative defenses should such become necessary as a result of the discovery process.

**WHEREFORE**, defendants, Tom Dilts, Jr. and Uberchips, LLC, d/b/a Uberchips.com, request that plaintiff's Complaint be dismissed at plaintiff's costs.

Respectfully submitted,  
RUMER & MAISCH CO., LLC

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/s/ Zachary D. Maisch

Zachary D. Maisch, (0085926)  
and

/s/ Andrea M. Bayer fka Brown

Andrea M. Bayer fka Brown, (0089451)

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ATTORNEYS FOR DEFENDANTS  
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d/b/a UBERCHIPS.COM

**PROOF OF SERVICE**

This is to certify that on the 3<sup>rd</sup> day of June, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Zachary D. Maisch  
Zachary D. Maisch