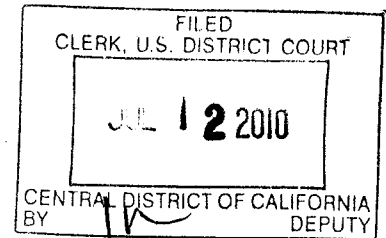


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JS-6

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION

12 SUMMIT ENTERTAINMENT, LLC,
13 a Delaware limited liability company,

14 Plaintiff,

15 v.

16 TOPICS ENTERTAINMENT, INC., a
Washington corporation; GREG
17 JAMES, an individual; RALPH
GALVAN, an individual; CHRIS
18 ABERNATHY, an individual; and
DOES 1-10, inclusive,

19 Defendants.

Case No. CV10-00939 GHK (Ex)

**~~PROPOSED~~ JUDGMENT (FILED
UNDER SEAL)**

1 IT IS HEREBY STIPULATED by and between plaintiff Summit
2 Entertainment, LLC, a Delaware limited liability company (“Summit”) and
3 Defendants Topics Entertainment, Inc., a Washington corporation (“Topics”), Greg
4 James, Ralph Galvan, and Chris Abernathy (collectively, “Defendants”) that a
5 Judgment shall be entered to fully and finally dispose of this civil action and that
6 the Judgment be as follows:

7 WHEREAS, on February 8, 2010, Summit filed its Complaint in this civil
8 action against Defendants;

9 WHEREAS, on February 12, 2010, Summit filed its First Amended
10 Complaint in this civil action against Defendants;

11 WHEREAS, on March 11, 2010, the Court entered a preliminary injunction
12 (“Preliminary Injunction”) against Defendants;

13 WHEREAS, on March 23, 2010, the Parties stipulated to the filing of the
14 Second Amended Complaint (“SAC”) and, on March 25, 2010, the Court ordered
15 that the SAC was deemed filed as of that date;

16 WHEREAS, Summit is the owner of the TWILIGHT mark in block letters
17 and the TWILIGHT stylized mark, as seen below:

18
19 The image shows the word "twilight" in a stylized, lowercase serif font. The letters are closely spaced and have a slightly decorative, elegant appearance. The word is enclosed within a simple rectangular border.

20
21 for various goods and services (which are collectively referred to herein as the
22 “TWILIGHT Marks”) and the NEW MOON mark in block letters for various goods
23 and services;

24 WHEREAS, Summit is the producer and owner of all rights associated with
25 the motion pictures *Twilight*, *The Twilight Saga: New Moon*, *The Twilight Saga:*
26 *Eclipse*, and *The Twilight Saga: Breaking Dawn*, and is the exclusive distributor of
27 the documentary entitled *Twilight in Forks: The Saga of the Real Town*
28

1 (collectively “the *Twilight* Motion Pictures”)

2 WHEREAS, Summit is the owner and/or exclusive licensee of the following
3 registered copyrights (which are collectively referred to herein as the “Summit
4 Copyrights”):

5 a. Reg. No. VA 1-702-779 for the *Twilight in Forks: The Saga of*
6 *the Real Town* DVD’s (“the Authorized Documentary”) original cover art; and

7 b. Reg. No. VA 1-703-630 for the Authorized Documentary’s final
8 cover art;

9 WHEREAS, in the SAC, Summit alleged that Defendants were using the
10 TWILIGHT Marks in interstate commerce for DVDs and motion pictures without
11 the consent of Summit;

12 WHEREAS, in the SAC, Summit alleged that Defendants’ cover art to the
13 *Forks: Bitten by Twilight* DVD (“the Topics Documentary”) infringed the Summit
14 Copyrights;

15 WHEREAS, Summit and Defendants have entered into a settlement
16 agreement dated May 12 7, 2010 (the “Agreement”) with the mutual intention of
17 resolving all disputes between them which arise from the allegations of the SAC;

18 WHEREAS, this Court has jurisdiction over the subject matter of this
19 controversy pursuant to 15 U.S.C. § 1121(a) (Lanham Act jurisdiction), 17 U.S.C. §
20 501 (Copyright Act jurisdiction), 28 U.S.C. § 1331 (federal question jurisdiction),
21 28 U.S.C. § 1338(a) (trademark and copyright jurisdiction) and 28 U.S.C. § 1338(b)
22 (unfair competition jurisdiction);

23 THE COURT HEREBY ORDERS, ADJUDGES AND DECREES:

24 1. Permanent Injunction. Defendants and their respective (as the case
25 may be) past and present officers, directors, servants, employees, partners, parent
26 entities, subsidiaries, affiliates, representatives, licensees, related companies,
27 shareholders, successors, assigns, attorneys and agents, and all persons in active
28

1 concert or participation with any of Defendants or with any of the foregoing ^{9 who receive actual notice of this injunction} are 12
2 hereby permanently enjoined from:

3 (a) Manufacturing, transporting, promoting, importing, advertising,
4 publicizing, distributing, displaying, offering for sale or selling any good or service
5 under any of the TWILIGHT Marks, or any other mark, name, symbol, design or
6 logo that is likely to cause confusion or to cause mistake or to deceive persons into
7 the erroneous belief that any goods or services that Defendants caused to enter the
8 stream of commerce are sponsored, licensed, or endorsed by Summit, are
9 authorized by Summit, or are connected or affiliated with Summit, or the *Twilight*
10 Motion Pictures;

11 (b) Manufacturing, transporting, promoting, importing, advertising,
12 publicizing, distributing, displaying, offering for sale or selling any good or service
13 under any of the TWILIGHT Marks or any other mark, name, symbol, design or
14 logo that is confusingly similar to or a reproduction, counterfeit, copy, or colorable
15 imitation of, or incorporates, the TWILIGHT Marks;

16 (c) Falsely implying Summit's endorsement of any of Defendants'
17 commercial activities or goods or services;

18 (d) ^{Falsely} Representing that Summit has endorsed, sponsored, licensed,
19 approved, or is affiliated with Defendants' products or that Defendants' products
20 are affiliated or connected with the *Twilight* Motion Pictures; ~~if they had not~~ 13

21 (e) Seeking to register any of the TWILIGHT Marks or any other
22 mark, name, symbol, design or logo which is likely to cause confusion or to cause
23 mistake or to deceive persons into the erroneous belief that the businesses, goods or
24 services of any of Defendants are sponsored or endorsed or authorized by Summit
25 or are connected or affiliated in some way with Summit or the *Twilight* Motion
26 Pictures;

27 (f) Assisting, inducing, aiding or abetting any person or business
28 entity in engaging in or performing any of the activities referred to in sub-

1 paragraphs (a) to (e), inclusive, above. Defendants will not be deemed to be in
2 violation of this Permanent Injunction if third parties, without Defendants'
3 assistance, inducement, or aid and not in concert or participation with Defendants,
4 commit any acts violating sub-paragraphs (a) to (e).

5 2. Delivery and Destruction of Infringing Articles. Within ten
6 (10) court days of the Parties' entry of the Agreement, Defendants shall: (a) deliver
7 to counsel for Summit all physical copies of the Topics Documentary as well as
8 any masters, film and negatives, and physical copies of packaging and promotional
9 and marketing artwork and materials; (b) delete or alter all electronic media under
10 their control (including, without limitation, web pages and metatags) so as to
11 remove all instances of the TWILIGHT Marks; and (c) destroy, erase or alter all
12 other physical objects so as to remove all uses of the Twilight Intellectual
13 Property, ^{referenced} ~~referred to~~ herein.

14 3. Proof of Compliance. Within fourteen (14) court days of the
15 Court's entry of the Judgment, Defendants shall serve upon Summit a declaration
16 under penalty of perjury that they have each complied with the terms of the
17 Judgment and the Agreement, including the delivery and destruction of infringing
18 articles.

19 4. Attorneys' Fees and Costs. Each party shall bear its or his own
20 attorneys' fees and costs arising out of, related to, or incurred in this civil action,
21 except as provided in paragraphs 5 and 6 below.

22 5. Violation of Judgment – Contempt of Court. In the event that
23 any part of this Judgment is violated by Defendants, or by any of their present or
24 former officers, directors, agents, servants, employees, shareholders, partners or
25 representatives, or by any person in active concert and participation with
26 Defendants that receives notice of this Judgment, Summit may file and serve a
27 motion for contempt seeking damages, attorneys' fees and/or other appropriate
28 relief.

1 6. Violation of Judgment -- Prevailing Party Fees and Costs. In
2 an action or proceeding based upon an allegation that a party has violated this
3 Judgment, the prevailing party shall be entitled to recover all of its reasonable
4 attorneys' fees, and other costs incurred in connection with the action or
5 proceeding. This paragraph shall not be construed to limit any party's rights,
6 remedies or procedural options.

7 7. No Admission of Liability. By stipulating to this Judgment,
8 Defendants do not admit liability for or the validity of any of Summit's claims;
9 Defendants expressly deny all of Summit's claims; and this Judgment shall not be
10 interpreted as an admission or a determination of wrongful or unlawful conduct by
11 Defendants.

12 8. Inducement. As a material inducement for Summit's assent to
13 this Stipulated Judgment, third party T-Wong Productions (a) hereby acknowledge
14 that it produced the Topics Documentary and (b) hereby agrees to be personally
15 bound by all of the terms and conditions of this Judgment which bind Defendants,
16 including, without limitation, the permanent injunction.

17 9. Binding Effect. This Judgment shall be binding upon and inure
18 to the benefit of the parties and all successors, assigns, parent entities, subsidiaries,
19 officers, directors, members, shareholders, agents, affiliates, all entities which are
20 "related companies" within the meaning of 15 U.S.C. § 1055, and other persons
21 who are in active concert or participation with anyone described herein, who
22 receive actual notice of this Judgment by personal service or otherwise.

23 10. Continuing Jurisdiction. This Court shall retain jurisdiction to
24 enforce this Judgment and the Agreement.

25 11. No Territorial Limit. This Judgment shall be enforceable
26 against any of Defendants for any acts that violate this Judgment that occur inside
27 and/or outside of the United States of America.

28 12. Bond. The bond posted for the Preliminary Injunction by

1 Summit is hereby discharged.

2 13. Final Judgment. This Judgment shall be a final adjudication of
3 all claims alleged by Summit in this civil action, and this Judgment is not
4 appealable.

5 ~~14. Under Seal. Summit and Defendants stipulate that this~~
6 ~~Judgment shall be filed under seal.~~

7
8 IT IS SO ORDERED:

9
10 Dated: 7/9/10

11 
12 _____
13 HON. GEORGE H. KING
14 UNITED STATES DISTRICT COURT
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