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Attorneys for Plaintiff
Disney Enterprises, Inc.

BY _____
2012 APR 26 PM 3:10
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

FILED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Disney Enterprises, Inc. }
Plaintiff, }
v. }
Michael Jones, an individual and d/b/a }
authenticdelivery, and Does 1-10, }
Defendants. }

Case No. **CV12-3637** - GMK
(EX)
COMPLAINT FOR COPYRIGHT
INFRINGEMENT
DEMAND FOR A JURY TRIAL

Plaintiff Disney Enterprises, Inc. ("Disney") for its Complaint alleges as follows:

A. Jurisdiction and Venue

1. Disney brings this action pursuant to 17 U.S.C. §§ 101, *et seq.* The Court has jurisdiction over the subject matter pursuant to 28 U.S.C. § 1331 and § 1338(a).

2. The events giving rise to the claim alleged herein occurred, among other places, within this judicial district. The brunt of the harm caused by Defendants' conduct was felt in this District where Plaintiff is located, and where the Defendants

Disney Enterprises Inc v. Michael Jones

Doc. 1

1 intended that the harm be felt. Venue in the Central District of California is proper
2 pursuant to 28 U.S.C. § 1391(b) and § 1400(a).

3 **B. Introduction**

4 3. Disney produces, distributes and/or owns various creative works,
5 including, but not limited to, motion pictures and television shows (the “Disney
6 Works”) that are entitled to copyright protection. Defendants, through various online
7 venues, distribute, promote, offer for sale and sell unauthorized copies of the Disney
8 Works (the “Unauthorized Media Product”). Disney is informed and believes and
9 based thereon alleges that this infringement activity is systematic and willful.
10 Disney asks that this Court enjoin that activity and order Defendants to pay damages
11 pursuant to the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.* (the “Copyright
12 Act.”).

13 **C. Plaintiff Disney**

14 4. Disney is a corporation duly organized and existing under the laws of
15 the State of Delaware, having its principal place of business in Burbank, California.

16 5. Disney is a subsidiary of The Walt Disney Company (the “Company”).
17 The Company, together with its subsidiaries, is a diversified worldwide
18 entertainment company with operations in five business segments: Media Networks,
19 Parks and Resorts, Studio Entertainment, Consumer Products and Interactive Media.
20 The Media Networks segment is comprised of international and domestic cable
21 networks and its broadcasting business. The Parks and Resorts segment owns and/or
22 operates resorts and theme parks around the world including but not limited to the
23 Walt Disney World Resort, the Disneyland Resort and the Disney Cruise Line. The
24 Company also licenses the operations of the Tokyo Disney Resort in Japan. The
25 Imagineering unit designs and develops new theme park concepts and attractions as
26 well as resort properties. The Studio Entertainment segment produces and acquires
27 live-action and animated motion pictures, direct-to-video content, musical recordings
28

1 and live stage plays. The Consumer Products segment engages with licensees,
2 manufacturers, publishers and retailers throughout the world to design, develop,
3 publish, promote and sell a wide variety of products based on existing and new
4 characters and other Company intellectual property through its Merchandise
5 Licensing, Publishing and Retail businesses. The Interactive Media Group creates
6 and delivers branded entertainment and lifestyle content across interactive media
7 platforms, primarily the production of multi-platform games for global distribution,
8 and Online, which produces internet websites in the United States and
9 internationally.

10 6. Disney and certain of its affiliated companies are engaged in a variety of
11 businesses including, without limitation, the production and distribution of motion
12 pictures and television programs.

13 7. Disney owns exclusive rights under the Copyright Act to the Disney
14 Works, including the rights to reproduce, distribute or license the reproduction and
15 distribution of the motion pictures in video format in the United States, including,
16 but not limited to those copyrights that are the subject of the following copyright
17 registrations, which are attached hereto as Exhibit "A". Video format includes
18 video cassettes, video laser discs, digital versatile discs ("DVDs"), video compact
19 discs ("VCDs") and Blu-ray discs.

20 8. The expression and other distinctive features of the Disney Works are
21 wholly original with Disney, its licensors and/or assignors and, as fixed in various
22 tangible media, are copyrightable subject matter under the Copyright Act.

23 9. Disney, or any predecessor in interest, has complied in all respects with
24 the laws governing copyright and has secured the exclusive rights and privileges in
25 and to the Disney Works, and Disney holds certificates of registration and/or secured
26 exclusive licenses or assignments to reproduce, distribute and license the Disney
27 Works throughout the United States.
28

1 10. The Disney Works have been manufactured, sold and/or otherwise
2 distributed in conformity with the provisions of the copyright laws. Disney and
3 those acting under its authority have complied with their obligations under the
4 copyright laws and Disney, in its own right or as successor-in-interest, has at all
5 times been and still is the sole proprietor or otherwise authorized to enforce all right,
6 title and interest in and to the copyrights or to enforce its exclusive right for home
7 video distribution in each of the Disney Works.

8 **D. Defendants**

9 11. Defendant Michael Jones (“Jones”) is an individual and doing business
10 as authenticdelivery. Plaintiff is informed and believes that Jones is a resident of the
11 city of Atlanta in the State of Georgia. Plaintiff is further informed and believes, and
12 upon that basis alleges, that Jones does business under the eBay “User ID”
13 “authenticdelivery”. Jones, through his online identity, does business in this judicial
14 district through offers and sales of the Unauthorized Media Product in the City and
15 County of Los Angeles, among other places.

16 12. Upon information and belief, Does 1 – 10 are either entities or
17 individuals who are residents of or present in this judicial district, and are subject to
18 the jurisdiction of the Court. Upon information and belief, Does 1 – 10 are
19 principals, supervisory employees, or suppliers of one or the other of the named
20 defendants or other entities or individuals who are, in this judicial district,
21 manufacturing, distributing, selling and/or offering for sale merchandise which
22 infringes the Disney Works. The identities of the various Does are unknown to
23 Disney at this time. The Complaint will be amended to include the names of such
24 individuals when identified. The named defendants and Does 1 – 10 are collectively
25 referred to herein as “Defendants.”

26 ///

1 **E. Defendants' Infringing Activities**

2 13. Defendants have copied, reproduced, distributed, advertised, sold and/or
3 offered to distribute or sell and continue to copy, reproduce, distribute, advertise,
4 sell, and/or offer to distribute or sell unauthorized copies of motion pictures owned
5 by Disney, including, but not necessarily limited to, the Disney Works identified in
6 paragraph 7, above. The copies sold by Defendants are obviously counterfeit. The
7 Unauthorized Media Product sold by Defendants fails to conform to the packaging
8 and file structure characteristics of Disney's legitimate home video product.

9 14. Defendants have not been authorized by Disney to reproduce, distribute,
10 sell or offer for distribution or sale any of the Disney Works.

11 15. By engaging in this conduct, Defendants have acted in willful disregard
12 of laws protecting Disney's copyrights. Disney has sustained and will continue to
13 sustain substantial damage to the value of its creative works, specifically including
14 the Disney Works.

15 **F. Disney's Damages**

16 16. Disney is informed and believes, and upon that basis alleges, that the
17 Defendants have each obtained gains, profits and advantages as a result of their
18 infringing activity in amounts within the jurisdiction of the Court.

19 17. Disney is informed and believes, and upon that basis alleges, that it has
20 suffered and continues to suffer direct and actual damages as a result of Defendants'
21 infringing conduct, in amounts within the jurisdiction of the Court. In order to
22 determine the full extent of such damages, including such profits as may be
23 recoverable under 17 U.S.C. § 504, Disney will require an accounting from each
24 Defendant of all monies generated from the promotion, display, distribution, sale and
25 offer for sale or distribution of the Unauthorized Media Product. In the alternative,
26 Disney may elect to recover statutory damages pursuant to 17 U.S.C. § 504 (c) for
27 each Disney Work infringed.
28

- 1 c. Marketing, advertising and/or promoting any unauthorized copies, in
2 any format, of the Disney Works.
- 3 2. That Disney and its designees are authorized to seize the following
4 items which are in Defendants' possession, custody or control:
- 5 a. All Unauthorized Media Product;
- 6 b. Any other unauthorized product which reproduces, copies, counterfeits,
7 imitates or bears any of the Disney Works, or any part thereof;
- 8 c. Any molds, screens, patterns, plates, negatives, machinery or
9 equipment, specifically including computers, servers, optical disc
10 burners and other hardware used for making or manufacturing the
11 Unauthorized Media Product or unauthorized product which reproduces,
12 copies, counterfeits, imitates or bear any of the Disney Works, or any
13 part thereof.
- 14 3. Defendants be required to pay actual damages increased to the
15 maximum extent permitted by law and/or statutory damages at Disney's election;
- 16 4. Defendants be required to account for and pay over to Disney all
17 damages sustained by Disney and profits realized by Defendants by reason of
18 Defendants' unlawful acts herein alleged and that those profits be increased as
19 provided by law;
- 20 5. Defendants be required to pay Disney its costs of this action and
21 reasonable attorneys' fees; and
- 22 6. Disney be granted all other and further relief the Court may deem just
23 and proper under the circumstances.

24
25 Dated: April 11th, 2012

J. Andrew Coombs, A Professional Corp.

26
27 By: 

J. Andrew Coombs
Annie S. Wang

Attorney for Plaintiff Disney Enterprises, Inc.


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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff Disney Enterprises, Inc. hereby demands a trial by jury of all issues so triable.

Dated: April 19, 2012

J. Andrew Coombs, A Professional Corp.

By: 

J. Andrew Coombs
Annie S. Wang
Attorney for Plaintiff Disney Enterprises, Inc.

EXHIBIT "A"
Copyright Registrations

| <u>Copyright Registration Number:</u> | <u>Title of Work:</u> | <u>Registrant:</u> |
|--|------------------------------------|---------------------------|
| PA 431-543 | The Little Mermaid | Disney Enterprises, Inc. |
| PA 583-905 | Aladdin | Disney Enterprises, Inc. |
| PA 659-979 | The Lion King | Disney Enterprises, Inc. |
| PAu 2-325-441 | The Lion King II; Simba's Pride | Disney Enterprises, Inc. |
| RE 64-027 | Peter Pan | Disney Enterprises, Inc. |
| R 648396 | Cinderella | Disney Enterprises, Inc. |

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge George King and the assigned discovery Magistrate Judge is Charles Eick.

The case number on all documents filed with the Court should read as follows:

CV12- 3637 GHK (Ex)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

J. Andrew Coombs (SBN 123881)
Annie S. Wang (SBN 243027)
J. Andrew Coombs, A Prof. Corp.
517 E. Wilson Ave., Suite 202
Glendale, California 91206
Telephone: (818) 500-3200 / Fax: (818) 500-3201

COPY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Disney Enterprises, Inc.

CASE NUMBER

PLAINTIFF(S)

CV12-3637 - GMC (EX)

v.

Michael Jones, an individual and d/b/a
authenticdelivery, and Does 1-10,

DEFENDANT(S).

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
J. Andrew Coombs _____, whose address is:

J. Andrew Coombs, A Prof. Corp.
517 E. Wilson Ave., Suite 202
Glendale, California 91206

an answer to the complaint _____ amended complaint counterclaim cross-claim
which is herewith served upon you within 21 days after service of this Summons upon you, exclusive
of the day of service. If you fail to do so, judgement by default will be taken against you for the relief
demanded in the complaint.

Clerk, U.S. District Court

Dated: APR 26 2012

By: _____

MARILYN DAVIS
SEAL
Deputy Clerk
(Seal of the Court)

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which EACH named plaintiff resides (Use an additional sheet if necessary)

- Check here if the U.S. government, its agencies or employees is a named plaintiff.
Los Angeles

List the California County, or State if other than California, in which EACH named defendant resides. (Use an additional sheet if necessary).

- Check here if the U.S. government, its agencies or employees is a named defendant.
Georgia

List the California County, or State if other than California, in which EACH claim arose. (Use an additional sheet if necessary)

- Note: In land condemnation cases, use the location of the tract of land involved.
Los Angeles

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____

Date

4-26-12

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action |
|---------------------|--------------|--|
| 861 | HIA | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862 | BL | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923) |
| 863 | DIWC | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g)) |
| 863 | DIWW | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g)) |
| 864 | SSID | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. |
| 865 | RSI | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g)) |