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LOS ANGELES SUPERIOR COURT

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JOHN A. CLARKE, CLERK
Andre Williams
BY ANDRE WILLIAMS, DEPUTY

1 CHARLES J. HARDER (State Bar No. 184593)
2 WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP
3 11400 West Olympic Boulevard, Ninth Floor
4 Los Angeles, California 90064-1582
5 Telephone: (310) 478-4100
6 Facsimile: (310) 479-1422

7 Attorneys for Plaintiffs
8 GEORGE CLOONEY and
9 JULIA MODER p/k/a "JULIA ROBERTS"

CASE MANAGEMENT CONFERENCE

AUG 15 2012

Date

CESAR C. SARMIENTO

Plot. J. 8306

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, WEST DISTRICT

11 GEORGE CLOONEY, an individual; and
12 JULIA MODER, professionally known as,
13 "JULIA ROBERTS", an individual,

Case No.

SC116851

COMPLAINT

Plaintiffs,

v.

14
15 DIGITAL PROJECTION, INC., a Georgia
16 corporation; BEYOND AUDIO INC., a
17 Canadian corporation, and DOES 1-20,
18 inclusive,

Defendants.

1. MISAPPROPRIATION OF
RIGHT OF PUBLICITY / RIGHT OF
PRIVACY (CALIFORNIA CIVIL
CODE § 3344)

2. MISAPPROPRIATION OF
COMMON LAW RIGHT OF
PUBLICITY / RIGHT OF PRIVACY

3. TRADEMARK INFRINGEMENT /
TRADE DRESS INFRINGEMENT /
FALSE ASSOCIATION
IN VIOLATION OF LANHAM ACT
(15 U.S.C. § 1125)

4. NEGLIGENCE

DEMAND FOR JURY TRIAL

23 Plaintiffs GEORGE CLOONEY and JULIA MODER, professionally known as
24 "JULIA ROBERTS" (collectively, "Plaintiffs") allege:

25 **SUMMARY OF THE ACTION**

26 1. George Clooney and Julia Roberts are two of the most recognized, critically
27 acclaimed, and sought after motion picture actors in the world, and their images, identities,
28 and personas have tremendous commercial value.

1 2. Defendants Digital Projection, Inc. and Beyond Audio Inc. (collectively,
2 “Defendants”) are companies that sell commercial products and services in the
3 audio/visual technology industry. Defendants prominently used large photographs of
4 Plaintiffs in Defendants’ advertising, marketing, and promotions including print
5 advertisements published in numerous magazines over the past several months;
6 Defendants’ respective commercial websites – including prominently at the *homepage* of
7 www.BeyondAudio.com, and at multiple pages within www.DigitalProjection.com;
8 Defendants’ printed brochures, newsletters, and “e-mail blasts” distributed to their
9 customers and prospective customers; and within Defendants’ large video displays at
10 major international trade shows (collectively, the “Advertisements”). Defendants
11 distributed the Advertisements throughout the United States and throughout the world.

12 3. Defendants did not ask for or receive Plaintiffs’ permission to use their
13 photographs, identities, personas, publicity rights, privacy rights, trademarks and trade
14 dress in the Advertisements or otherwise to associate with Defendants’ companies or to
15 market or sell Defendants’ commercial products and services. Accordingly, Defendants
16 are liable to Plaintiffs for the infringement of their publicity rights, privacy rights, and
17 trademark rights. Pursuant to this lawsuit, Plaintiffs seek compensatory damages, treble
18 damages, punitive damages, reimbursement of their attorneys’ fees and costs, and a
19 preliminary and permanent injunction to stop all further use of Plaintiffs’ names, images,
20 identities, personas and other rights of publicity rights, privacy rights, and trademarks, in
21 connection with Defendants’ companies, products and services.

THE PARTIES

23 4. Plaintiff George Clooney (herein, “George Clooney” or “Mr. Clooney”) is an
24 individual and resident of the County of Los Angeles, State of California.

25 5. Plaintiff Julia Moder, professionally known as “Julia Roberts” (herein,
26 “Julia Roberts” or “Ms. Roberts”) is an individual and resident of the County of
27 Los Angeles, State of California.

1 6. Plaintiffs are informed and believe and based thereon allege that defendant
2 Digital Projection, Inc. (“DPI”) is, and at all times relevant hereto was, a corporation
3 organized and existing under the laws of the State of Georgia, doing business in the
4 County of Los Angeles, State of California.

5 7. Plaintiffs are informed and believe and based thereon allege that defendant
6 Beyond Audio Inc. (“Beyond Audio”) is, and at all times relevant hereto was, a
7 corporation organized and existing under the laws of the territory of British Columbia,
8 Canada, doing business throughout the United States including the County of Los Angeles,
9 State of California.

10 8. Plaintiffs are informed and believe and based thereon allege that the
11 fictitiously-named defendants sued herein as Does 1 through 20, and each of them, are in
12 some manner responsible or legally liable for the actions, events, transactions and
13 circumstances alleged herein. ~~The true names and capacities of such fictitiously-named~~
14 ~~defendants, whether individual, corporate, or otherwise, are presently unknown to~~
15 ~~Plaintiffs, and Plaintiffs will seek leave of Court to amend this Complaint to assert the true~~
16 ~~names and capacities of such fictitiously-named defendants when the same have been~~
17 ascertained. For convenience, each reference to a named defendant herein shall also refer
18 to Does 1 through 20. All defendants, including both the named defendants and those
19 referred to herein as Does 1 through 20, are sometimes collectively referred to herein as
20 “Defendants.”

21 9. Plaintiffs are informed and believe and based thereon allege that Defendants,
22 and each of them, were and are the agents, licensees, employees, partners, joint-venturers,
23 co-conspirators, owners, principals, and employers of the remaining Defendants, and each
24 of them are, and at all times herein mentioned were, acting within the course and scope of
25 that agency, license, partnership, employment, conspiracy, ownership, or joint venture.
26 Plaintiffs are further informed and believe and based thereon allege that the acts and
27 conduct herein alleged of each of the Defendants were known to, authorized by, and/or
28 ratified by the other Defendants, and each of them.

GEORGE CLOONEY

10. George Clooney is one of the most universally recognized, highly regarded, critically acclaimed, and commercially valuable motion picture actors in the world.

11. The following is a list of motion pictures in which Mr. Clooney has starred since 1999:

- The Descendants (2012)
- The Ides of March (2011)
- Fantastic Mr. Fox (2009)
- The Men Who Stare at Goats (2009)
- Up in the Air (2009)
- Burn After Reading (2008)
- Leatherheads (2008)
- Michael Clayton (2007)
- Ocean's Thirteen (2007)
- Sand and Sorrow (2007)
- The Good German (2006)
- Syriana
- Good Night, and Good Luck
- Ocean's Twelve (2004)
- Intolerable Cruelty (2003)
- Spy Kids 3-D: Game Over (2003)
- Solaris (2002)
- Confessions of a Dangerous Mind (2002)
- Welcome to Collinwood (2002)
- Ocean's Eleven (2001)
- Spy Kids (2001)
- The Perfect Storm (2000)
- O Brother, Where Art Thou? (2000)

1 Three Kings (1999)

2 12. Mr. Clooney also had a starring role in the hit television series *ER* from 1994
3 to 1999, among many other television roles during his acting career.

4 13. Mr. Clooney received the Academy Award Oscar for Best Actor in a
5 Supporting Role for his performance in *Syriana*. He also was nominated for the Academy
6 Award Oscar for Best Actor for his performances in both *The Descendants* (2011) and
7 *Michael Clayton* (2007). He also was nominated for the Academy Award Oscar for Best
8 Director for *Good Night, and Good Luck* (2005), and for Best Writing for *The Ides of*
9 *March* (2011) and *Good Night, and Good Luck* (2005).

10 14. Mr. Clooney also received Golden Globe Awards for his performances in
11 *The Descendants* (2011), *Syriana* (2005) and *O Brother Where Art Thou?* (2000). He has
12 been nominated for 9 other Golden Globe Awards.

13 15. Mr. Clooney has won and been nominated for the following additional
14 awards, among many others:

- 15 a. Screen Actors Guild: Won 4 SAG awards; nominated for 9 others.
16 b. Broadcast Film Critics Association: Won 2 awards; nominated for
17 9 others.
18 c. National Board of Review: Won 4 awards.
19 d. International Press Academy: Won 2 Satellite Awards; nominated for
20 5 others.

21 **JULIA ROBERTS**

22 16. Julia Roberts is one of the most universally recognized, highly regarded,
23 critically acclaimed, and commercially valuable motion picture actors in the world.

24 17. The following is a list of the motion pictures in which Ms. Roberts has
25 starred:

26 Mirror Mirror (2012)

27 Larry Crowne (2011)

28 Eat Pray Love (2010)

- 1 Valentine's Day (2010)
- 2 Duplicity (2009)
- 3 Fireflies in the Garden (2008)
- 4 Charlie Wilson's War (2008)
- 5 Charlotte's Web (2006) (voice - Charlotte the Spider)
- 6 The Ant Bully (2006)
- 7 Ocean's Twelve (2004)
- 8 Closer (2004)
- 9 Mona Lisa Smile (2003)
- 10 Full Frontal (2002)
- 11 Confessions of a Dangerous Mind (2002)
- 12 Grand Champion (2002)
- 13 Ocean's Eleven (2001)
- 14 America's Sweethearts (2001)
- 15 The Mexican (2001)
- 16 Erin Brockovich (2000)
- 17 Runaway Bride (1999)
- 18 Notting Hill (1999)
- 19 Stepmom (1998)
- 20 Conspiracy Theory (1997)
- 21 My Best Friend's Wedding (1997)
- 22 Everyone Says I Love You (1996)
- 23 Michael Collins (1996)
- 24 Mary Reilly (1996)
- 25 Something to Talk About (1995)
- 26 Pret-a-Porter (1994)
- 27 I Love Trouble (1994)
- 28 The Pelican Brief (1993)



- 1 Hook (1991)
- 2 Dying Young (1991)
- 3 Sleeping with the Enemy (1991)
- 4 Flatliners (1990)
- 5 Pretty Woman (1990)
- 6 Steel Magnolias (1989)
- 7 Blood Red (1989)
- 8 Mystic Pizza (1988)

9 18. Ms. Roberts received the Academy Award Oscar for Best Actress for her
10 performance in *Erin Brockovich* (2000). She also was nominated for the Academy Award
11 Oscar for her performances in *Pretty Woman* (1990) and *Steel Magnolias* (1989).

12 19. Ms. Roberts received Golden Globe Awards for her performances in *Erin*
13 *Brockovich* (2000), *Pretty Woman* (1990) and *Steel Magnolias* (1989). She also was
14 nominated for 4 other Golden Globe Awards.

15 20. As a testament to her extreme popularity spanning more than 20 years,
16 Ms. Roberts has received and been nominated for the following People's Choice awards :

- 17 2012 Favorite Movie Actress – nominated
- 18 2011 Favorite Movie Actress – nominated
- 19 2005 Favorite Female Movie Star – **won**
- 20 2004 Favorite Motion Picture Actress – **won**
- 21 2003 Favorite Motion Picture Actress – **won**
- 22 2002 Favorite Motion Picture Actress – **won**
- 23 2001 Favorite Motion Picture Actress – **won**
- 24 2000 Favorite Motion Picture Actress – **won**
- 25 1999 Favorite Motion Picture Actress – nominated
- 26 1998 Favorite Motion Picture Actress – **won**
- 27 1997 Favorite Motion Picture Actress – nominated
- 28 1996 Favorite Motion Picture Actress – nominated

- 1 1994 Favorite Dramatic Motion Picture Actress – **won**
- 2 1992 Favorite Dramatic Motion Picture Actress – **won**
- 3 1992 Favorite Comedy Motion Picture Actress – **won**
- 4 1991 Favorite Motion Picture Actress – **won**
- 5 1991 Favorite All-Around Female Entertainer – **won**

6 21. Ms. Roberts has won many other awards for her acting including, among
7 many others:

- 8 a. ShoWest Convention: 1998 International Star of the Year
- 9 b. ShoWest Convention: 1991 Female Star of the Year
- 10 c. Screen Actors Guild: SAG Award for *Erin Brockovich* (2000)
- 11 d. American Society of Cinematographers: 2011 Board of
- 12 Governors Award
- 13 e. Blockbuster Entertainment Awards: Won 4 awards; nominated for
- 14 2 others
- 15 f. National Board of Review: Won 3 awards



17 22. Defendants prominently used Plaintiffs’ photographs, identities, personas,
18 publicity rights, privacy rights, trademarks, and trade dress (collectively, “Plaintiffs’
19 Rights”) in the Advertisements and otherwise to advertise, market, and promote
20 Defendants’ companies, commercial products, and commercial services.

21 23. At no time did Plaintiffs ever give permission to Defendants, or any of them,
22 to use Plaintiffs’ Rights in the Advertisements or otherwise to associate with, advertise,
23 market or promote Defendants’ companies, products or services, or for any other purpose.
24 Plaintiffs have not received any compensation for such unauthorized commercial use of
25 Plaintiffs’ Rights in the Advertisements and otherwise to advertise, market and promote
26 Defendants’ companies, products and services.

27 24. Plaintiffs are informed and believe and based thereon allege that Defendants
28 intentionally, negligently and/or knowingly used Plaintiffs’ Rights in the Advertisements

1 and otherwise to advertise, market and promote Defendants' companies, products and
2 services.

3 25. Plaintiffs have developed and cultivated Plaintiffs' Rights to create universal
4 recognition and value. Defendants have, without any right, title or authorization,
5 misappropriated and infringed Plaintiffs' Rights for the aforementioned commercial
6 purposes.

7 **FIRST CAUSE OF ACTION**

8 **(Misappropriation of Right of Privacy / Right of Publicity**

9 **California Civil Code §3344 – Against DPI and Does 1-10)**

10 26. Plaintiffs repeat, re-allege, adopt and incorporate each and every allegation
11 contained in paragraphs 1 through 25, as though fully set forth herein.

12 27. The conduct of Defendants, as alleged hereinabove, constitutes a violation of
13 Section 3344 of the California Civil Code, due to the knowing and unauthorized use of
14 Plaintiffs' Rights for commercial purposes.

15 28. As a direct and proximate result of the aforesaid wrongful acts of
16 Defendants, Plaintiffs have been damaged in an amount that is not yet fully ascertainable,
17 but which exceeds the jurisdictional minimum of this Court.

18 29. Plaintiffs are informed and believe and based thereon allege that Defendants,
19 in doing the things herein alleged, acted willfully, maliciously, and oppressively, and with
20 full knowledge of the adverse effects of their actions on Plaintiffs, and with willful and
21 deliberate disregard for the consequences to Plaintiffs. By reason thereof, Plaintiffs are
22 entitled to recover punitive and exemplary damages from Defendants in an amount to be
23 determined at the time of trial.

24 30. Plaintiffs also seek a preliminary and permanent injunction to prohibit
25 Defendants from any further commercial use of Plaintiffs' Rights.

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1 **SECOND CAUSE OF ACTION**

2 **(Misappropriation of Common Law Right of Privacy /**

3 **Right of Publicity – Against All Defendants)**

4 31. Plaintiffs repeat, re-allege, adopt and incorporate each and every allegation
5 contained in paragraphs 1 through 25, as though fully set forth herein.

6 32. The conduct of Defendants, as alleged hereinabove, constitutes a violation of
7 Plaintiffs' common law rights of publicity and rights of privacy, due to unauthorized use of
8 Plaintiffs' Rights for Defendants' advantage.

9 33. As a direct and proximate result of the aforesaid wrongful acts of
10 Defendants, Plaintiffs have been damaged in an amount that is not yet fully ascertainable,
11 but which exceeds the jurisdictional minimum of this Court.

12 34. Plaintiffs are informed and believe and based thereon allege that Defendants,
13 in doing the things herein alleged, acted willfully, maliciously, and oppressively, and with
14 full knowledge of the adverse effects of their actions on Plaintiffs, and with willful and
15 deliberate disregard for the consequences to Plaintiffs. By reason thereof, Plaintiffs are
16 entitled to recover punitive and exemplary damages from Defendants in an amount to be
17 determined at the time of trial.

18 35. Plaintiffs also seek a preliminary and permanent injunction to prohibit
19 Defendants from any further use of Plaintiffs' Rights for Defendants' advantage.

20 **THIRD CAUSE OF ACTION**

21 **(Trademark Infringement / Trade Dress Infringement / False Association**

22 **Lanham Act, 15 U.S.C. § 1125(a) – Against All Defendants)**

23 36. Plaintiffs repeat, re-allege, adopt and incorporate each and every allegation
24 contained in paragraphs 1 through 25, as though fully set forth herein.

25 37. Plaintiffs' names and associated trademarks and trade dress have been
26 extensively advertised and promoted throughout the world for more than 25 years in
27 connection their respective entertainment and related services. As a result of this
28 advertising and promotion, Plaintiffs' names and associated trademarks and trade dress are

1 recognized throughout worldwide trading areas and channels of trade as famous and
2 distinctive, and are identified by the purchasing public with Plaintiffs. Plaintiffs'
3 trademarks and trade dress are famous and distinctive within the meaning of U.S.
4 trademark law, including 15 U.S.C. sections 1125 and 1127.

5 38. Defendants' use, and continuing use, in interstate commerce of Plaintiffs'
6 Rights in connection with Defendants' companies, products and services constitutes a
7 violation of 15 U.S.C. section 1125(a), in that it creates a false association between
8 Plaintiffs and Plaintiffs' Rights, and Defendants' companies, products and services, and a
9 false designation of origin as to the goods and services advertised, marketed, promoted,
10 distributed, offered for sale, and sold by Defendants. Defendants' use of Plaintiffs' Rights
11 is likely to confuse, mislead and/or deceive the consuming public and trade by creating the
12 false impression that Defendants' companies, products and services are or were approved,
13 sponsored, endorsed, guaranteed by and/or are in some way affiliated or associated with
14 Plaintiffs.

15 39. Defendants' use, and continuing use, in interstate commerce of Plaintiffs'
16 Rights in connection with Defendants' companies, products, and services also constitutes a
17 false or misleading description or representation in interstate commerce, in violation of 15
18 U.S.C. section 1125(a).

19 40. As a direct and proximate result of the conduct of Defendants, Plaintiffs are
20 entitled, pursuant to 15 U.S.C. section 1117(a), to the recovery of: (1) Defendants' profits
21 from the sale of their products and services; (2) any damages sustained by Plaintiffs as a
22 result of Defendants' conduct, the precise amount of which shall be established by
23 Plaintiffs at trial; and (3) Plaintiffs' costs of suit.

24 41. Plaintiffs are informed and believe and based thereon allege that because
25 Defendants committed the acts alleged above with knowledge of Plaintiffs' prior rights to,
26 and use of, Plaintiffs' Rights, and with the intent to trade on Plaintiffs' Rights, this case is
27 exceptional under 15 U.S.C. section 1117(a), entitling Plaintiffs to treble damages, and
28 also to the recovery of their attorneys' fees.

1 42. Plaintiffs also seek a preliminary and permanent injunction to prohibit
2 Defendants from any further commercial use of Plaintiffs' Rights.

3 **FOURTH CAUSE OF ACTION**

4 **(Negligence – Against All Defendants)**

5 43. Plaintiffs repeat, re-allege, adopt and incorporate each and every allegation
6 contained in paragraphs 1 through 25, as though fully set forth herein.

7 44. At all times, and pursuant to applicable law, Defendants owed a duty to
8 Plaintiffs not to use Plaintiffs' Rights in the Advertisements or otherwise to associate with,
9 advertise, market or promote Defendants' companies, products and services.

10 45. Defendants breached that duty by using Plaintiffs Rights in the
11 Advertisements and otherwise to associate with, advertise, market or promote Defendants'
12 companies, products and services.

13 46. As a direct and proximate result of the aforesaid wrongful acts of
14 Defendants, Plaintiffs have been damaged in an amount that is not yet fully ascertainable,
15 but which exceeds the jurisdictional minimum of this Court.

16 47. Plaintiffs also seek a preliminary and permanent injunction to prohibit
17 Defendants from any further commercial use of Plaintiffs' Rights.

18 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them,
19 jointly and severally, as follows:

20 **AS TO THE FIRST CAUSE OF ACTION**

21 1. General and special damages in accordance with proof at trial, together with
22 interest thereon at the maximum legal rate;

23 2. Punitive damages in an amount according to proof at the time of trial;

24 3. An award of Plaintiffs' attorneys' fees;

25 4. Preliminary and permanent injunction prohibiting Defendants and their
26 affiliated companies from any further commercial use of Plaintiffs' rights of publicity and
27 privacy, including Plaintiffs' names, photographs, likenesses, images, voices, and
28 signatures.

1 **AS TO THE SECOND CAUSE OF ACTION**

2 1. General and special damages in accordance with proof at trial, together with
3 interest thereon at the maximum legal rate;

4 2. Punitive damages in an amount according to proof at the time of trial;

5 3. Preliminary and permanent injunction prohibiting Defendants and their
6 affiliated companies from any further use, to Defendants' advantage, of Plaintiffs' rights of
7 publicity and privacy, including Plaintiffs' names, photographs, likenesses, images, voices,
8 sound-alike voices, signatures, identities and personas.

9 **AS TO THE THIRD CAUSE OF ACTION**

10 1. General and special damages in accordance with proof at trial, together with
11 interest thereon at the maximum legal rate;

12 2. Treble damages;

13 3. An award of Plaintiffs' attorneys' fees;

14 4. Preliminary and permanent injunction prohibiting Defendants and their
15 affiliated companies from any further commercial use of Plaintiffs' trademarks and trade
16 dress including without limitation Plaintiffs' names and images.

17 **AS TO THE FOURTH CAUSE OF ACTION**

18 1. General and special damages in accordance with proof at trial, together with
19 interest thereon at the legal rate;

20 2. Preliminary and permanent injunction prohibiting Defendants and their
21 affiliated companies from any further commercial use of Plaintiffs' rights of publicity and
22 privacy, including Plaintiffs' names, photographs, likenesses, images, voices, sound-alike
23 voices, signatures, identities and personas, and Plaintiffs' trademarks and trade dress.

24 **AS TO ALL CAUSES OF ACTION**

25 1. For all costs of suit incurred herein; and


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2. For such other and further relief as the Court may deem to be just and proper.

Dated: April 27, 2012


WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP

By: 
CHARLES J. HARDER
Attorneys for Plaintiffs
GEORGE CLOONEY and
JULIA MODER p/k/a "JULIA ROBERTS"

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.
Hollywood
THE
REPORTER
WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP

Dated: April 27, 2012

By: 
CHARLES J. HARDER
Attorneys for Plaintiffs
GEORGE CLOONEY and
JULIA MODER p/k/a "JULIA ROBERTS"