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Attorneys for Plaintiff
LIONS GATE FILMS INC.

UNITED STATES DISTRICT COURT
THE
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
Hollywood
REPORTER

LIONS GATE FILMS INC.,

Plaintiff,

v.

JOHN DOES 1-10 inclusive, d/b/a,
<limetorrents.com>,
<billionuploads.com>, <hulkfile.eu>
<played.to>, <swankshare.com> and
<dotsemper.com>, *et al.*

Defendants.

CASE NO. 2:14-cv-06033

COMPLAINT FOR:

- (1) DIRECT FEDERAL COPYRIGHT INFRINGEMENT (17 U.S.C. §§ 501, *et seq.*);**
- (2) CONTRIBUTORY FEDERAL COPYRIGHT INFRINGEMENT (17 U.S.C. §§ 501, *et seq.*);**
- (3) VICARIOUS FEDERAL COPYRIGHT INFRINGEMENT (17 U.S.C. §§ 501, *et seq.*)**

1 Plaintiff Lions Gate Films Inc. (“Lions Gate” or “Plaintiff”), through its
2 attorneys, complaining of Defendants John Does 1 through 10 inclusive
3 (collectively “Defendants”), alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This lawsuit arises from Defendants’ willful and malicious violation of
6 the federal Copyright Act (17 U.S.C. §§ 101, *et seq.*).

7 2. This Court has subject matter jurisdiction pursuant to 17 U.S.C. § 501,
8 28 U.S.C. § 1331, and § 1338(a).

9 3. Venue in this district is proper pursuant to 28 U.S.C. § 1391 and/or 28
10 U.S.C. § 1400(a). Although the true identity of each Defendant is unknown to Lions
11 Gate at this time, Lions Gate is informed and believes and on that basis alleges that
12 each Defendant may be found in this District and/or a substantial part of the acts of
13 infringement complained of herein occurred in this District.

14 4. Lions Gate is informed and believes and on that basis alleges that
15 personal jurisdiction in this District is proper because each Defendant, without
16 consent or permission of Plaintiff, distributed and offered to distribute over the
17 Internet copyrighted works for which Plaintiff has exclusive rights. On information
18 and belief, such unlawful distribution occurred in every jurisdiction in the United
19 States, including this one. In addition, each Defendant has directed tortious acts at
20 Lions Gate in this District and has committed tortious acts that each Defendant knew
21 or should have known would cause injury to Lions Gate in this District.

22 **THE PARTIES**

23 5. Lions Gate is a company organized and existing under the laws of the
24 State of Delaware, having its principal place of business at 2700 Colorado Ave.,
25 Suite 200, Santa Monica, CA 90404.

26 6. Lions Gate is currently unaware of the identities of Defendants and
27 therefore sues such defendants by the fictitious acronyms John Does 1-10 inclusive.
28 Lions Gate is informed and believes that discovery will reveal Defendants’ true

1 identities. Lions Gate will amend this Complaint to identify Defendants by name
2 after their identities are discovered.

3 **LIONS GATE’S RIGHTS AND DEFENDANTS’ UNLAWFUL CONDUCT**

4 7. The work at issue in this lawsuit is the forthcoming third installment in
5 the blockbuster “The Expendables” motion picture franchise, “The Expendables 3”
6 (the “Film”). The Film is scheduled for theatrical release in North America on
7 August 15, 2014, and has not been released to date.

8 8. The cast of the Film includes Sylvester Stallone, Jason Statham, Arnold
9 Schwarzenegger, Mel Gibson, Harrison Ford, Wesley Snipes, Dolph Lundgren and
10 Antonio Banderas among many others. The first two films in this franchise, “The
11 Expendables” and “The Expendables 2”, generated worldwide box office revenues
12 in excess of \$575 million.

13 9. The Film is the subject of a pending application for expedited
14 registration with the United States Copyright Office, which has assigned the
15 application Receipt No. 1-QVTXDT. A true and correct copy of the application is
16 attached hereto as **Exhibit A**. In addition, the screenplay for the Film is the subject
17 of United States Copyright Registration No. PAu003704583, issued on July 10,
18 2013, which is valid, subsisting and in full force and effect. A true and correct copy
19 of the registration certificate is attached hereto as **Exhibit B**. The Film is a
20 derivative work based on the registered screenplay.

21 10. Lions Gate has been licensed the sole and exclusive right to distribute
22 and exploit the Film in the United States and throughout North America. Lions
23 Gate’s exclusive rights in the Film pursuant to this exclusive license include but are
24 not limited to all rights in the United States and throughout North America to exploit
25 the Film by means of direct exhibition in theaters, by means of the Internet and in all
26 home video media, among other rights.

27 11. On or about July 24, 2014, Lions Gate learned that a digital file
28 containing a high quality reproduction of the Film had been stolen and uploaded to

1 the Internet without Lions Gate’s authorization or consent. Lions Gate is informed
2 and believes and on that basis alleges that only a single digital file containing the
3 Film was stolen, and that every copy of the Film alleged in this complaint (and
4 every copy available anywhere on the Internet) originated from and is a
5 reproduction of that single original digital file (hereinafter the “Stolen Film”).
6 Accordingly, Lions Gate’s claims against Defendants arise out of the same
7 transaction, occurrence, or series of transactions or occurrences.

8 12. Lions Gate is informed and believes and on that basis alleges that
9 Defendants herein are distributing, reproducing, performing and otherwise
10 exploiting the Stolen Film in violation of Lions Gate’s exclusive rights as set forth
11 below.

12 **<limetorrents.com>**

13 ~~13. One or more of Defendants operate a website at the domain name~~
14 ~~<limetorrents.com>. Lions Gate is informed and believes and on that basis alleges~~
15 ~~that the operator(s) of <limetorrents.com> are unlawfully disseminating the Stolen~~
16 ~~Film using the “BitTorrent” protocol, which is a type of peer-to-peer filesharing~~
17 ~~protocol. Specifically, this site hosts small files called “torrent” files. Each torrent~~
18 ~~file contains an instruction set including a unique “hash value” that allows the end~~
19 ~~user’s client program to locate and connect to a group of other users (called a~~
20 ~~“swarm”) who are all simultaneously sharing copies of the Stolen Film with one~~
21 ~~another. By downloading one of these “torrent” files associated with the Stolen~~
22 ~~Film from <limetorrents.com>, users join a “swarm” where they download parts of~~
23 ~~the Stolen Film from many different users and also upload to other users parts of the~~
24 ~~Stolen Film they have already received, until eventually they have reproduced the~~
25 ~~entire Stolen Film on their own hard drives and in most cases have also uploaded all~~
26 ~~or a substantial part of the Stolen Film to others.~~

27 14. Lions Gate first became aware that copies of the Stolen Film were
28 being disseminated through <limetorrents.com> on or about July 25, 2014. Lions

1 Gate sent demand letters to the operator(s) of the site on July 26, 30 and 31
2 demanding that the site stop disseminating copies of the Stolen Film. To date, the
3 operator(s) of the site have not responded to Lions Gate's demands. Rather, as of
4 the date of this filing links to the torrents allow users to access "swarms" where the
5 Stolen Film is being shared remain on the site, including in the fifth-ranked position
6 for "Movie torrents" on the site's home page.

7 **<billionuploads.com>**

8 15. One or more of Defendants operate a website at the domain name
9 <billionuploads.com>. Lions Gate is informed and believes and on that basis
10 alleges that the operator(s) of <billionuploads.com> are unlawfully disseminating
11 the Stolen Film by hosting copies of the Stolen Film in one or more directories
12 where users can download copies of the Stolen Film directly to their computers.

13 ~~16. Lions Gate first became aware that copies of the Stolen Film were~~
14 ~~being disseminated through <billionuploads.com> on or about July 25, 2014. Lions~~
15 ~~Gate sent demand letters to the operator(s) of the site on July 25, 26, 27, 28, 29, 30~~
16 ~~and 31 demanding that the site stop disseminating copies of the Stolen Film. To~~
17 ~~date, the operator(s) of the site have not responded to Lions Gate's demands.~~
18 Rather, as of the date of this filing, links disseminating copies of the Stolen Film
19 remain active on the site.

20 **<hulkfile.eu>**

21 17. One or more of Defendants operate a website at the domain name
22 <hulkfile.eu>. Lions Gate is informed and believes and on that basis alleges that the
23 operator(s) of <hulkfile.eu> are unlawfully disseminating the Stolen Film by hosting
24 copies of the Stolen Film in one or more directories where users can download
25 copies of the Stolen Film directly to their computers.

26 18. Lions Gate first became aware that copies of the Stolen Film were
27 being disseminated through <hulkfile.eu> on or about July 25, 2014. Lions Gate
28 sent demand letters to the operator(s) of the site on July 26, 27, 28, 29, 30 and 31

1 demanding that the site stop disseminating copies of the Stolen Film. To date, the
2 operator(s) of the site have not responded to Lions Gate's demand. Rather, as of the
3 date of this filing links disseminating copies of the Stolen Film remain active on the
4 site.

5 **<played.to>**

6 19. One or more of Defendants operate a website at the domain name
7 <played.to>. Lions Gate is informed and believes and on that basis alleges that the
8 operator(s) of <played.to> are unlawfully disseminating the Stolen Film by hosting
9 copies of the Stolen Film in one or more directories and by displaying an embedded
10 viewing window in which users can stream copies of the Stolen Film directly to
11 their screens.

12 20. Lions Gate first became aware that copies of the Stolen Film were
13 being disseminated through <played.to> on or about July 25, 2014. Lions Gate sent
14 demand letters to the operator(s) of the site on July 25, 26, 27, 28, 29, 30 and 31
15 demanding that the site stop disseminating copies of the Stolen Film. To date, the
16 operator(s) of the site have not responded to Lions Gate's demands. Rather, as of
17 the date of this filing users visiting the site can still stream the Stolen Film on the
18 site.

19 **<swankshare.com>**

20 21. One or more of Defendants operate a website at the domain name
21 <swankshare.com>. Lions Gate is informed and believes and on that basis alleges
22 that the operator(s) of <swankshare.com> are unlawfully disseminating the Stolen
23 Film by hosting copies of the Stolen Film in one or more directories where users can
24 download copies of the Stolen Film directly to their computers.

25 22. Lions Gate first became aware that copies of the Stolen Film were
26 being disseminated through <swankshare.com> on or about July 25, 2014. Lions
27 Gate sent demand letters to the operator(s) of the site on July 26, 30 and 31
28 demanding that the site stop disseminating copies of the Stolen Film. To date, the

1 operator(s) of the site have not responded to Lions Gate's demands. Rather, as of
2 the date of this filing links disseminating copies of the Stolen Film remain active on
3 the site.

4 **<dotsemper.com>**

5 23. One or more of Defendants operate a website at the domain name
6 <dotsemper.com>. Lions Gate is informed and believes and on that basis alleges
7 that the operator(s) of <dotsemper.com> are unlawfully disseminating the Stolen
8 Film in multiple ways.

9 24. First, <dotsemper.com> is hosting copies of the Stolen Film in one or
10 more directories where users can download copies of the Stolen Film directly to
11 their computers.

12 25. Second, <dotsemper.com> also displays an embedded viewing window
13 in which users can stream copies of the Stolen Film directly to their screens.

14 26. Lions Gate first became aware that copies of the Stolen Film were
15 being disseminated through <dotsemper.com> on or about July 25, 2014. Lions
16 Gate sent demand letters to the operator(s) of the site on July 26, 27, 28, 30 and 31
17 demanding that the site stop disseminating copies of the Stolen Film. To date, the
18 operator(s) of the site have not responded to Lions Gate's demands. Rather, as of
19 the date of this filing, links disseminating copies of the Stolen Film remain active on
20 the site and users can still stream the Stolen Film on the site.

21 27. Lions Gate is informed and believes and on that basis alleges that
22 Defendants and each of them have unlawfully distributed, reproduced, performed
23 and otherwise exploited copies of the Stolen Film to users in the United States (and
24 elsewhere) and have used Internet Service Providers located in California and/or
25 elsewhere in the United States to carry out their unlawful activities alleged herein.

26 28. Lions Gate has not authorized Defendants to distribute, reproduce,
27 perform or otherwise exploit the Film within the United States or North America.

28 29. Lions Gate is informed and believes and on that basis alleges that

1 Defendants and each of them have actual and constructive knowledge of Lions
2 Gate's exclusive rights in the Film, and are distributing, reproducing, performing
3 and otherwise exploiting the Stolen Film willfully, maliciously and with wanton
4 disregard of Lions Gate's exclusive rights.

5 **FIRST CAUSE OF ACTION**

6 **(Direct Federal Copyright Infringement – Against All Defendants)**

7 **[17 U.S.C. §§ 501, *et seq.*]**

8 30. Lions Gate refers to, repeats and realleges all allegations contained in
9 Paragraphs 1 through 29 of this Complaint and incorporates them by reference as
10 though set forth in full.

11 31. At all relevant times, Lions Gate has been the exclusive licensee with
12 the sole and exclusive right to distribute, reproduce, perform and otherwise exploit
13 the Film in the United States and throughout North America.

14 32. Defendants have willfully, intentionally and maliciously distributed,
15 reproduced, performed and otherwise exploited the Film without Lions Gate's
16 authorization, consent or approval and in violation of Lions Gate's exclusive rights
17 under the Copyright Act.

18 33. Lions Gate is informed and believes and on that basis alleges that
19 Defendants, and each of them, are fully aware of Lions Gate's exclusive rights, and
20 have infringed Lions Gate's rights willfully, maliciously and with wanton disregard.

21 34. Defendants' conduct as alleged herein has caused and will continue to
22 cause Lions Gate irreparable harm for which there is no adequate remedy at law,
23 and is also causing damage to Lions Gate in an amount which cannot be accurately
24 computed at this time but will be proven at trial.

25 **SECOND CAUSE OF ACTION**

26 **(Contributory Federal Copyright Infringement – Against All Defendants)**

27 **[17 U.S.C. §§ 501, *et seq.*]**

28 35. Lions Gate refers to, repeats and realleges all allegations contained in

1 Paragraphs 1 through 34 of this Complaint and incorporates them by reference as
2 though set forth in full.

3 36. At all relevant times, Lions Gate has been the exclusive licensee with
4 the sole and exclusive right to distribute, reproduce, perform and otherwise exploit
5 the Film in the United States and throughout North America.

6 37. Lions Gate is informed and believes and on that basis alleges that
7 individuals in the United States and elsewhere are using Defendants' websites to
8 directly infringe Lions Gate's exclusive rights under the Copyright Act on a daily
9 basis by, for example, creating and distributing unauthorized reproductions of the
10 Stolen Film in violation of Lions Gate's exclusive rights. Each such violation of
11 Lions Gate's exclusive rights constitutes a separate and distinct act of copyright
12 infringement.

13 ~~38. Defendants are liable as contributory infringers for the copyright~~
14 ~~infringement committed via their websites. Defendants have knowledge of this~~
15 ~~infringement, including without limitation because Lions Gate has notified them of~~
16 ~~the infringement, but Defendants continue to cause, enable, induce, facilitate and~~
17 ~~materially contribute to the infringement by continuing to provide their users with~~
18 ~~the means to unlawfully distribute, reproduce and otherwise exploit the Stolen Film~~
19 ~~in the manner described above.~~

20 39. Through the conduct described above, Defendants are contributorily
21 liable for the infringement described herein.

22 40. Lions Gate is informed and believes and on that basis alleges that
23 Defendants, and each of them, are fully aware of Lions Gate's exclusive rights, and
24 have contributorily infringed Lions Gate's rights willfully, maliciously and with
25 wanton disregard.

26 41. Defendants' conduct as alleged herein has caused and will continue to
27 cause Lions Gate irreparable harm for which there is no adequate remedy at law,
28 and is also causing damage to Lions Gate in an amount which cannot be accurately

1 computed at this time but will be proven at trial.

2 **THIRD CAUSE OF ACTION**

3 **(Vicarious Federal Copyright Infringement – Against All Defendants)**

4 **[17 U.S.C. §§ 501, *et seq.*]**

5 42. Lions Gate refers to, repeats and realleges all allegations contained in
6 Paragraphs 1 through 41 of this Complaint and incorporates them by reference as
7 though set forth in full.

8 43. At all relevant times, Lions Gate has been the exclusive licensee with
9 the sole and exclusive right to distribute, reproduce, perform and otherwise exploit
10 the Film in the United States and throughout North America.

11 44. Lions Gate is informed and believes and on that basis alleges that
12 individuals in the United States and elsewhere are using Defendants' websites to
13 directly infringe Lions Gate's exclusive rights under the Copyright Act on a daily
14 basis by, for example, creating and distributing unauthorized reproductions of the
15 Stolen Film in violation of Lions Gate's exclusive rights. Each such violation of
16 Lions Gate's exclusive rights constitutes a separate and distinct act of copyright
17 infringement.

18 45. Defendants are liable as vicarious infringers for the copyright
19 infringement committed via their websites. At all relevant times, Defendants (i)
20 have had the right and ability to control and/or supervise the infringing conduct of
21 their users, and (ii) have had a direct financial interest in, and derived financial
22 benefit from, such infringing conduct.

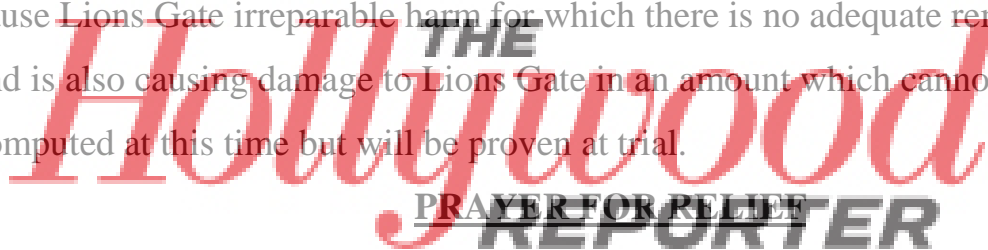
23 46. By way of example and without limitation, Lions Gate is informed and
24 believes and on that basis alleges that Defendants derive a financial benefit from the
25 infringing conduct by generating revenue from paid advertisements and/or
26 solicitations of donations that are displayed on Defendants' websites alongside or in
27 close proximity to the links that provide Defendants' users with the means to
28 unlawfully distribute, reproduce and otherwise exploit the Stolen Film.

1 47. Lions Gate is informed and believes and on that basis alleges that
2 Defendants and each of them have the right and ability to supervise this infringing
3 conduct because, among other things, Defendants operate the websites and exercise
4 direct control over the content that users can access through their websites and the
5 conditions under which users can access such content.

6 48. Through the conduct described above, Defendants are vicariously liable
7 for the infringement described herein.

8 49. Lions Gate is informed and believes and on that basis alleges that
9 Defendants, and each of them, are fully aware of Lions Gate's exclusive rights, and
10 have vicariously infringed Lions Gate's rights willfully, maliciously and with
11 wanton disregard.

12 50. Defendants' conduct as alleged herein has caused and will continue to
13 cause Lions Gate irreparable harm for which there is no adequate remedy at law,
14 and is also causing damage to Lions Gate in an amount which cannot be accurately
15 computed at this time but will be proven at trial.



16
17 WHEREFORE, Lions Gate demands judgment against the Defendants
18 jointly and severally, and demands that the Court grant Lions Gate relief against the
19 Defendants jointly and severally as set forth below.

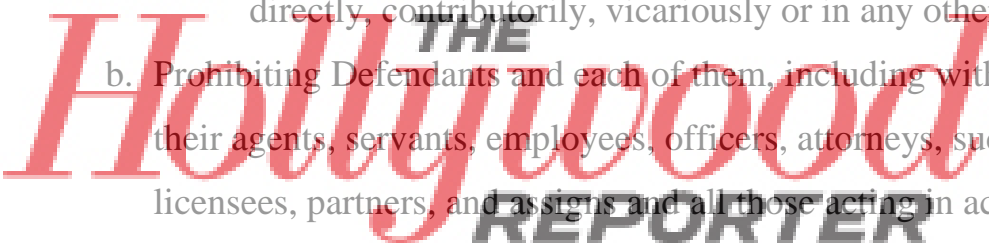
20 1. That the Court enter a temporary restraining order, a preliminary injunction
21 and a permanent injunction:

22 a. Prohibiting Defendants and each of them, including without limitation
23 their agents, servants, employees, officers, attorneys, successors,
24 licensees, partners, and assigns and all those acting in active concert or
25 participation with any of them, as well as any person in possession of the
26 Stolen Film or any portion thereof, from:

27 i. hosting, linking to, distributing, reproducing, performing, selling,
28 offering for sale, making available for download, streaming or

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- making any other use of any copy or copies of the Stolen Film or any portion thereof in any form;
- ii. taking any action that induces, causes or materially contributes to the direct infringement of Lions Gate’s rights in the Film by any third party, including without limitation hosting, linking to or otherwise providing access to any torrent files, trackers, links (including without limitation magnet links), hash values or other instruction sets of any kind that enable users to locate or access any “swarm” or other location where any copy or copies of the Stolen Film or any portion thereof are being distributed, reproduced, performed or otherwise exploited in any form; and
- iii. otherwise infringing Lions Gate’s rights in any manner, whether directly, contributorily, vicariously or in any other way;
- b. Prohibiting Defendants and each of them, including without limitation their agents, servants, employees, officers, attorneys, successors, licensees, partners, and assigns and all those acting in active concert or participation with any of them, from operating any of the websites identified in this Complaint and such further and additional websites that may be discovered and submitted to the Court to be added to the injunction as the Court finds equitable and appropriate;
- c. Requiring Defendants and each of them, including without limitation their agents, servants, employees, officers, attorneys, successors, licensees, partners, and assigns and all those acting in active concert or participation with any of them, to take all steps necessary to recall and recover all copies of the Stolen Film or any portion thereof that they have distributed, reproduced or otherwise made available to any other person at any time and to turn over such recalled and recovered copies to Lions Gate;



1 d. Requiring Defendants and each of them, including without limitation
2 their agents, servants, employees, officers, attorneys, successors,
3 licensees, partners, and assigns and all those acting in active concert or
4 participation with any of them, to deliver to Lions Gate, at Defendants'
5 cost:

6 i. All hard copy and electronic copies of the Stolen Film and any
7 images from or other portions of the Stolen Film, as well as any
8 other images or films owned by Lions Gate, or any portions or
9 modifications thereof, within the possession, custody or control of
10 Defendants and any of them, pursuant to an appropriate protocol
11 for identifying and retrieving all infringing electronically stored
12 information within the possession, custody or control of

13 Defendants and each of them;

14 ii. Verifications executed under penalty of perjury confirming that
15 Defendants and each of them have complied with the requirements
16 of subparagraphs 1(a) through 1(d)(i) above and that no copies of
17 the Stolen Film or any portions thereof remain within their
18 possession, custody or control; and

19 iii. All servers, hard drives, flash drives, solid state drives, optical
20 discs, mobile devices, personal computers and any other medium
21 within their possession, custody or control on which any copy or
22 copies of the Stolen Film or any images from or other portions of
23 the Stolen Film, or any other images or films owned by Lions
24 Gate, or any portions or modifications thereof presently reside, or
25 which have been used to disseminate any portion of the Stolen
26 Film or any other portion thereof or any other images or films
27 owned by Lions Gate, including all passwords, encryption keys
28 and other credentials, data or other information that Lions Gate

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may require in order to conduct an independent forensic investigation to confirm that Defendants and each of them have complied with the requirements of Paragraphs 1(a) through 1(d)(i) above and that the verifications delivered pursuant to Paragraph 1(d)(ii) above are truthful; and

e. Prohibiting Defendants and each of them, including without limitation their agents, servants, employees, officers, attorneys, successors, licensees, partners, and assigns and all those acting in active concert or participation with any of them, from effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth herein;

f. Ordering that all third parties, including without limitation all Internet Service Providers (“ISP”), hosts, domain name server operators, cloud storage providers and advertising service providers, who are currently providing services used in connection with the websites identified in this Complaint or such further and additional websites that may be discovered and submitted to the Court, be added to the injunction as the Court finds equitable and appropriate;

g. Requiring all network information centers, registry operators and/or domain name registrars currently providing services in connection with the domain names identified in this Complaint or such further and additional domain names that may be discovered and submitted to the Court to be added to the injunction as the Court finds equitable and appropriate to disable service to such domain names, to place such domain names on “locked” status and to take all steps necessary to cancel the registrations of such domain names or effect the transfer of

1 the registrations of such domain names to Lions Gate, at Lions Gate's
2 option;

3 h. Requiring any banks, savings and loan associations, payment processors
4 or other financial institutions, payment providers, third party processors
5 and advertising service providers of Defendants or any of them, to
6 immediately locate all accounts connected to Defendants or Defendants'
7 infringing activities and to immediately cease transferring or disposing
8 of any money or other of Defendants' assets, cease allowing such funds
9 to be transferred or withdrawn, and cease allowing any diminutions to be
10 made by Defendants from such accounts pending further order of the
11 Court.

12 2. That the Court award Lions Gate actual damages or statutory damages
13 pursuant to 17 U.S.C. § 504, at the election of Lions Gate.

14 3. That the Court award Lions Gate its costs of suit incurred herein, including
15 its attorneys' fees and investigators' fees incurred by Lions Gate in investigating
16 Defendants' unlawful conduct, as provided by applicable law.

17 4. That the Court retain jurisdiction of this action for the purpose of enabling
18 Lions Gate to apply to the Court at any time for such further orders and interpretation
19 or execution of any order entered in this action, for the modification of any such
20 order, for the enforcement or compliance therewith and for the punishment of any
21 violations thereof.

22 5. That the Court grant Lions Gate such other and further relief as it deems
23 just and equitable to make Lions Gate whole for the damage caused by Defendants.

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JURY TRIAL DEMAND

Lions Gate respectfully demands a trial by jury on all claims and issues so triable.

DATED: July 31, 2014

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON
LLP

By: /s/ Dennis L. Wilson
DENNIS L. WILSON

Attorneys for Plaintiff
Lions Gate Films Inc.

