Document 1

Filed 02/04/2008

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Case 2:08-cv-00739-GHK-AGR

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B. Introduction

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

C. Plaintiffs Disney

- 4. Disney is a corporation duly organized and existing under the laws of the State of Delaware, having its principal place of business in Burbank, California.
- 5. Disney and certain of its affiliated companies are engaged in a variety of businesses including, without limitation, the production and distribution of motion pictures and television programs.
- 6. Disney owns exclusive rights under the Copyright Act to the Disney Works, including the rights to reproduce, distribute or license the reproduction and distribution of the motion pictures in video format in the United States, including, but not limited to those copyrights that are the subject of the following copyright registrations: *The Princess Diaries 2: Royal Engagement* (PA 1-241-871), *Bambi 2* (PA 1-313-323) and *Pirates of the Caribbean: Curse of the Black Pearl* (PA 1-138-412). Video format includes video cassettes, video laser discs, digital versatile discs ("DVDs") and video compact discs ("VCDs").
- 7. The expression and other distinctive features of the Disney Works are wholly original with Disney, its licensors and/or assignors and, as fixed in various tangible media, are copyrightable subject matter under the Copyright Act.

- 8. Disney, or any predecessor in interest, has complied in all respects with the laws governing copyright and has secured the exclusive rights and privileges in and to the Disney Works, and Disney holds certificates of registration and/or secured exclusive licenses or assignments to reproduce, distribute and license the Disney Works throughout the United States.
- 9. The Disney Works have been manufactured, sold and/or otherwise distributed in conformity with the provisions of the copyright laws. Disney and those acting under its authority have complied with their obligations under the copyright laws and Disney, in its own right or as successor-in-interest, has at all times been and still is the sole proprietor or otherwise authorized to enforce all right, title and interest in and to the copyrights or to enforce its exclusive right for home video distribution in each of the Disney Works.

D. <u>Defendants</u>

- 10. Defendant Hong Chen Ding also known as Hongchen Ding ("Ding"), is an individual. Plaintiff is informed and believes that Ding is a resident of Chicago, in the State of Illinois. Plaintiff is further informed and believes, and upon that basis alleges, that Ding does business under the eBay "User ID" "etymgenter". Ding, through his online identity, does business in this judicial district through offers and sales of the Unauthorized Media Product in the City and County of Los Angeles, among other places.
- 11. Upon information and belief, Does 1-10 are either entities or individuals who are residents of or present in this judicial district, and are subject to the jurisdiction of this Court. Upon information and belief, Does 1-10 are principals, supervisory employees, or suppliers of one or other of the named defendants or other entities or individuals who are, in this judicial district, manufacturing, distributing, selling and/or offering for sale merchandise which infringes the Disney Works. The identities of the various Does are unknown to

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Disney at this time. The Complaint will be amended to include the names of such individuals when identified. Ding and Does 1-10 are collectively referred to herein as "Defendants."

E. <u>Defendants' Infringing Activities</u>

- 12. Defendants have copied, reproduced, distributed, advertised and/or sold and continue to copy reproduce, distribute, advertise and/or sell unauthorized copies of motion pictures owned by Disney, including, but not necessarily limited to, the Disney Works identified in paragraph 6, above. The copies sold by Defendants are obviously counterfeit. The packaging fails to conform with packaging characteristic of Disney's home video product and the disk does not contain the file structure characteristic of legitimate product.
- 13. Defendants have not been authorized by Disney to reproduce, distribute, sell or offer for sale any of the Disney Works.
- 14. By engaging in this conduct, Defendants have acted in willful disregard of laws protecting Disney's copyrights. Disney has sustained and will continue to sustain substantial damage to the value of its creative works, specifically including the Disney Works.

F. Disney's Damages

- 15. Disney is informed and believes, and upon that basis alleges, that the Defendants have each obtained gains, profits and advantages as a result of their infringing activity in amounts within the jurisdiction of the Court.
- 16. Disney is informed and believes, and upon that basis alleges, that it has suffered and continues to suffer direct and actual damages as a result of Defendants' infringing conduct, in amounts within the jurisdiction of this Court. In order to determine the full extent of such damages, including such profits as may be recoverable under 17 U.S.C. § 504, Disney will require an accounting from each Defendant of all monies generated from the promotion, display, sale and offer for

sale of the Defendants' goods and services using the Disney Works. In the alternative, Disney may elect to recover statutory damages pursuant to 17 U.S.C. § 504 (c) for each Disney Work infringed.

- 17. Disney has no other adequate remedy at law and has suffered and continues to suffer irreparable harm and damage as a result of the above-described acts. Disney is informed and believes, and upon that basis alleges, that, unless enjoined by the Court, Defendants' infringing activity will continue, with attendant irreparable harm to Disney Accordingly, Disney seeks preliminary and permanent injunctive relief pursuant to 17 U.S.C § 502 and seizure of the Unauthorized Media Product, including the means of production as provided by 17 U.S.C. § 503.
- 18. By reason of the foregoing, Disney has incurred and will continue to incur attorneys' fees and other costs in connection with the prosecution of its claims, which attorneys' fees and costs Disney is entitled to recover from the Defendants, and each of them, pursuant to 17 U.S.C. § 505.
- 19. Disney is without an adequate remedy at law in that damages are difficult to ascertain and, unless the Defendants' acts are enjoined, Disney will be irreparably harmed by Defendants' deliberate and systematic infringement of its rights.

PRAYER FOR RELIEF

WHEREFORE, Disney asks this Court to order that:

- 1. Defendants, their agents, servants, employees, representatives, successor and assigns, and all persons, firms, corporations or other entities in active concert or participation with any of the said Defendants, be immediately and permanently enjoined from directly or indirectly infringing the Disney Works in any manner, including generally, but not limited to:
 - a. Reproducing, distributing, shipping, selling or offering for sale unauthorized copies, in any format, of any of the Disney Works;

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- b. Aiding or abetting the reproduction, distribution, shipment, sale or offer for sale of any unauthorized copies of any of the Disney Works; or
- c. Marketing, advertising and/or promoting any unauthorized copies of the Disney Works.
- That Disney and its designees are authorized to seize the following 2. items which are in Defendants' possession, custody or control:
 - a. All Unauthorized Media Product;
 - b. Any other unauthorized product which reproduces, copies, counterfeits, imitates or bear any of the Disney Works, or any part thereof;
 - c. Any molds, screens, patterns, plates, negatives, machinery or equipment, specifically including computers, servers, optical disc burners and other hardware used for making or manufacturing the Unauthorized Media Product or unauthorized product which reproduces, copies, counterfeits, imitates or bear any of the Disney Works, or any part thereof.
- Defendants be required to pay actual damages increased to the 3. maximum extent permitted by law and/or statutory damages at Disney's election;
- Defendants be required to account for and pay over to Disney all 4. damages sustained by Disney and profits realized by Defendants by reason of Defendants' unlawful acts herein alleged and that those profits be increased as provided by law;

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5.	Defendants be required to pay Disney its costs of this action and
reasonable	attorneys' fees; and

Disney be granted all other and further relief the Court may deem just 6. and proper under the circumstances.

Dated: January 31, 2008

J. Andrew Coombs, A Professional Corp.

Nicole L. Drey Attorneys for Disney Enterprises, Inc.

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: January 31, 2008

J. Andrew Coombs, A Professional Corp.

By:

Nicote L. Drey Attorneys for 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 Alicia G. Rosenberg.

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

CV08- 739 GHK (AGRx)

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:

[X]	Western Division	L	50
F3	312 N. Spring St., Rm. G-8		411
	Los Angeles, CA 90012		Sar

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

☐ Eastern Division 3470 Tweifth St., Rm. 134 Riverside, CA 92501

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

Case 2:08-cv-00/39-GHK-AGR Docume	nt 1 Filed 02/ <u>04</u> /2008 Page 10 of 12		
J. Andrew Coombs (SBN 123881)□ J. Andrew Coombs, A Prof. Corp.□ 517 E. Wilson Ave., Suite 202 □ Glendale, California 91206□ Telephone: (818) 500-3200 □ Facsimile: (818) 500-3201	CINAL		
	DISTRICT COURT CT OF CALIFORNIA		
Disney Enterprises, Inc.,	CASE NUMBER		
PLAINTIFF(S) v.	CV08-00739 GHK (AGRX)		
Hong Chen Ding a/k/a Hongchen Ding and Does 1-10, inclusive,			
DEFENDANT(S).	SUMMONS		
	o file with this court and serve upon plaintiff's attorney hose address is:		
	ended complaint counterclaim cross-claim ys after service of this Summons upon you, exclusive by default will be taken against you for the relief		
Dated: FEB 4 2008	By: Deputy Clerk (Seal of the Court)		

SUMMONS

CV-01A (01/01)

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

I (a) PLAINTIFFS (Check box if you are representing yourself □) Disney Enterprises, Inc.			DEFENDANTS Hong Chen Ding a/k/a Hongchen Ding and Does 1-10, inclusive			
(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases): Los Angeles			County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only):			
yourself, provide same.) J. Andrew Coombs (SBN J. Andrew Coombs, A Pr 517 E. Wilson Ave., Suit	rofessional Corporation	0	Attorneys (If Known)			
II. BASIS OF JURISDICTION	(Place an X in one box only.)	III. CITIZEN	SHIP OF PRINCIPAL PART X in one box for plaintiff and o	TIES - For Diversity Cases ne for defendant.)	Only	
☐ 1 U.S. Government Plaintiff	√ 3 Federal Question (U.S. Government Not a Party)	Citizen of This	PTF	DEF 1 Incorporated or Proof Business in this		
☐ 2 U.S. Government Defendant	☐ 4 Diversity (Indicate Citizens of Parties in Item III)			of Business in An	Principal Place 5 5 5 tother State	
		Citizen or Sub	ect of a Foreign Country 3	☐ 3 Foreign Nation		
IV. ORIGIN (Place an X in one		_			i- 7 Appeal to District	
Proceeding State Cou	urt Appellate Court	Reopened	5 Transferred from another dis	Distr Litig	ict Judge from	
V. REQUESTED IN COMPLA	AINT: JURY DEMAND: Yes	s No (Check 'Y	es' only if demanded in compla	int.)		
CLASS ACTION under F.R.C.	P. 23: ☐ Yes 🖼 No		MONEY DEMANDED IN C			
VI. CAUSE OF ACTION (Cite Copyright Infringement 1 VII. NATURE OF SUIT (Place		you are filing and v	vrite a brief statement of cause.	Do not cite jurisdictional s	tatutes unless diversity.)	
T		TADTE	TORTS	PRISONER	LABOR	
OTHER STATUTES	CONTRACT ☐ 110 Insurance	TORTS PERSONAL INJU		PETITIONS	☐ 710 Fair Labor Standards	
- 100 State House	☐ 120 Marine	310 Airplane	PROPERTY	☐ 510 Motions to	Act	
☐ 430 Banks and Banking		315 Airplane Pro		Vacate Sentence Habeas Corpus	☐ 720 Labor/Mgmt. Relations	
☐ 450 Commerce/ICC	☐ 140 Negotiable Instrument	Liability ∃ 320 Assault, Libe	☐ 371 Truth in Lending ☐ 380 Other Personal	☐ 530 General	☐ 730 Labor/Mgmt.	
142100.0101	☐ 150 Recovery of Overpayment &	Slander	Property Damage	e ☐ 535 Death Penalty	Reporting &	
☐ 460 Deportation ☐ 470 Racketeer Influenced		☐ 330 Fed. Employ		e ☐ 540 Mandamus/	Disclosure Act	
and Corrupt	Judgment	Liability	Product Liability		☐ 740 Railway Labor Act ☐ 790 Other Labor	
Organizations		☐ 340 Marine	BANKRUPTCY 1ct 422 Appeal 28 USC	☐ 550 Civil Rights ☐ 555 Prison Condition		
	[] 102 1000.00)	☐ 345 Marine Prod Liability	158	FORFEITURE/	791 Empl. Ret. Inc.	
☐ 490 Cable/Sat TV ☐ 810 Selective Service	Student Loan (Excl. Veterans)	☐ 350 Motor Vehic		PENALTY		
☐ 850 Securities/Commodities		355 Motor Vehic		☐ 610 Agriculture	PROPERTY RIGHTS 820 Copyrights	
/Exchange	Overpayment of	Product Liab		☐ 620 Other Food & Drug	□ 830 Patent	
□ 875 Customer Challenge 12	Veteran's Benefits ☐ 160 Stockholders' Suits	☐ 360 Other Person Injury	442 Employment	☐ 625 Drug Related	☐ 840 Trademark	
USC 3410 ☐ 890 Other Statutory Actions	☐ 190 Other Contract	☐ 362 Personal Inju	ry- 443 Housing/Acco-	Seizure of	SOCIAL SECURITY	
891 Agricultural Act	☐ 195 Contract Product	Med Malpra	ctice mmodations	Property 21 USC 881	☐ 861 HIA (1395ff) ☐ 862 Black Lung (923)	
☐ 892 Economic Stabilization	Liability	☐ 365 Personal Inju		881 ☐ 630 Liquor Laws	□ 863 DIWC/DIWW	
Act	☐ 196 Franchise REAL PROPERTY	Product Lial ☐ 368 Asbestos Pe	,	☐ 640 R.R. & Truck	(405(g))	
893 Environmental Matters	☐ 210 Land Condemnation	Injury Produ	ct Employment	☐ 650 Airline Regs	☐ 864 SSID Title XVI	
☐ 894 Energy Allocation Act ☐ 895 Freedom of Info. Act	220 Foreclosure	Liability	☐ 446 American with	☐ 660 Occupational	□ 865 RSI (405(g))	
☐ 900 Appeal of Fee Determi-	□ 230 Rent Lease & Ejectment		Disabilities -	Safety /Health	FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff	
nation Under Equal	☐ 240 Torts to Land		Other 440 Other Civil	☐ 690 Other	or Defendant)	
Access to Justice	245 Tort Product Liability		Rights		☐ 871 IRS-Third Party 26	
☐ 950 Constitutionality of State Statutes	☐ 290 All Other Real Property		1		USC 7609	
VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? VIII(a) Yes						
If yes, list case number(s):						
FOR OFFICE USE ONLY:	Case Number:					
		CIVII C	OVER SHEET	- (5)	Page 1 of	
CV-71 (07/05)		CIVILC	, and deems :	\sim	5	

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 CASE	S: Have any cases been pre	eviously filed that are related to the present o	ase? 🖬 No □ Yes		
If yes, list case number(s):					
	elated if a previously filed case and the present case: y)				
IX. VENUE: List the Califor ☐ Check here if the U.S. gov Los Angeles		r than California, in which EACH named p ployees is a named plaintiff.	olaintiff resides (Use an additional she	et if necessary)	
		nia, in which EACH named defendant residently named defendant.	≥s. (Use an additional sheet if necessa	ry).	
List the California County, Note: In land condemnation of Los Angeles		omia, in which EACH claim arose. (Use and tract of land involved.	1 additional sheet if necessary)		
X. SIGNATURE OF ATTO	NDNEV (AD DDA DED).	VIC	Da	1-31-08	
Notice to Counsel/Part	ies: The CV-71 (JS-44) Co	ivil Cover Sheet and the information contain oved by the Judicial Conference of the Unit rpose of statistics, venue and initiating the c	ted herein neither replace nor suppleme	nt the filing and service of pleadings ed pursuant to Local Rule 3-1 is not	
Key to Statistical codes relati	ng to Social Security Cases	: ·			
Nature of Suit	t Code Abbreviation	Substantive Statement of Cause of Act	ion		
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 inco Security Act, as amended.	ome payments based upon disability fi	led under Title 16 of the Social	
865	RSI	All claims for retirement (old age) and s	urvivors benefits under Title 2 of the S	locial Security Act, as amended. (42	

U.S.C. (g))