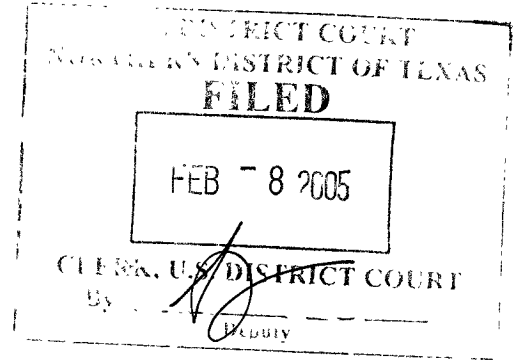


ORIGINAL

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

COLUMBIA PICTURES INDUSTRIES,
INC., DISNEY ENTERPRISES, INC.,
METRO-GOLDWYN-MAYER PICTURES
INC., PARAMOUNT PICTURES
CORPORATION, TWENTIETH CENTURY
FOX FILM CORPORATION, UNIVERSAL
CITY STUDIOS LLLP, UNIVERSAL CITY
STUDIOS PRODUCTIONS LLLP, and
WARNER BROS. ENTERTAINMENT INC.,



Plaintiffs,

Civil Action No. 3:04CV2642-N (DCG)

v.

EDWARD WEBBER,

Defendant.

AMENDED COMPLAINT

For their Amended Complaint, Plaintiffs Columbia Pictures Industries, Inc.

("Columbia"); Disney Enterprises, Inc. ("Disney"); Twentieth Century Fox Film Corporation ("Fox"); Metro-Goldwyn-Mayer Pictures Inc. ("MGM"); Paramount Pictures Corporation ("Paramount"); Universal City Studios LLLP ("Universal"); Universal City Studios Productions LLLP ("Universal Productions"); and Warner Bros. Entertainment Inc. ("Warner Bros.") hereby allege as follows:

Nature Of The Case

1. This is a case of willful infringement of copyright over the Internet. Defendant knowingly enables, encourages and profits from massive online piracy – piracy Defendant could stop but refuses to.

2. Specifically, Defendant operates a computer server and a website as part of an online computer network known as “BitTorrent.” Defendant enables his users to locate and download infringing copies of Plaintiffs’ valuable copyrighted motion pictures and television shows for free and without authorization. Defendant’s users simultaneously distribute infringing copies of those same works to countless others around the world. As a direct result of Defendant’s conduct, those users make and distribute unauthorized copies of thousands of the most popular motion pictures and television shows every day – from new releases that are still in theatres to blockbuster DVD releases to today’s most popular television shows. Absent Defendant’s active and ongoing participation in the daily acts of infringement, this widespread unauthorized copying and distribution of Plaintiffs’ valuable property simply could not happen on the scale that it does. The harm to Plaintiffs, who invest millions of dollars and enormous creative energies to produce their creative copyrighted works, is manifest and irreparable.

The Parties

3. Plaintiffs Disney, Columbia, Fox, Universal, Universal Productions, Paramount, Warner Bros., and MGM are the leading motion picture studios in the world. Plaintiffs are responsible for creating and distributing some of the world’s most popular filmed entertainment.

4. Each of these Plaintiffs, including their affiliates and/or subsidiaries, owns the copyrights and/or exclusive reproduction and distribution rights to many popular motion pictures, including those listed on Exhibit A.

5. Plaintiff Columbia is a Delaware corporation, with its principal place of business in California.

6. Plaintiff Disney is a Delaware corporation, with its principal place of business in California.

7. Plaintiff Fox is a Delaware corporation, with its principal place of business in California.

8. Plaintiff Universal is a Delaware corporation, with its principal place of business in California.

9. Plaintiff Universal Productions is a Delaware corporation, with its principal place of business in California.

10. Plaintiff Paramount is a Delaware corporation, with its principal place of business in California.

11. Plaintiff Warner Bros. is a Delaware corporation, with its principal place of business in California.

12. Plaintiff MGM is a Delaware corporation, with its principal place of business in California.

13. Defendant Edward Webber operates a website, lokitorrent.com, by virtue of which Plaintiffs' copyrighted works are reproduced and distributed. That website has operated at various Internet Protocol addresses, including the address 67.18.145.226 on October 18, 2004, and the address 216.32.85.114 on October 26, October 30, and November 21, 2004. The website is hosted by Layered Technologies, an internet service provider located in Dallas, Texas. Defendant also operates a BitTorrent tracker, tracker.lokitorrent.com, which facilitates the reproduction and distribution of Plaintiffs' copyrighted works. That tracker has operated at various Internet Protocol addresses, including the address 67.18.205.250 on October 18, 2004, and 216.32.85.106 on October 26, October 30, and November 21-23, 2004. The tracker is also hosted by Layered Technologies, an internet service provider located in Dallas, Texas. On information and belief, both the torrent site and the tracker are located in or around Dallas,

Texas. On information and belief, Defendant participates in and profits from the activities alleged herein.

14. On information and belief, Defendant Edward Webber is a resident of Maine.

Jurisdiction And Venue

15. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States, and therefore the Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 1338(a) (copyright jurisdiction).

16. Venue in this District is proper under 28 U.S.C. § 1391(b)(2). Defendant uses an internet service provider located in this District to connect the Defendant's computer server and website to the Internet, to fulfill its role in the BitTorrent network, and thus to enable the infringement of the Plaintiffs' copyrights. Further, on information and belief, the server hosting the website is also located in this District. Thus, a substantial part of the acts of infringement complained of herein occurred in this District.

BitTorrent And Defendant's Infringing Conduct

17. BitTorrent is a peer-to-peer network optimized for the copying and distribution of large files. On a "peer-to-peer" network, the actual exchange of the files – *i.e.*, the actual downloading and uploading – takes place directly between users (or "peers") of the network. Whether BitTorrent is used for legitimate purposes or copyright infringement is determined by those who operate its websites and its servers. In this case, the Defendant operates a BitTorrent website and server for the purpose of stealing and dealing Plaintiffs' copyrighted movies and television programs.

18. Defendant deliberately sets up and operates a computer server and a website that, by design, allow people to use the BitTorrent network to infringe Plaintiffs' copyrighted motion pictures. Simply put, the Defendant's website and server exist to facilitate copyright infringement – to allow Internet users to quickly transfer files, almost all of them infringing, many of them Plaintiffs' copyrighted movies and television programs.

19. Downloading files from the BitTorrent network is straight-forward. Users go to websites that list files, or in this case movies and television programs, that are available for download. By clicking on the file name, the file (the movie or television program) is automatically copied to the user's computer. That new file is a perfect digital copy – ready to be viewed, burned to a portable media like a DVD, and/or copied by and distributed to another user.

20. The BitTorrent network is made up of three principal components: (a) a BitTorrent "client" application, (b) indexing websites known as "torrent sites" and (c) computer servers known as BitTorrent "trackers." Each is necessary for the operation of the network.

21. The BitTorrent network works as follows: users download a small program that they install on their computers – the BitTorrent "client" application. The BitTorrent client is the users' interface during the downloading process. There are many different versions of BitTorrent clients, all of which are readily available on the Internet for free. BitTorrent client applications do not have the ability to search for files. To find files available for download, users must visit torrent sites using any standard Internet browser.

22. A torrent site is a website that contains an index of files available on the network (generally an extensive listing of movies and television programs, among other copyrighted content). The torrent site hosts and distributes small files known as "torrents." Torrents do not themselves hold actual copies of the movie or television program. Rather, torrents are binary

files that automatically and invisibly instruct a user's computer where to go and how to get the desired file. Essentially, torrents connect users to a specific tracker that has the file the user wants. Without torrents, users cannot connect to trackers to download the desired file.

23. A BitTorrent tracker is a server configured by its operator to manage the actual distribution of files – to connect uploaders (those who are distributing a movie) with downloaders (those who are copying a movie). A tracker functions in many respects like a “traffic cop” directing a BitTorrent user's computer where to find users who have a particular file, and then providing the user's computer with access to those other users to facilitate the download process. As a BitTorrent user seeks to download a movie file, he or she needs a tracker that can identify where the file is available in cyberspace – or, in the parlance of peer-to-peer file sharing, the user needs to find other “peers” from which the user can obtain the desired file.

24. Both torrent sites and trackers play an integral role in the process of using BitTorrent to download files. Without them, users could not identify, locate or download infringing files. Indeed, the content available on the BitTorrent network is defined entirely by what files the operators of torrent sites and trackers choose to allow to be indexed and distributed.

25. Defendant operates both a torrent site and a tracker. In doing so, the Defendant operates not one, but two, components that are instrumental to the infringement of Plaintiffs' copyrighted movies and television programs. He has made deliberate decisions to provide a material contribution – indeed, an essential contribution – to the infringement occurring on BitTorrent. He could easily stop the infringement if he wanted to, but he does not.

26. The blatant infringements through Defendant's torrent site and tracker are obvious – and are known to Defendant. Anyone who visits Defendant's torrent site, including Defendant himself, can immediately observe the catalog of infringing files being indexed. Popular movies such as "Spider-Man 2," "Mean Girls," "Lost in Translation," "Airplane!," and "Mystic River" are offered for download. Defendant's website specifically encourages users to upload information about the movies, and indeed, many if not most of the files offered for download include detailed descriptions of the movies or TV shows. Further, Defendant has chosen to set up the website so that movies and television shows are indexed and can be sorted by various categories, including "Movies - CAM-TS," "Movies - DVDrip," and "Movies - DVD-R." These categories themselves demonstrate Defendant's knowledge that the movies are infringing. Defendant also can view, in real-time, a list of all the files his tracker is helping to distribute, and can immediately see that they are overwhelmingly infringing. Defendant knows that this illegal copyright infringement is occurring, going so far as to mock his own obviously facetious legal Disclaimer, "Yes, we know that you think that all this legalese is completely ridiculous, and we think so too, but we also believe that current law unfortunately requires that it be done this way; So if you know of a better, simpler 'legally correct' way, do tell us how!"

27. As further examples of Defendant's knowledge that his torrent site and tracker are inducing, causing and/or materially contributing to infringing conduct, Defendant's website includes a forum category called "Torrent Requests," which is broken down into sub-forums including "Movie's" and "T.V." Inside those forums, users continually post requests for copyrighted content, including popular movies. The website even keeps track of the ten best- and worst-seeded torrents (that is, torrents that are more or less available for download from multiple users). Of the ten "Worst Seeded Torrents," the site exhorts "(help reseed these if you

can)”; that list includes well-known copyrighted content. These are but some examples of the way Defendant has knowingly designed his website to materially contribute to movie and television piracy.

28. Defendant exercises total control over the infringing activity on his torrent site and tracker. Defendant decides exactly what torrents are indexed on his site and what files his tracker helps to distribute. Indeed, a number of operators of legitimate torrent sites and trackers refuse to index or track torrents that correspond to infringing files. Other operators refuse to index or track torrents that correspond to pornographic files, defective or spoof files, or files that contain viruses. Often the screening out of defective or spoof files is done to facilitate the infringement process by screening out files that might frustrate users’ efforts to locate and copy infringing files. Defendant explains in his own Frequently Asked Questions (FAQ) section that the site owner, administrators, and moderators can edit or delete torrents, and Defendant already has a stated policy that the website will not accept “banned torrents,” which includes any Microsoft software, any X-Box games, any gambling software, and any child porn. Defendant easily could prevent infringement of Plaintiffs’ copyrighted works by not indexing torrent files corresponding to Plaintiffs’ copyrighted works and by not tracking Plaintiffs’ copyrighted works. Further, Defendant admits on his site that he also has the ability to decide which users can access his torrent site and tracker, including the right and ability to exclude or ban specific users. Defendant requires users to register in order to download torrents and view the site forums which facilitate infringement, and the FAQ page makes clear that users will be banned for, among other things, uploading “banned torrents.”

29. Defendant profits from the infringement he makes possible. He sells advertising that is prominently displayed on his torrent site, and he pitches his advertising space to potential

advertisers by highlighting his popularity amongst savvy file-downloaders: “We target a group of highly educated (and highly paid) PC enthusiasts. Almost anyone using torrents as a means of file sharing is on a different level than the mindless ‘click-and-download’ Kazaa, Morpheus and Napster crowd. . . . We’re no fly-by-night affair. This site is ages old and growing by the thousands (over 1,000 new registered members daily!) every day. If you have a product or service you want to sell, this is the audience you want viewing what you’ve got.” In fact, Defendant claims on his website that the site has *hundreds of thousands* of registered users. Defendant also solicits donations to support his infringing activities, and has run “giveaway” contests in which users are eligible to receive prizes in return for a minimum donation. For Defendant, the value of his site and the financial benefits he receives are directly dependent upon the number of users attracted to his site – the more users, the greater the financial benefit. Plaintiffs’ popular movies and television shows are the draw that attracts users to his site. Thus, Defendant profits from the widespread infringement that he facilitates.

Claim For Relief

(For Copyright Infringement Pursuant to 17 U.S.C. § 501 *et seq.*)

30. Plaintiffs repeat and reallege every allegation contained in paragraphs 1 through 30 as if fully set forth herein.

31. Motion pictures and television programs owned by Plaintiffs have been and continue to be illegally reproduced and distributed, without authorization, using Defendant’s torrent site and tracker. Plaintiffs own the copyrights, or the exclusive reproduction and distribution rights, in the copyrighted works listed on Exhibit A, all of which have been infringed with the active assistance of Defendant.

32. Through his creation, maintenance, and operation of a torrent site and a tracker, Defendant knowingly induces, causes, and/or otherwise materially contributes to the

unauthorized reproduction and distribution of copyrighted motion pictures, including those listed on Exhibit A hereto, in violation of Plaintiffs' exclusive rights under the copyright laws of the United States. 17 U.S.C. § 106.

33. Defendant further has the right and ability to supervise and control the infringing activities that occur through the use of his torrent site and tracker, and at all relevant times has derived a direct financial benefit from the infringement of Plaintiffs' copyrights.

34. The foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifferent to Plaintiffs' rights.

35. As a direct and proximate result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights under copyright, Plaintiffs are entitled to damages as well as Defendant's profits pursuant to 17 U.S.C. § 504(b).

36. Alternatively, Plaintiffs are entitled to the maximum statutory damages, in the amount of \$150,000 per infringement, pursuant to 17 U.S.C. § 504(c), or for such other amount as may be proper pursuant to 17 U.S.C. § 504(c).

37. Plaintiffs further are entitled to their attorneys' fees and full costs pursuant to 17 U.S.C. § 505.

38. Defendant's conduct is causing, and unless enjoined and restrained by this Court will continue to cause, Plaintiffs great and irreparable injury that cannot fully be compensated for or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiffs are entitled to preliminary and permanent injunctions prohibiting further infringements of their copyrights and exclusive rights under copyright.

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

A. For a preliminary injunction enjoining Defendant and his respective agents, servants, employees, officers, attorneys, successors, licensees, partners, and assigns, and all persons acting in concert with each or any of them, from:

(i) aiding, encouraging, enabling, inducing, causing, materially contributing to, or otherwise facilitating the unauthorized reproduction, downloading, uploading, and/or distribution of copies of Plaintiffs' copyrighted works, whether through Defendant's torrent site or tracker or through any other means; and

(ii) downloading, uploading, and/or otherwise reproducing or distributing Plaintiffs' copyrighted works, whether through the BitTorrent network or through any other means.

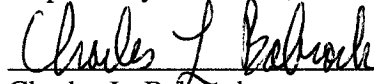
B. For all damages to which Plaintiffs may be entitled, including Defendant's profits, in such amounts as may be found. Alternatively, at Plaintiffs' election, for statutory damages in the maximum amount allowed by law.

C. For prejudgment interest according to law.

D. For Plaintiffs' attorneys' fees, and full costs and disbursements in this action.

E. For such other and further relief as the Court may deem proper and just.

Respectfully submitted,



*with permission
JMJ*

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Attorneys for Plaintiffs

Dated: February 8, 2005

SCHEDULE A

TITLE	PLAINTIFF	COPYRIGHT	DATE
50 FIRST DATES	COLUMBIA PICTURES INDUSTRIES, INC.	PA1 202-550	2/19/04
AIRPLANE!	PARAMOUNT PICTURES CORPORATION	PA 87-531	9/4/80
ALIEN VS. PREDATOR	TWENTIETH CENTURY FOX FILM CORPORATION	PA1 220-815	8/11/04
ALONG CAME POLLY	UNIVERSAL CITY STUDIOS PRODUCTIONS LLLP	PA1 205-906	2/27/04
BARBERSHOP 2: BACK IN BUSINESS	METRO-GOLDWYN-MAYER PICTURES INC.	PA1 202-477	2/6/04
BROTHER BEAR	DISNEY ENTERPRISES, INC.	PA1 188-459	12/17/03
CATWOMAN	WARNER BROS. ENTERTAINMENT INC.	PA1 220-570	7/29/04
CHRONICLES OF RIDDICK, THE	UNIVERSAL CITY STUDIOS LLLP	PA1 225-471	6/21/04
COLD CREEK MANOR	DISNEY ENTERPRISES, INC.	PA1 188-409	12/17/03
ETERNAL SUNSHINE OF THE SPOTLESS MIND	UNIVERSAL CITY STUDIOS PRODUCTIONS LLLP	PA1 219-419	4/12/04
GARFIELD	TWENTIETH CENTURY FOX FILM CORPORATION	PA1 217-436	6/11/04
HIDALGO	DISNEY ENTERPRISES, INC.	PA1 210-052	4/02/04
LOST IN TRANSLATION	UNIVERSAL CITY STUDIOS PRODUCTIONS LLLP	PA1 207-853	3/22/04
MANCHURIAN CANDIDATE, THE	PARAMOUNT PICTURES CORPORATION	PENDING	
MEAN GIRLS	PARAMOUNT PICTURES CORPORATION	PA1 233-942	7/12/04

TITLE	PLAINTIFF	COPYRIGHT	DATE
MYSTIC RIVER	WARNER BROS. ENTERTAINMENT INC.	PA1 199-167	12/12/03
SCROOGED	PARAMOUNT PICTURES CORPORATION	PA 398-930	1/09/89
SPIDER-MAN 2	COLUMBIA PICTURES INDUSTRIES, INC.	PA1 222-519	6/30/04