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12 *Attorneys for Plaintiffs*

13
14 UNITED STATES DISTRICT COURT

15 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
16

17 DISNEY ENTERPRISES, INC.,
BUENA VISTA HOME
18 ENTERTAINMENT, INC.,
LUCASFILM LTD. LLC, and MVL
19 FILM FINANCE LLC,

20 Plaintiffs,

21 vs.

22 REDBOX AUTOMATED RETAIL,
23 LLC,

24 Defendant.

Case No. _____

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT, BREACH OF
CONTRACT, TORTIOUS
INTERFERENCE WITH
CONTRACT, FALSE
ADVERTISING, AND UNFAIR
COMPETITION**

DEMAND FOR JURY TRIAL

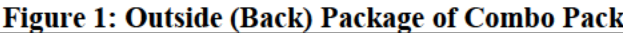
1 Plaintiffs Disney Enterprises, Inc., Buena Vista Home Entertainment, Inc.,
2 Lucasfilm Ltd. LLC, and MVL Film Finance LLC (collectively, “Plaintiffs”) bring
3 this Complaint against Redbox Automated Retail, LLC (“Redbox”) for infringing
4 Plaintiffs’ exclusive rights under the Copyright Act (17 U.S.C. § 101 *et seq.*), breach
5 of contract, tortious interference with contract, false advertising (Cal. Bus. & Prof.
6 Code § 17500 *et seq.*), and unfair competition (*id.* § 17200 *et seq.*). This Court has
7 subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367(a), and
8 17 U.S.C. § 501(b). Plaintiffs allege on personal knowledge as to themselves, and
9 information and belief as to others, as follows:

10 INTRODUCTION

11 1. Redbox operates a movie and video-game rental business. Redbox
12 rents physical DVDs and Blu-ray discs through self-service kiosks located at
13 grocery stores and other retail establishments.

14 2. Redbox recently began illegally selling Plaintiffs’ digital movie codes
15 (“Codes”) to Redbox customers in blatant disregard of clear prohibitions against
16 doing so and in violation of Plaintiffs’ copyrights.

17 3. Plaintiffs sell Codes as part of combination packages (“Combo
18 Packs”) that include a Blu-ray disc, a DVD, and a Code. The outside packaging is
19 clearly marked: “Codes are not for sale or transfer.”
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5. Plaintiffs bring this action to stop Redbox's unlawful conduct.

6. Plaintiff Disney Enterprises, Inc. (“Disney”) is a corporation duly incorporated under the laws of the State of Delaware with its principal place of business in Burbank, California.

-2-

1 8. Plaintiff Lucasfilm Ltd. LLC (“Lucasfilm”) is a limited liability
2 company formed under the laws of the State of California with its principal place of
3 business in San Francisco, California.

4 9. Plaintiff MVL Film Finance LLC (“Marvel”) is a limited liability
5 company formed under the laws of the State of Delaware with its principal place of
6 business in Burbank, California.

7 10. Plaintiffs Disney, Lucasfilm, and Marvel own the copyrights in the
8 motion pictures and television programs that they or their affiliates produce and
9 distribute (the “Copyrighted Works”). The Copyright Office has issued Certificates
10 of Copyright Registration for the Copyrighted Works. Exhibit A includes a
11 representative list of Copyrighted Works, along with their corresponding Certificate
12 of Copyright Registration numbers, that are the subject of Plaintiffs’ claims.

13 11. Defendant Redbox is a limited liability company formed under the
14 laws of the State of Delaware with its principal place of business at One Tower
15 Lane, Suite 900, Oakbrook Terrace, Illinois 60181. Redbox has established and
16 maintains kiosk locations throughout this District and the State of California from
17 which it sells the Codes. Redbox also makes Codes available for sale online to
18 consumers located in California.

19 **JURISDICTION AND VENUE**

20 12. This Court has subject matter jurisdiction over Plaintiffs’ copyright
21 infringement claims pursuant to 28 U.S.C. §§ 1331, 1338(a) and 17 U.S.C.
22 § 501(b).

23 13. This Court has supplemental jurisdiction over Plaintiffs’ state law
24 claims pursuant to 28 U.S.C. § 1367(a).

25 14. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(2)
26 and 1400(a).

BACKGROUND FACTS

Plaintiffs and Their Copyrighted Works

15. Plaintiffs or their affiliates own, produce, and distribute some of the most popular and critically acclaimed motion pictures in the world.

a. Well-known feature-length motion pictures in which Disney holds the copyrights include: *Pirates of the Caribbean: Dead Men Tell No Tales* (2017), *Beauty and the Beast* (2017), *Finding Dory* (2016), *The Jungle Book* (2016), *Moana* (2016), *Inside Out* (2015), and *Frozen* (2013).

b. Well-known feature-length motion pictures in which Lucasfilm holds the copyrights include: *Rogue One: A Star Wars Story* (2016) and *Star Wars: Episode VII – The Force Awakens* (2015).

c. Well-known feature-length motion pictures in which Marvel holds the copyrights include: *Doctor Strange* (2017), *Guardians of the Galaxy Vol. 2* (2017), and *Iron Man 3* (2013).

16. Redbox currently engages in the unauthorized sale of Codes for all of the foregoing titles, and other Copyrighted Works, both online and at its physical kiosks.

17. Plaintiffs or their affiliates own or have the exclusive U.S. rights (among others) to reproduce and distribute the Copyrighted Works.

18. Plaintiffs or their affiliates distribute the Copyrighted Works in various formats and through multiple distribution channels, including: for exhibition in theaters; through cable and direct-to-home satellite services (including basic, premium, “pay-per-view,” and video-on-demand services); through licensed digital services; and through physical copies on Blu-ray discs and DVDs.

19. Consumers can access Plaintiffs’ digital content through the RedeemDigitalMovie.com website, the Movies Anywhere service, or other websites hosted by Plaintiffs or their affiliates. These sites provide online portals

1 through which consumers with authorization to do so are permitted to redeem
2 Codes for access to the underlying motion picture.

3 **Plaintiffs' Combo Packs and Digital Movie Codes**

4 20. Plaintiffs' Combo Packs are single retail units that contain three
5 separate consumer offerings bundled together: a Blu-ray disc containing a copy of
6 the work; a DVD containing a copy of the work; and a Code, which the purchaser
7 of the Combo Pack can redeem through authorized online services.

8 21. Combo Packs are sold at a discount from the price that a consumer
9 would pay separately to purchase the individual discs and obtain an authorized
10 digital copy. Plaintiffs offer Codes as part of the Combo Packs as a way of
11 providing consumers who typically utilize physical playback media with access to
12 the online entertainment ecosystem. The discounted aggregate price is also an
13 incentive for consumers to upgrade to the purchase of Combo Packs instead of a
14 single disc package or digital download.

15 22. Combo Packs are sold subject to terms and conditions that govern both
16 the purchase and use of the included offerings. One such term, stated twice on the
17 outside of the Combo Pack packaging, states: "Codes are not for sale or transfer."

18 23. The Code is printed on an insert included with the Combo Pack. The
19 insert provides instructions for redeeming the Code to download or access a digital
20 stream of the motion picture. A consumer can redeem a Code through
21 RedeemDigitalMovie.com, the Movies Anywhere service, or, in some cases,
22 through other authorized services. The bottom of the insert states again that "Codes
23 are not for sale or transfer."
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Figure 2: Digital Movie Code Insert

24. Before redeeming the Code through RedeemDigitalMovie.com, an individual must agree to the following by entering the Code and clicking “Redeem”: “By redeeming a digital code, you represent that you are the owner of the physical product that accompanied the digital code at the time of purchase. The redemption of a digital code sold or transferred separate from the original physical product is prohibited. To read all applicable terms and conditions, click here.”

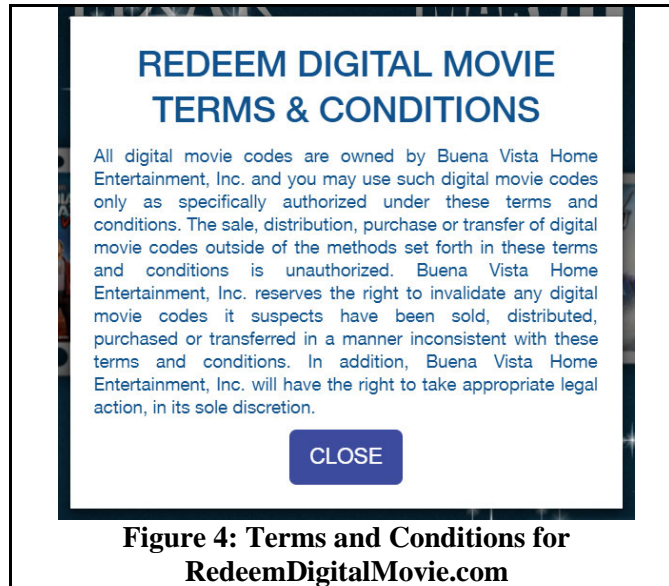


Figure 3: RedeemDigitalMovie.com Condition
<https://redeemdigitalmovie.com/>

25. The additional terms and conditions include the following:

All digital movie codes are owned by Buena Vista Home Entertainment, Inc. and you may use such digital movie codes only as specifically authorized under these terms and conditions. The sale, distribution, purchase or transfer of digital movie codes outside of the methods set forth in these terms and conditions is unauthorized. Buena

Vista Home Entertainment, Inc. reserves the right to invalidate any digital movie codes it suspects have been sold, distributed, purchased or transferred in a manner inconsistent with these terms and conditions. In addition, Buena Vista Home Entertainment, Inc. will have the right to take appropriate legal action, in its sole discretion.



Consumers must agree to these terms and conditions when entering Codes and before streaming or downloading the content.

26. The Movies Anywhere service is likewise subject to terms of use, which provide the following regarding redemption of Codes:

Digital Copy Code Redemption. You can enter authorized, unexpired, valid, and unused Digital Copy codes from a Digital Copy enabled and Movies Anywhere-eligible physical product that is owned by you in the “Redeem” section of the Movies Anywhere Service. . . . You will not transfer, sell or rent (or offer to transfer, sell or rent) any Digital Copy codes. . . . The sale, distribution, purchase or transfer of Digital Copy codes outside of the methods set forth in such terms and conditions is strictly prohibited.

Consumers cannot access or use Movies Anywhere without creating an account, which requires them to click a box acknowledging that they have read and agree to the terms of use.

Redbox's Unlawful Resale of Codes

27. Redbox purchases and disassembles Combo Packs, separating the Codes from the physical discs. Redbox rents or sells the discs through its kiosks. Redbox separately *re-packages* the Code insert—that states “Codes are not for sale or transfer”—into a Redbox case for resale.



Figure 5: Redbox Re-packaging of Digital Movie Codes

28. Redbox sells these Codes through its retail kiosks as well as online (to be picked up at a nearby Redbox kiosk). Redbox markets its offering of the Codes as “cheap,” a “Smart buy,” and a low-price alternative to authorized digital services. Redbox does so to attract customers who would otherwise purchase a Combo Pack or licensed digital offering through an authorized distributor.

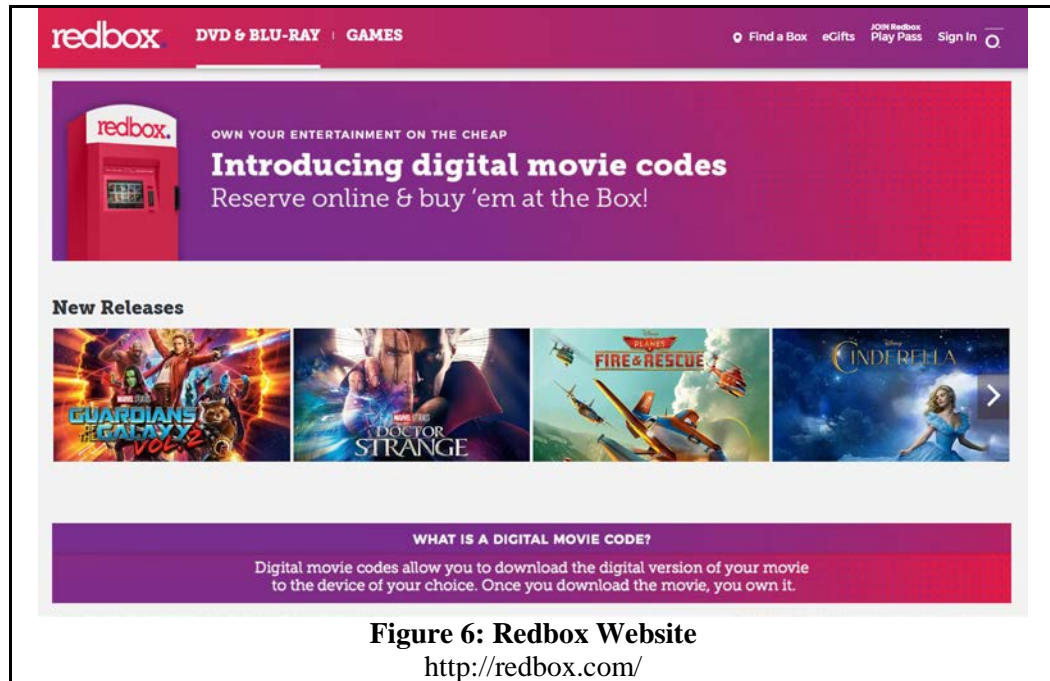


Figure 6: Redbox Website

<http://redbox.com/>

29. Redbox knows the terms and conditions that govern use of the Codes, including the express prohibition that appears twice on the outside of the packaging (and again on the inside packaging containing the Code): “Codes are not for sale or transfer.”

30. Redbox does not tell its customers that the Codes were sold as part of a Combo Pack; that the Codes may not be resold or transferred; that a customer who purchases a Code separate from the rest of the Combo Pack does not have authorization to redeem the Code, or to download or otherwise access a copy of the Copyrighted Work; or that BVHE has the right to invalidate any Code it suspects has been sold, distributed, purchased, or transferred in a manner inconsistent with the governing terms and conditions.

31. Redbox knows that Plaintiffs’ digital content licenses are subject to terms of use. This is a practice that Redbox itself follows. When Redbox offers online programs and services, its customers must create an account and agree to Redbox’s terms of use. Redbox knows that the online redemption of Codes and the use of services like RedeemDigitalMovie.com and Movies Anywhere also are subject to terms of use. And, Redbox knows from the language on the outside

1 packaging of Combo Packs that terms and conditions apply to the redemption of
 2 Codes. Redbox has knowledge of the RedeemDigitalMovie.com and Movies
 3 Anywhere terms of use either because Redbox read those terms of use before
 4 starting to sell the Codes or because Redbox willfully blinded itself to those terms
 5 of use.

6 **Redbox's Conduct Causes Immediate and Irreparable Harm**

7 32. If not enjoined, Redbox's continued unlawful conduct will harm
 8 Plaintiffs' relationships with its authorized distributors and retailers. Because
 9 Redbox resells Codes without authorization and in violation of the terms of the
 10 contract, Redbox significantly undercuts the prices offered by licensed services for
 11 accessing the Copyrighted Works online. Redbox's conduct interferes with, among
 12 other things, Plaintiffs' goodwill with those licensees and ability to negotiate with
 13 licensees.

14 33. Redbox's illegal conduct will continue to undermine Plaintiffs'
 15 relationships with its customers. Redbox markets its sale of the Codes to its
 16 customers as a legitimate and lawful alternative to purchasing digital access
 17 through authorized online services. Redbox misleads customers into believing that
 18 they are entering into authorized transactions when they redeem Codes and induces
 19 those customers to download digital copies of titles when Redbox knows those
 20 customers have no legal authorization or right to do so. Redbox's illegal conduct
 21 threatens to confuse and frustrate customers regarding the authorized use of Codes.

22 **FIRST CAUSE OF ACTION**

23 **(Disney, Lucasfilm, and Marvel:**

24 **Contributory Copyright Infringement, 17 U.S.C. §106)**

25 34. Plaintiffs incorporate herein by reference each and every averment
 26 contained in paragraphs 1 through 33 inclusive.
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1 35. When Redbox's customers download Copyrighted Works using a
2 Code purchased from Redbox, they do so without authorization and in violation of
3 Plaintiffs' exclusive rights under copyright, including the right of reproduction.

4 36. Redbox is contributorily liable for copyright infringement because it
5 (a) has knowledge that its customers will be reproducing the Copyrighted Works
6 without authorization when they use the Codes to download copies of those works,
7 and (b) induces, encourages, or materially contributes to the violation of Plaintiffs'
8 rights through its unlawful resale of the Codes.

9 37. Redbox's acts of infringement are willful, in disregard of, and done
10 with indifference to Plaintiffs' rights.

11 38. As a direct and proximate result of the infringements for which
12 Redbox is responsible, Plaintiffs are entitled to damages and Redbox's profits in
13 amounts to be proven at trial.

14 39. Alternatively, at their election, Plaintiffs are entitled to statutory
15 damages, up to the maximum amount of \$150,000 per statutory award, by virtue of
16 Redbox's willful infringement, or for such other amounts as may be proper under
17 17 U.S.C. § 504.

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

20 41. As a direct and proximate result of the foregoing acts and conduct,
21 Plaintiffs are threatened with continuing substantial, immediate, and irreparable
22 injury for which there is no adequate remedy at law. Unless enjoined and
23 restrained by this Court, Redbox will continue to infringe Plaintiffs' rights in their
24 Copyrighted Works. Plaintiffs are entitled to injunctive relief under 17 U.S.C.
25 § 502.

1 **SECOND CAUSE OF ACTION**

2 **(BVHE:**

3 **Breach of Contract)**

4 42. Plaintiffs incorporate herein by reference each and every averment
5 contained in paragraphs 1 through 41 inclusive.

6 43. Redbox enters into a contract with BVHE when it purchases Combo
7 Packs. That contract prohibits “sale or transfer” of the Codes.

8 44. BVHE has performed its obligations under the contract.

9 45. Redbox has breached the contract by reselling the Codes to its
10 customers.

11 46. Redbox’s breach causes Plaintiffs to suffer damages and threatens
12 them with continuing substantial, immediate, and irreparable injury.

13 47. Plaintiffs are entitled to specific performance and an injunction
14 restraining Redbox from continuing to violate the terms of the contract because
15 there is no adequate legal remedy, Cal. Civ. Code § 3366 *et seq.*

16 **THIRD CAUSE OF ACTION**

17 **(BVHE:**

18 **Tortious Interference with Plaintiffs’ Contracts with Customers)**

19 48. Plaintiffs incorporate herein by reference each and every averment
20 contained in paragraphs 1 through 47 inclusive.

21 49. BVHE has valid contracts with customers through the
22 RedeemDigitalMovie.com terms of service. These contracts prohibit the
23 redemption of Codes by customers who do not own the accompanying physical
24 product sold as part of the Combo Pack.

25 50. Redbox at all relevant times has known of these contracts.

26 51. Redbox intentionally induced and is continuing to induce breach and
27 disruption of these contractual relationships between BVHE and customers by
28 selling Codes disassembled from the Combo Packs that cannot be redeemed

1 without violating the terms and conditions of the RedeemDigitalMovie.com terms
2 of service.

3 52. Plaintiffs are damaged by Redbox's interference with their
4 relationships with their customers as well as lost sales; and are threatened with
5 continuing substantial, immediate, and irreparable injury for which there is no
6 adequate remedy at law, thereby entitling Plaintiffs to injunctive relief.

7 53. Redbox's actions were done with malice, oppression, and fraud and in
8 wanton disregard for Plaintiffs' rights. Plaintiffs are therefore entitled to punitive
9 damages, under California Civil Code § 3294, to punish Redbox for its conduct and
10 to deter it from engaging in similar conduct in the future.

11 **FOURTH CAUSE OF ACTION**

12 **(All Plaintiffs:**

13 **Violation of the False Advertising Law, Cal. Bus. & Prof. Code § 17500)**

14 54. Plaintiffs incorporate herein by reference each and every averment
15 contained in paragraphs 1 through 53 inclusive.

16 55. California Business and Professions Code § 17500 *et seq.*, prohibits
17 false advertising, i.e., untrue or misleading statements with the intent to induce
18 members of the public to enter into a transaction.

19 56. Redbox knowingly disseminates false and misleading information by
20 not disclosing to consumers that the Codes may only be redeemed by the owner of
21 the physical product sold as part of the Combo Pack. Redbox deceives customers
22 into believing that the Codes that Redbox sells grant those customers authorized
23 access to a digital copy of the motion picture, when they do not.

24 57. Plaintiffs are entitled to injunctive relief and restitution pursuant to
25 California Business and Professions Code § 17535.

FIFTH CAUSE OF ACTION

(All Plaintiffs:

Violation of the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200)

58. Plaintiffs incorporate herein by reference each and every averment contained in paragraphs 1 through 57 inclusive.

59. California Business and Professions Code § 17200 *et seq.* (“UCL”), prohibits unfair competition in the form of any unlawful, unfair, or fraudulent business acts or practices.

60. Redbox engages in conduct that violates the UCL by, as further explained in paragraphs 1 through 57 inclusive, competing in the marketplace on unfair terms by engaging in unlawful conduct and misleading its customers into believing that their purchase of the illegally re-packaged and resold Codes grants those customers authorized access to a digital copy of the motion picture.

61. This conduct is “unlawful” because it constitutes tortious interference with contracts and false advertising under Cal. Bus. & Prof. Code § 17500.

62. This conduct is “unfair” because (a) it is contrary to legislatively declared policies, including the policies expressed and embodied in Cal. Bus. & Prof. Code § 17500; and (b) the impact of the conduct on Plaintiffs, when weighed against Redbox’s reasons, motivations, and justifications for such conduct, establish that the conduct is unfair.

63. This conduct is “fraudulent” in that it is likely to deceive customers into believing they have purchased a Code that grants them authorized access to a digital copy of a Copyrighted Work, when in fact customers are only authorized to use a Code if they have purchased the accompanying physical product as part of the Combo Pack.

64. Plaintiffs have lost and will continue to lose sales as a direct result of Redbox’s unlawful, unfair, and fraudulent conduct.

1 65. Plaintiffs are entitled to injunctive relief and restitution pursuant to
2 California Business and Professions Code § 17203.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray for judgment against Redbox for the following
5 relief:

6 1. For preliminary and permanent injunctions enjoining Redbox and all
7 persons acting in concert or participation with it, from reselling Codes; from
8 infringing in any manner, directly or indirectly, any copyrighted work owned or
9 controlled by Plaintiffs or their affiliates (including without limitation any
10 Copyrighted Work); from breaching the terms of Redbox's contracts with any
11 Plaintiff; from interfering with any Plaintiff's contracts with customers; from
12 disseminating false and misleading information regarding Codes; and from
13 unlawfully, unfairly, or fraudulently competing by reselling Codes.

14 2. For Plaintiffs' damages and Redbox's profits in such amount as may
15 be found; alternatively, at Plaintiffs' election, for maximum statutory damages; or
16 for such other amounts as may be proper pursuant to 17 U.S.C. § 504(c).

17 3. For Plaintiffs' damages and restitution to the fullest extent allowed
18 pursuant to the common law and Cal. Bus. & Prof. Code § 17203.

19 4. For an award of punitive damages pursuant to Cal. Civ. Code § 3294.

20 5. For prejudgment interest pursuant to Cal. Civ. Code § 3287.

21 6. For Plaintiffs' attorneys' fees and full costs incurred in this action
22 pursuant to 17 U.S.C. § 505 and Cal. Civ. Code § 1021.5.

23 7. For all such further and additional relief, in law or in equity, to which
24 Plaintiffs may be entitled or which the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all issues triable by jury.

DATED: November 30, 2017

MUNGER, TOLLES & OLSON LLP

By: /s/ Kelly M. Klaus
KELLY M. KLAUS

Attorneys for Plaintiffs

EXHIBIT A

Complaint Exhibit A

| Plaintiff | Title | U.S. Copyright Reg. Number |
|--------------------------|---|---------------------------------------|
| Disney Enterprises, Inc. | Alice Through the Looking Glass | PA 1-991-651 |
| Disney Enterprises, Inc. | Beauty and the Beast (2017) | PA 2-031-209 |
| Disney Enterprises, Inc. | Cars 3 | PA 2-048-714 |
| Disney Enterprises, Inc. | Finding Dory | PA 1-994-819 |
| Disney Enterprises, Inc. | Frozen | PA 1-871-077 |
| Disney Enterprises, Inc. | Inside Out | PA 1-949-250 |
| Disney Enterprises, Inc. | Jungle Book, The (2016) | PA 1-988-129 |
| Disney Enterprises, Inc. | Lone Ranger, The | PA 1-848-181 |
| Disney Enterprises, Inc. | Maleficent | PA 1-899-203 |
| Disney Enterprises, Inc. | Moana | PA 2-012-015 |
| Disney Enterprises, Inc. | Muppets Most Wanted | PA 1-887-658 |
| Disney Enterprises, Inc. | Oz the Great and Powerful | PA 1-830-872 |
| Disney Enterprises, Inc. | Pirates of the Caribbean: Dead Men Tell No Tales | PA 2-045-629 |
| Disney Enterprises, Inc. | Planes | PA 1-856-767 |
| Disney Enterprises, Inc. | Planes: Fire & Rescue | PA 1-907-149 |
| Lucasfilm Ltd. LLC | Star Wars: Episode VII – The Force Awakens | PA 1-975-592 |
| Lucasfilm Ltd. LLC | Rogue One: A Star Wars Story | PA 2-016-306 |
| MVL Film Finance, LLC | Doctor Strange | PA 2-008-618 |
| MVL Film Finance, LLC | Guardians of the Galaxy Vol. 2 | PA 2-033-904 |
| MVL Film Finance, LLC | Iron Man 3 | PA 1-836-301 |