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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

FRANCESCA GREGORINI,
 	
              Plaintiff,
 	
       v.
 	
APPLE, INC, a California corporation; M. NIGHT SHYAMALAN, an individual, BLINDING EDGE PICTURES, INC., a Pennsylvania corporation; UNCLE GEORGE PRODUCTIONS; a Pennsylvania corporation; ESCAPE ARTISTS LLC, a California limited liability company; DOLPHIN BLACK PRODUCTIONS, a California corporation; TONY BASGALLOP, an individual; ASHWIN RAJAN, an individual; JASON BLUMENTHAL, an individual; TODD BLACK, an individual; STEVE TISCH, an individual; and DOES 1-10, inclusive
 	
              Defendants.
	Case No.
	
	COMPLAINT AGAINST APPLE, INC., ET AL, FOR COPYRIGHT INFRINGEMENT; REQUEST FOR PERMANENT INJUNCTION
	
	DEMAND FOR JURY TRIAL

Plaintiff Francesca Gregorini brings this action against Defendants Apple, Inc. ("Apple"); M. Night Shyamalan ("Shyamalan"); Blinding Edge Pictures, Inc. ("Blinding Edge"); Uncle George Productions; Escape Artists LLC; Dolphin Black Productions; Tony Basgallop; Ashwin Rajan; Jason Blumenthal; Todd Black; Steve Tisch; and DOES 1-10, inclusive.

I.   INTRODUCTION

1.   Apple TV+ and M. Night Shyamalan are heavily promoting their original series *Servant*—one of eleven shows launching the ambitious new streaming service billed as a game-changing new product from the world's most valuable company. Apple claims that what distinguishes its foray into television is breathtakingly *original* content: the world's best stories told by the world's best storytellers.

A.   *Servant* is a brazen copy of Plaintiff's 2013 feature film.

2.   There is one big hole in Apple's messaging: *Servant* is a wholesale copy of Plaintiff Francesca Gregorini's 2013 feature film *The Truth About Emanuel*. As demonstrated by the long list of key parallels catalogued in Section III(C) of this Complaint, the misappropriation is not a mere borrowed premise, idea or story. Mr. Shyamalan has gone so far as to appropriate not just the plot of *Emanuel*—but also its use of cinematic language, creating a substantially similar feeling, mood, and theme.

3.   *Emanuel* is a successful 2013 psychological thriller, written directed and produced by Ms. Gregorini as her second feature film. After premiering at the Sundance Film Festival in the prestigious dramatic competition category in 2013, the film was released theatrically in the U.S. by Tribeca Film, followed by release on DVD and Blu-ray. Since 2014, Apple itself has offered *Emanuel* for sale or rental through iTunes (as has Amazon and other platforms).

4.   Starring Kaya Scodelario and Jessica Biel, the film tells the story of a troubled and withholding 18-year old girl, newly hired by a white, sophisticated, privileged yet gracious, mid-30's, first-time mom—to help care for her new baby. After fleeting images of what seems to be a healthy three-month-old infant, the audience discovers that the "baby" is really an ultra-realistic "reborn" doll—shattering the illusion of an uber-competent modern mom. The cause of the mother's delusion, the father later reveals, is the unspeakable grief of recently losing their real three-month-old baby. Rather than recoil, the nanny plays along with the mother's delusion even before knowing its explanation, in part for deep-seated reasons relating to the

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1 absence of her own mother. Soon enough, she too is doting over the doll as if it were

2 real, nurturing a deep emotional connection with the mother but creating danger and

3 ultimately crisis as prying eyes threaten to expose shared secrets. While the baby's

4 apparent rebirth offers an emotional high point, progress comes from confronting

5 reality. Although the film is a tense psychological thriller, it also features strong

6 elements of magical realism, which leaves the audience with a measure of doubt about

7 what's real.

8   5. Shockingly, this plot description of *Emanuel* could just as easily be

9 applied to *Servant*, made six years later. And that's just the beginning of the

10 commonalities between the two works. These similarities include not just parallel plot

11 points, but also strikingly similar—and highly idiosyncratic—characters, scenes,

12 directorial choices, and modes of storytelling. Below, Plaintiff enumerates a long list

13 of striking similarities between the works, and explains why each is unusual and

14 artistically significant. This non-exhaustive list involves everything from shared grand

15 themes and character arcs, to identical granular details. While it's impossible to

16 completely capture the deep parallels between these two works with a bullet list,

17 Plaintiff easily describes more than sufficient similarity to establish copyright

18 infringement. More important, anyone who takes the time to view and compare the

19 works will reach the inescapable conclusion that their overlap is far too striking to

20 result from coincidence, as Defendants quite preposterously claim.

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27 *Nanny and doll, in Emanuel (left) and Servant (right)*

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6.   As in *Emanuel*, a central theme of *Servant* involves the extraordinary and almost irrational reciprocal devotion between mother and nanny. In both works, the mother's adoration of the nanny stems from her grief and denial over losing a child. She delusionally channels her maternal instincts towards a doll—but also more genuinely directs them to the real-life vulnerable surrogate-daughter caring for her "baby." In both works, the nanny's strong feelings for her employer stem from longings for a lost mother, which she finds being fulfilled by a new mother figure in dire need of a child.

7.   As described below, these are extremely rare themes in Hollywood. But what made *Emanuel* even more unique were a number of Ms. Gregorini's artistic choices, driven by her own very personal inspirations for the story, that are surprising because they are incongruous with themes of loss and longing. For example, *Emanuel* plays as a psychological thriller in that shared secrets are always one false move away from being exposed, which threatens to destroy the cherished but tenuous equilibrium the central characters have found in the obviously unsustainable status quo. To reinforce this tension, Ms. Gregorini uses the cinematic vernacular of classic suspense, including camera angles, lighting, music, and pace. Astonishingly, and as more fully explained below, *Servant* appropriates all of these idiosyncratic artistic choices, which define *Emanuel* as a film.

Dark and foreboding tones in Emanuel (left) and Servant (right)

8.   In both works, the proxy mother-daughter bond between mother and nanny co-exists with a jarring unspoken sexual tension—felt throughout and more

overtly displayed in a surprisingly intimate bathroom scene. Again, this was a startling and bold artistic choice by Ms. Gregorini—and one that Defendants appropriated for *Servant*.

Bathroom intimacy culminating in a kiss on the hand Emanuel (left); Servant (right)

9.   In addition to these key thematic commonalities, *Servant* bears a number of striking similarities to *Emanuel* even with regard to its details and imagery. The two nannies look alike—and are similarly difficult and enigmatic. In both works, imagery of water plays a prominent role. We learn more about each nanny when she directs her shy young date to steal a bottle of red wine (to be paired with French bread and cheese). Both mothers are remarkably self-possessed and positive for someone in a psychosis, and have put together magazine-worthy homes and nurseries. Even the dolls look remarkably alike (each having replaced babies who died at three months). In each work, the nanny's troubles are highlighted by a trip to her mother's grave. As explained below, the similarity of scenes and sequence are often uncanny.

The nanny, underwater in Emanuel (left) and Servant (right)

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