

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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RALF HARTMANN,

Plaintiff,

v.

AMAZON.COM, INC. and AMAZON DIGITAL SERVICES LLC

Defendants.
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) C.A. No.
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) COMPLAINT AND
) JURY DEMAND
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Plaintiff, Ralf Hartmann, by and through his attorneys, Lebowitz Law Office LLC, as and for the complaint against defendants Amazon.com Inc., ("Amazon.com") and Amazon Digital Services LLC ("Amazon Digital"), allege as follows:

NATURE OF THE ACTION

1. This is a civil action for damages against Defendants for violations of the United States Copyright Act of 1976, 17 U.S.C. §§ 101, et seq. This action arises out of Defendant's infringement of copyrights in numerous Motion Pictures (as defined below) to which Plaintiff owns or controls copyright and/or exclusive distribution rights.

2. Plaintiff brings this action against Defendants for direct, and contributory infringement of Plaintiff's copyrights in the Motion Pictures, in violation of the Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the "Copyright Act"), the Berne Convention for the Protection of Literary and Artistic Works (the "Berne Convention"), as adopted by the Copyright Act, and in violation of the copyright laws of the foreign countries identified below, where

Defendants also violated Plaintiff's copyrights by streaming, broadcasting, renting, selling and distributing the Motion Pictures, within these countries (the "Foreign Copyright Laws"). Plaintiff seeks damages for Defendants' infringements (and an injunction to prevent further unlawful use).

PARTIES

3. Plaintiff Ralf Hartmann ("Plaintiff" or "RH") is a citizen and resident of Germany.

4. Upon information and belief, defendant Amazon.com, Inc. is a Delaware corporation with its principal place of business in Seattle, Washington. Amazon owns and operates the Amazon.com website, and equivalent international websites in the Foreign Countries described below.

5. Upon information and belief, defendant Amazon Digital Services LLC is a Delaware Limited Liability Company with its principal place of business in Seattle, Washington.

6. Upon information and belief, Amazon Digital owns and operates the Prime Video website and service, and the Prime Video App, described below. Amazon Digital has no independent operation. Instead, it is completely controlled in every manner by defendant Amazon.

7. Amazon and Amazon Digital are collectively referred to herein as "Defendants".

JURISDICTION AND VENUE

8. The jurisdiction of this Court is based upon 28 U.S.C. §§ 1331 and 1338 in that this controversy arises under the Copyright Act and Copyright Revision Act of 1976 (17 U.S.C § 101 et seq.). This

action is a civil action over which this court has original jurisdiction.

9. Upon information and belief, a substantial part of the facts of infringement complained of herein occurs or has occurred in this district, and Defendants are subject to personal jurisdiction in this district because they maintain a headquarters in this district located at 7 West 34th Street, New York, NY.

10. Personal jurisdiction over Defendants is proper in this Court, among other reasons, on the grounds that Defendants, through their interactive web-based subscription service, caused the unlicensed streaming, rental, sale, broadcast and distribution of the Plaintiff's Motion Pictures throughout the State of New York, including within this judicial district.

11. This Court has personal jurisdiction over Defendants pursuant to CPLR § 302 (New York's long-arm statute) due to their continuous and systematic business activities within New York as described below. Defendants have conducted and do conduct business within New York. Defendants, directly or through intermediaries (including distributors, retailers, and others), ship, distribute, offer for sale, sell, and advertise products in the United States, and specifically to New York. Defendants purposefully and voluntarily streamed, rented, sold, broadcast and distributed Plaintiffs' Motion Pictures in New York.

12. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(a).

GENERAL ALLEGATIONS

The Motion Pictures

13. Pursuant to an agreement and short form assignment entered into between Capella Films, Inc. ("Capella Films") and RH dated January 1, 2008, Capella Films assigned, transferred and sold to RH all of Capella Films' interests (the "Interests") in multiple motion pictures, including the following nine (9) motion pictures: (i) *Austin Powers: International Man of Mystery*; (ii) *After the Rain*; (iii) *A Business Affair*; (iv) *Commander Hamilton*; (v) *Drop Dead Gorgeous*; (vi) *Fall*; (vii) *The Last Tattoo*; (viii) *Music From Another Room*; and (ix) *Pete's Meteor* (the "Motion Pictures").

14. The Interests acquired by RH included the copyrights in the following Motion Pictures registered with the United States Copyright Office: *After The Rain*; *A Business Affair*; *Commander Hamilton*; *Fall*; *The Last Tattoo*; *Music From Another Room*; and *Pete's Meteor*. The copyright registration numbers for each of these Motion Pictures are set forth in the document annexed hereto as Exhibit A.

15. Among the bundle of rights afforded to RH under United States copyright law - which rights were acquired from Capella Films - are the exclusive rights to "Reproduce the copyrighted work," "distribute copies...of the copyrighted work to the public," "perform the copyrighted work publicly," and "display the copyright work publicly." 17 U.S.C. § 106. This includes the exclusive right "to transmit or otherwise communicate a performance or display" of the Motion Pictures "to the public by means of any device or process whether the members of the public capable of receiving the performance

or display receive it in the same place or in separate places and at the same time or at different times.” Id. § 101.

16. The Interests acquired by RH from Capella Films also included the copyright in and to the following two Motion Pictures throughout the International Territory (including any renewals and extensions of copyright): *Austin Powers: International Man of Mystery*; and *Drop Dead Gorgeous*. Here, “International Territory” means the universe with the exclusion of the United States and Canada.

17. Defendants own and operate an internet video on demand and digital distribution service called Prime Video or Amazon Prime Video (“Prime Video”) through which they offer films and television shows for rent or purchase, and in addition, a selection of Amazon Studios original content and other films which are made available, to stream on demand - as part of the Prime Video subscription included with any membership (free trial and paid monthly or yearly) to Amazon Prime.

18. Upon information and belief, Prime Video is currently available in over 200 countries and territories with an eligible Prime Video or Amazon Prime membership.

19. Upon information and belief, in the United States, United Kingdom, Germany, and many other territories, access to Prime Video is also available through a video-only membership, which does not require a full subscription to Amazon Prime.

20. Prime Video is available as a web-based service at Amazon.com and equivalent international websites in foreign countries, including, but not limited to United Kingdom (Amazon.co.uk), Germany

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