

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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)	
RALF HARTMANN,)	
)	C.A. No.
Plaintiff,)	
)	
v.)	COMPLAINT AND
)	<u>JURY DEMAND</u>
GOOGLE LLC and YOUTUBE, LLC)	
)	
Defendants.)	
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Plaintiff, Ralf Hartmann, by and through his attorneys, Lebowitz Law Office LLC, as and for the complaint against defendants Google LLC ("Google") and YouTube, LLC ("YouTube"), 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 (the "Foreign Countries"), where Defendant also violated Plaintiff's copyrights by

committing infringing acts, including, without limitation, copying, distributing, renting, lending, selling, issuing, performing or broadcasting the Motion Pictures within these Foreign Countries (the "Foreign Copyright Laws"). Plaintiff seeks damages for Defendant's 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. Defendant YouTube, LLC is a Delaware limited liability company with its principal place of business in San Bruno, California.

5. YouTube, LLC is a wholly owned and controlled subsidiary of Defendant Google LLC ("Google"), a Delaware limited liability company with its principal place of business in Mountain View, California, and a place of business in the State of New York and this District.

6. Defendants operate a website called "YouTube," located at www.youtube.com, one of the most prominent and popular websites on the Internet.

7. Google exercises substantial and continuing control over the continuing acts of YouTube that form the subject matter of the claims against YouTube.

8. Google also operates Google Play or the Google Play Store, which, upon information and belief, is a digital distribution service managed and developed by Google ("Google Play"), and serves as a digital media store, offering music, books, movies, and television

programs. Google's digital distribution service for movies is called Google Play Movies & TV.

JURISDICTION AND VENUE

9. The Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332 and 1338 with respect to RH's federal statutory claims.

10. 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 111 Eighth Avenue, New York, NY.

11. 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.

12. 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.

13. 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

14. 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").

15. 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.

16. 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.

17. 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” was defined to mean the universe with the exclusion of the United States and Canada.

18. Beginning in July 2017, Defendants, without Plaintiff’s authorization, have reproduced, distributed to the public for profit by sale or by rental, and publicly performed Plaintiff’s copyright protected Motion Pictures *After the Rain*, *Commander Hamilton* and *The Last Tattoo* in the United States, including in this District, in violation of Plaintiff’s exclusive rights, including the display of the individual images of the Motion Pictures *After the Rain*, *Commander Hamilton* and *The Last Tattoo*.

19. Specifically, Defendants reproduced, distributed, publically performed and displayed the Motion Pictures *After the Rain*, *Commander Hamilton* and *The Last Tattoo* in the United States through their YouTube and Play Store platforms – both accessible to public endusers via the internet and by downloadable app – and by means of

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