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10 TOURING, INC.

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

13 SISYPHUS TOURING, INC.,

14 Plaintiff,

15 vs.

16 TMZ PRODUCTIONS, INC., a
17 California corporation; TMZ.com, a
18 fictional entity of unknown form; EHM
19 PRODUCTIONS, INC., a California
20 corporation; WARNER BROS.
21 ENTERTAINMENT, INC., a Delaware
22 corporation; and DOES 1-10, inclusive,

23 Defendants.

CASE NO.

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

24 For its Complaint, Plaintiff Sisyphus Touring, Inc. (“Plaintiff”) alleges as
25 follows:

THE NATURE OF THIS ACTION

26 1. Plaintiff owns the copyright in certain video footage (the “Footage”)
27 filmed at the home studio of Jared Leto on or about September 8, 2015 that includes,
28 *inter alia*, footage of Mr. Leto and his engineer listening to music in his home
studio. The Footage has never been publicly released or published by Plaintiff and
is working material that is confidential, private, and was not intended for public
exhibition. On information and belief, an unauthorized or stolen copy of the

1 Footage was obtained through illicit means by a former videographer who had been
2 retained by Plaintiff (the "Videographer"). Without the knowledge or consent of
3 Plaintiff or Mr. Leto, the Videographer delivered the Footage to TMZ for viewing
4 and negotiated for a payment of Two Thousand Dollars (\$2,000.00). TMZ
5 requested that Videographer sign a document confirming he had the legal right to
6 deliver the Footage. Videographer refused to sign such an acknowledgment. Prior
7 to any broadcast of the Footage, Plaintiff had advised Defendants that the Footage
8 was stolen, and that Defendants were not authorized to disseminate, display, or
9 publish the Footage on the website TMZ.com or at all. Despite prior notice from
10 Plaintiff that the Footage was stolen and despite Videographer's refusal to
11 acknowledge he had the rights to deliver the Footage, TMZ rushed to publish the
12 Footage at 1:00 a.m. on December 7, 2015. Fifteen minutes after TMZ published
13 the Footage they were informed by the Videographer of the following: "do not post
14 the footage. I do not own it. I do not have permission." Even after receiving this
15 written notice, TMZ continued to disseminate the Footage and still is disseminating
16 the Footage. Plaintiff sues Defendants herein for damages and injunctive relief
17 arising out of their willful infringement of copyright.

18 **JURISDICTION AND VENUE**

19 2. This action arises under the United States Copyright Act, 17 U.S.C.
20 §§101 *et seq.*, based on acts of copyright infringement committed in the United
21 States. This Court has subject matter question jurisdiction over this matter pursuant
22 to 28 U.S.C. §§1331 and 1338.

23 3. Venue is proper in this District pursuant to 28 U.S.C. §§1391(b), (c)
24 and 1400(a) because Defendants, and each of them, are subject to personal
25 jurisdiction in this District and a substantial part of the events, acts and/or omissions
26 giving rise to the claims herein occurred in this District.

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THE PARTIES

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4. Plaintiff is, and at all times relevant hereto has been, a corporation organized and existing under the laws of the State of California.

5. Plaintiff is informed and believes and based thereon alleges that Defendants TMZ Productions, Inc., and EHM Productions, Inc., are California corporations conducting business in the City of Los Angeles, State of California, which operate and do business as TMZ, and that the gossip website Defendant “TMZ.com” is, and at all times relevant hereto, was, an entity of unknown type and origin that is, and at all times relevant hereto was, doing business in the City of Los Angeles, State of California. Defendants TMZ Productions, Inc., EHM Productions, Inc., and TMZ.com are collectively referred to as “TMZ.”

6. Plaintiff is informed and believes and based thereon alleges that Defendant Warner Bros. Entertainment, Inc. (“Warner”) is, and at all times relevant hereto was, a Delaware corporation with its principal place of business in New York, New York conducting business in the City of Los Angeles, State of California.

7. Plaintiff is presently unaware of the true names and capacities of Defendants sued herein as Does 1 through 10, inclusive, and therefore sue said Defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of such fictitiously named Defendants when the same have been ascertained. Plaintiff is informed and believes and based thereon alleges that each of the fictitiously named Defendants is responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff’s damages were proximately caused by their conduct. Hereinafter, all Defendants including Doe Defendants will sometimes be referred to collectively as “Defendants.” For convenience, each reference to a named Defendant herein shall also refer to the Doe Defendants, and each of them.

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1 8. Plaintiff is informed and believes and based thereon alleges that at all
2 material times Defendants, and each of them, were the agents, employees, partners,
3 joint venturers, co-conspirators, owners, principals, and employers of the remaining
4 Defendants, and each of them, are, and at all times herein mentioned were, acting
5 within the course and scope of that agency, employment, partnership, conspiracy,
6 ownership or joint venture. Plaintiff is further informed and believes and based
7 thereon alleges that the acts and conduct alleged herein were known to, and
8 authorized or ratified by, the officers, directors, and managing agents of Defendant
9 corporations or business entities, and each of them.

10 **FACTS COMMON TO ALL CLAIMS**

11 9. Plaintiff owns the Footage, which was shot at the home studio of Jared
12 Leto and is private, confidential and not meant to be publicly released. Plaintiff
13 filed an application with the United States Copyright Office to register a federal
14 copyright in the Footage prior to the filing of this action.

15 10. On December 7, 2015, TMZ broadcast the copy of the Footage on its
16 website at “<http://www.tMZ.com/2015/12/07>” under the headline that partially reads
17 “Jared Leto SCREW . . . !! But I’d Love One of Her Hits.”

18 11. On information and belief, TMZ obtained its copy of the Footage from
19 unknown person(s) who stole or otherwise obtained an unauthorized copy of the
20 Footage from Plaintiff. Before TMZ published the Footage on its website, Plaintiff
21 had advised Defendants that Plaintiff did not authorize Defendants to use, exploit, or
22 publish the Footage on TMZ.com, or at all, that any copy of the Footage delivered to
23 TMZ must have been stolen from Plaintiff or Mr. Leto’s home and was not
24 authorized for distribution or exploitation, and that Defendants would infringe
25 Plaintiff’s copyright in the Footage by distributing same on TMZ.com.

26 12. The dissemination of the Footage on TMZ is and was a willful
27 infringement of Plaintiff’s copyright and has caused Plaintiff significant harm.

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FIRST CLAIM FOR RELIEF

For Copyright Infringement [17 U.S.C. §101 *et seq.*]

(Against All Defendants)

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4 13. Plaintiff repeats, realleges, adopts and incorporates each and every
5 allegation contained in Paragraphs 1 through 12, inclusive, as though fully set forth
6 herein.

7 14. Plaintiff is the sole owner of all right, title and interest in the copyright
8 to the Footage.

9 15. Plaintiff is informed and believes and thereon alleges that Defendants,
10 and each of them, have commercially used, exploited, attempted to license or sell
11 and disseminated the copyrighted Footage, including on the website TMZ.com.

12 16. Defendants' commercial use, exploitation, attempts to license or sell
13 and dissemination of the copyrighted materials is unauthorized. Defendants'
14 unauthorized commercial use, exploitation, licensing, attempts to license or sell and
15 dissemination of the Footage constitutes an infringement of Plaintiff's copyright.

16 17. As a direct and proximate result of Defendants' infringing activities,
17 Plaintiff has sustained and will continue to sustain substantial injury, including
18 damage to its and Mr. Leto's business, reputation and goodwill in an amount not yet
19 known but to be determined according to proof at trial. As a further direct and
20 proximate result of the infringement by Defendants, they have unlawfully and
21 wrongfully derived income and profits from their infringing acts.

22 18. Plaintiff is informed and believes and on that basis alleges that
23 Defendants had prior knowledge of Plaintiff's rights and, therefore, Defendants'
24 infringing activities are willful and wanton.

25 19. As a result of their actions, Defendants are liable to Plaintiff for willful
26 copyright infringement under 17 U.S.C. §501. Plaintiff suffered, and will continue
27 to suffer, substantial damage to its professional reputation and goodwill, as well as
28 losses in an amount not yet ascertained, but which will be determined according to

1 proof. In addition to Plaintiff's actual damages, Plaintiff is entitled to receive the
2 profits made by Defendants from their wrongful acts, pursuant to 17 U.S.C. §504.
3 In the alternative, Plaintiff is entitled to statutory damages pursuant to 17 U.S.C.
4 §504(c). These statutory damages should be enhanced by 17 U.S.C. §504(c)(2)
5 because of Defendants' willful copyright infringement. Plaintiff is also entitled to
6 preliminary and permanent injunctive relief barring Defendants and all those acting
7 in concert with them from using, exploiting, or disseminating the Footage.

8 **PRAYER**

9 WHEREFORE, Plaintiff respectfully requests judgment against Defendants,
10 and each of them, jointly and severally, as follows:

11 1. That Defendants have infringed Plaintiff's copyright in the Footage
12 under 17 U.S.C. Section 501 *et seq.*, and that the infringement by Defendants, and
13 each of them, was willful;

14 2. For the damages suffered by Plaintiff as a result of the infringement
15 complained of herein, as well as disgorgement of any profits of Defendants
16 attributable to their infringement, including the value of all gains, profits,
17 advantages, benefits, and consideration derived by Defendants from and as a result
18 of their infringement of Plaintiff's copyright in the Footage;

19 3. In the alternative, if Plaintiff so elects, in lieu of recovery of its actual
20 damages and Defendants' profits, for a 17 U.S.C. Section 504(c) award of statutory
21 damages against Defendants, or any of them, for all copyright infringements (willful
22 or otherwise) involved in this action as to each work in question;

23 4. That Defendants, and each of them, and each of their respective
24 officers, agents, and employees, and all persons acting in concert with them, be
25 enjoined preliminarily, during the pendency of this action, and permanently
26 thereafter, from infringing the copyright in Footage in any manner and from
27 distributing, selling, advertising, broadcasting, publishing or communicating, in the
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1 United States or elsewhere, any materials that contain or refer to all or any part of
2 the Footage;

3 5. That the Court enters an order pursuant to 15 U.S.C. Sections 503 and
4 509 mandating the impounding of all infringing copies of the Footage and any other
5 materials prepared by Defendants containing any copies of the Footage or any
6 portions thereof;

7 6. For reasonable attorney fees and costs of suit incurred herein; and

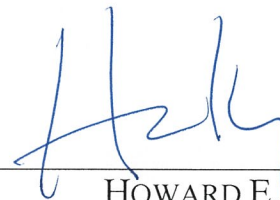
8 7. For such other and further relief in favor of Plaintiff as the Court deems
9 just and proper.

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DATED: December 8, 2015

KING, HOLMES, PATERNO &
SORIANO, LLP

By: _____



HOWARD E. KING
SETH MILLER

Attorneys for Plaintiff SISYPHUS TOURING,
INC.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

DATED: December 8, 2015

KING, HOLMES, PATERNO &
SORIANO, LLP

By: _____



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SETH MILLER

Attorneys for Plaintiff SISYPHUS TOURING,
INC.