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8  
9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

11 THE CARSEY-WERNER COMPANY,  
12 LLC, a California limited liability  
company,

13 Plaintiff,

14 v.

15 BRITISH BROADCASTING  
16 CORPORATION, a foreign  
corporation; SUGAR FILMS  
17 LIMITED, a foreign private limited  
company, and DOES 1 through 10,  
18 inclusive,

19 Defendants.

CASE No. 2:17-cv-8041

**COMPLAINT FOR COPYRIGHT  
INFRINGEMENT; DEMAND FOR  
JURY TRIAL**

20  
21 Plaintiff The Carsey-Werner Company, LLC (“Carsey-Werner”), complains  
22 of defendants British Broadcasting Corporation (“BBC”), Sugar Films Limited  
23 (“Sugar Films”) and DOES 1-10 (collectively, “Defendants”) and alleges as follows:

24 **PARTIES, JURISDICTION AND VENUE**

25 1. This court has subject matter jurisdiction over this action pursuant to 28  
26 U.S.C. §§1331 and 1338(a), because it arises under the United States Copyright Act.

27 2. This court also has subject matter jurisdiction over this action pursuant  
28 to 28 U.S.C. § 1332, because this is a civil action between citizens of different states

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1 in which the matter in controversy exceeds, exclusive of costs and interest, \$75,000.

2 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2)  
3 because a substantial part of the events or omissions giving rise to the claim  
4 occurred in this District; or, in the alternative, pursuant to 28 U.S.C. § 1391(b)(3)  
5 there is no district in which this action may otherwise be brought, and Defendants  
6 are subject to the court's personal jurisdiction with respect to such action.

7 4. This court has personal jurisdiction over Defendants because the  
8 following facts show purposeful availment by Defendants toward California through  
9 their contacts with the jurisdiction; because they committed wrongful intentional  
10 acts expressly aimed at Carsey-Werner in California; and because they knew or  
11 should have known that Carsey-Werner was likely to suffer harm in California.

12 5. Carsey-Werner is, and at all relevant times was, a limited liability  
13 company organized and existing under the laws of the State of California, with its  
14 principal place of business in Encino, County of Los Angeles, California. It is one of  
15 the most famous television companies in the world, having produced a series of  
16 huge hits between 1983 and 2005, including *Roseanne*, *3<sup>rd</sup> Rock From The Sun*,  
17 *That '70s Show*, *Grace Under Fire*, and *The Cosby Show* ("*The Cosby Show*"),  
18 starring Bill Cosby, and owns the registered copyrights in each of those programs.

19 6. BBC is a corporation organized and existing under the laws of the  
20 United Kingdom, with its principal place of business at Broadcasting House,  
21 Portland Place, London W1A 1AA, United Kingdom. It broadcasts its programs on  
22 multiple television channels in the United Kingdom, and streams its programs online  
23 via its "iPlayer" website at <https://www.bbc.co.uk/iplayer>.

24 7. BBC also owns, produces, broadcasts and distributes programs around  
25 the world, including the United States. For example, together with affiliated entities,  
26 it owns and produces the popular television program *Dancing with the Stars*, which  
27 has been continuously aired in the United States since 2005. BBC sought to enforce  
28 its rights relating to this program in 2014 when it filed a lawsuit in this District,

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1 entitled *British Broadcasting Corporation, a foreign corporation, et al., v Scott*  
2 *Sander & Associates, Inc., a California corporation, et al.*, Case No. 2:14-cv-08047,  
3 seeking damages for trademark infringement, breach of contract, and various  
4 business torts based on “lost sales and business opportunities.”

5 8. Sugar Films is a private limited company organized and existing under  
6 the laws of the United Kingdom, with its principal place of business at 56 Wood  
7 Lane, London, W12 7SB, United Kingdom. It produces television programs. Its five  
8 founders are all experienced television executives.

9 9. In 2017, Sugar Films produced a program for commercial purposes  
10 entitled *Bill Cosby – Fall of an American Icon* (“*Fall*”), which included 8  
11 audiovisual clips (one of which appears 3 times in *Fall*) (“Clips”) and 2 music cues  
12 (“Cues”) from *The Cosby Show*. Carsey-Werner’s permission for such use of the  
13 Clips and the Cues (collectively, the “Infringed Works”) was neither sought nor  
14 given. The total cumulative running time of the Infringed Works is 234 seconds,  
15 which represents 6.5% of the total running time of *Fall*.<sup>1</sup>

16 10. *Fall* contains interviews with 11 individuals and several location shots  
17 of the Sunset Strip in the City of West Hollywood and other locations within the  
18 County of Los Angeles. Carsey-Werner alleges in information and belief that Sugar  
19 Films travelled to Los Angeles and shot all or many of the interviews<sup>2</sup> and locations  
20 that appeared in *Fall* within the County of Los Angeles.

21 11. BBC first publicly broadcast *Fall* on its BBC2 channel on June 5, 2017.  
22 It was broadcast again on BBC on June 7, 2017. And thereafter, it made *Fall*

23 \_\_\_\_\_  
24 <sup>1</sup> Carsey-Werner does not have a copy of *Fall* with a professional time code.  
25 Therefore, all statements regarding timing and percentages are approximate.

26 <sup>2</sup> Carsey-Werner alleges in information and belief that at least 3 of the interviewees  
27 (Gloria Allred, Lili Bernard, and Jennifer Lee Pryor) are residents of Los Angeles  
28 County.

1 available for thirty days for public viewing on its iPlayer website. During that time,  
2 it could be viewed on the iPlayer website in the United States by any person using  
3 “Virtual Private Network” software, and at various times since June 5, 2017, *Fall*  
4 has been available for viewing in the United States both on YouTube and on other  
5 video streaming websites such as [http://fmovies.org/watch/Ovk95JGQ-bill-cosby-](http://fmovies.org/watch/Ovk95JGQ-bill-cosby-fall-of-an-american-icon.html)  
6 [fall-of-an-american-icon.html](http://fmovies.org/watch/Ovk95JGQ-bill-cosby-fall-of-an-american-icon.html).

7 12. Defendants willfully, deliberately and knowingly infringed copyrights  
8 that they knew to be the property of Carsey-Werner, as evidenced by these facts:

- 9 (a) Each of the Clips was shown in *Fall* over a caption reading “The Cosby  
10 Show - Carsey-Werner Company/Bill Cosby”;
- 11 (b) Carsey-Werner is informed and believes and thereon alleges that  
12 Defendants knew that Carsey-Werner is based in Los Angeles County,
- 13 (c) Carsey-Werner’s address in Encino is easily discoverable on the internet;
- 14 (d) On June 5, 2017, the same day that *Fall* was first broadcast, Carsey-  
15 Werner sent an electronic notice to BBC, and on June 6, 2017, it sent an  
16 email to Sugar Films. It stated in both communications that *Fall* contains  
17 materials from *The Cosby Show*, which was produced and is owned by  
18 Carsey-Werner; that these materials were not licensed by Carsey-Werner  
19 and no permission was ever sought for their use in *Fall*; and that their use  
20 therefore constitutes copyright infringement. These communications  
21 demanded that *Fall* should not be rebroadcast, and that the infringing  
22 materials must be removed immediately from the iPlayer website;
- 23 (e) Despite Defendants being on actual notice that *Fall* contained materials  
24 that infringed Carsey-Werner’s copyrights, it was broadcast again on BBC  
25 on June 7, 2017;
- 26 (f) On June 12, 2017, Defendants responded separately to the  
27 communications referenced in paragraph 12(d) above, denying liability;
- 28 (g) On June 20, 2017, Carsey-Werner sent Sugar Films a letter asserting

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1 infringement of its copyrights and demanding that Sugar Films pay a  
2 license fee for the Infringed Works, but Sugar Films denied liability and  
3 refused to pay such a fee; and

4 (h) Despite Defendants being on notice that *Fall* contained materials which  
5 infringed Carsey-Werner’s copyrights, *Fall* remained available for public  
6 viewing on the iPlayer website until approximately July 4, 2017.

7 13. These facts establish that Defendants’ intentional acts were expressly  
8 aimed at California and caused harm that Defendants knew was likely to be suffered  
9 in California.

10 **THE FACTS**

11 14. Between August 9, 1985 and June 17, 1992, The Carsey-Werner  
12 Company, a general partnership (“CWC GP”), registered the copyright to two  
13 hundred and one episodes of an original television series entitled *The Cosby Show*.  
14 By an Agreement of Merger made as of November 15, 1995, CWC GP was merged  
15 with and into Carsey-Werner, so that the separate existence of CWC GP ceased and  
16 Carsey-Werner succeeded to all the rights and property of CWC GP. The Certificate  
17 of Merger was recorded in the Copyright Office on May 30, 1996. Since 1985,  
18 Carsey-Werner and CEC GP have been, and Carsey-Werner still is, the sole  
19 proprietor of all rights, title, and interest in and to the copyright in *The Cosby Show*.

20 15. *The Cosby Show* is a creative work that contains a large amount of  
21 wholly original material and is copyrightable subject matter under the laws of the  
22 United States.

23 16. Between 1985 and the present, Carsey-Werner and its predecessor  
24 complied in all respects with the Copyright Act of October 19, 1976, Title I § 101,  
25 90 Stat. 2541; 17 U.S.C. §§ 401-412, and all other laws governing copyright, and  
26 secured the exclusive rights and privileges in and to the copyright of *The Cosby*  
27 *Show*, and holds a certificate of registration from the Register of Copyrights for each  
28 episode of the series, identified with the following registration numbers: PA 265-

1 861, 2294-411, 297-567.

2 17. Since 1985, *The Cosby Show* has been broadcast on television and  
3 distributed in other media by Carsey-Werner, and all copies of it made by Carsey-  
4 Werner, or under its authority or license, have been broadcast on television and  
5 other media in strict conformity with the provisions of the 1976 Act and all other  
6 laws governing copyright.

7 18. Carsey-Werner no longer produces new shows, and is now almost  
8 exclusively a television distribution company which licenses programs from its  
9 catalogue, and clips from those programs. These programs and clips are its stock-in-  
10 trade, and Carsey-Werner makes the process of requesting a license quick and user-  
11 friendly. Clip license request forms can be downloaded from its website at  
12 <http://www.carseywerner.com/contact.php> and completed in a few minutes.

13 19. *Fall* is a one-hour documentary about Mr. Cosby's alleged history of  
14 sexual assaults, and was first broadcast on June 5, 2017, the same day that his  
15 prosecution for one such assault began in Pennsylvania. Public statements about  
16 *Fall*, no doubt released by Defendants to generate interest in the program, appeared  
17 as early as February 2017, when *Broadcast*, the principal trade publication of the  
18 UK television industry, reported: "The demise of Hollywood star Bill Cosby will be  
19 examined in a 60-minute doc for BBC2, *Cosby: Fall of an American Icon*. Sugar  
20 Films will chart *The Cosby Show*'s star journey from powerful Hollywood icon to  
21 his criminal trial for sexual assault which will take place on 5 June this year."

22 20. Defendants infringed Carsey-Werner's copyright by publishing and  
23 placing 8 audiovisual clips (one of which is repeated 3 times) and 2 music cues from  
24 *The Cosby Show* and using them for commercial purposes in *Fall*, which has been  
25 broadcast on British television on at least 2 separate occasions and has been  
26 streamed on the iPlayer website, and on YouTube and other websites.

27 21. The Infringed Works, which had the proper copyright notice affixed,  
28 consist of the following:



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	Description of Music Cue	Episode Number	© Registration Number	Duration (in seconds)	Documentary Time Code
1	2 <sup>nd</sup> Season opening theme song “Rasta Farsan” (15 seconds appeared over CW clip)	All episodes of Season 2	321-826, 321-827, 321-935, 321-936, 321-937, 321-938, 321-939, 321-940, 321-941, 321-942, 321-943, 321-944, 321-945, 321-302, 321-925, 321-926, 321-927, 321-928, 321-929, 321-930, 321-768, 321-931, 321-932, 321-933, 321-934	54	11:23–12:17
2	Kitchen Scene “Bill’s Song” (appeared over CW clip)	101	265-861	12	12:31-12:43

22. The total running time of the Clips is 195 seconds. The total running time of the Cues is 66 seconds, but for 27 of those 66 seconds, the music is heard while Clips appear on the screen. Thus, the music is heard over other images for 39 seconds. Therefore, the Infringed Works were either seen or heard (or both) in *Fall* for a total of 234 seconds. Since the running length of *Fall* is 59 minutes 30 seconds (3570 seconds), the total cumulative running time of the Infringed Works as percentage of the running time of *Fall* is 6.5%.

23. The Cues consisted of music shared by Turtlehead, Rendrag UTS and Werner-Carsey Music (BMI) and are administered by Carsey-Werner.

24. Defendants had several months in which to clear any material they wished to use in *Fall* before it was broadcast, and they clearly knew that the Infringed Works belonged to Carsey-Werner, as evidenced by the captions to that effect which appeared over the Clips in *Fall*. They have therefore sought to profit directly from the use of the copyrighted material without having to pay a license fee



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1 to Carsey-Werner by using the inherent entertainment value of *The Cosby Show* to  
2 entertain viewers. If they had wanted to draw *The Cosby Show* to viewers' attention  
3 simply in order create a reference point, Defendants could have done so without  
4 using copyrighted material. Instead they deliberately used the Clips on 10 separate  
5 occasions, no doubt because they knew that showing such a large number of clips  
6 from this famous show would appeal to viewers. The Cues further seek to capitalize  
7 on *The Cosby Show's* popularity.

8 25. Defendants' acts were performed without the permission, license, or  
9 consent of Carsey-Werner, which has notified Defendants that they have infringed  
10 Carsey-Werner's copyrights. However, Defendants continue to assert that they did  
11 not infringe the copyrights, and to refuse to pay Carsey-Werner a license fee.

12 26. Defendants' willful acts of direct, vicarious, and contributory copyright  
13 infringement justify the award of the maximum measure of statutory damages  
14 against it for each infringement of *The Cosby Show* in an amount to be determined,  
15 together with costs and attorneys' fees. Alternatively, Carsey-Werner is entitled to  
16 its actual damages incurred as a result of Defendants' infringement in an amount to  
17 be determined in excess of Seventy-Five Thousand Dollars (\$75,000), and any  
18 additional profits of Defendants attributable to the infringement, together with costs  
19 and attorneys' fees.

20 **CLAIM FOR RELIEF**

21 (Direct Copyright Infringement against All Defendants)

22 27. Carsey-Werner repeats and realleges all the allegations contained in  
23 paragraphs 1 through 27, inclusive, as though set forth herein in full.

24 28. Carsey-Werner owns valid copyrights in the Infringed Works, which  
25 are identified in the table in Paragraph 21 above. Attached hereto as Exhibits 1, 2, 3  
26 and 4 are four Copyright Registration Certificates: PA 265-861 registered August 9,  
27 1985 (Episode 101), PA 321-935 registered January 16, 1987 (Episode 203), PA  
28 321-929 registered February 11, 1987 (Episode 219), and PA 559-142 registered

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1 March 19, 1992 (Episode 816). These copyrights, and the other copyrights described  
2 in said table, were all registered prior to the first acts of infringement alleged herein.

3 29. *Fall* is an unauthorized derivative work of the Infringed Works, and  
4 Defendants’ commercial exploitation of it infringes upon Carsey-Werner’s  
5 copyrights.

6 30. Defendants have actively promoted, advertised, and facilitated the  
7 commercial exploitation of *Fall*.

8 31. On information and belief, Defendants have profited substantially from  
9 the broadcasting, licensing and commercial exploitation, including but not limited to  
10 streaming, of *Fall*.

11 32. The aforementioned acts of Defendants constitute volitional  
12 infringement of Carsey-Werner’s copyright in the Infringed Works by violating  
13 Carsey-Werner's exclusive right of reproduction pursuant to 17 U.S.C. §106(1), its  
14 exclusive right to create derivative works pursuant to 17 U.S.C. §106(2), its  
15 exclusive right of distribution pursuant to 17 U.S.C. §106(3), and its exclusive right  
16 of public performance pursuant to 17 U.S.C. §106(4).

17 33. As a direct result of Defendants’ infringement, Carsey-Werner has  
18 suffered damages, and will continue to suffer damages, in an amount that has yet to  
19 be determined.

20 34. As a direct result of their infringement, Defendants have received  
21 profits, advantages, and benefits in amounts that have yet to be determined.

22

23 WHEREFORE, Carsey-Werner demands:

24 1. That Carsey-Werner be awarded (a) statutory damages for each  
25 infringement of the Infringed Works in an amount to be determined; or (b) the actual  
26 damages suffered by Carsey-Werner as a result of Defendants’ infringement of  
27 Carsey-Werner's copyright on the Infringed Works in an amount in excess of  
28 Seventy-Five Thousand Dollars (\$75,000), and the additional profits of Defendants

1 attributable to such infringements;

2 2. That Defendants be required to account for all gains, profits, and  
3 advantages derived by them by their infringement of Carsey-Werner's copyrights on  
4 the Infringed Works; and

5 3. That Carsey-Werner be awarded its reasonable costs and attorneys'  
6 fees, and such other and further relief as the Court deems just and proper.

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8 DATED: November 3, 2017

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By: \_\_\_\_\_

Alexander Rufus-Isaacs  
Attorneys for Plaintiff THE CARSEY-  
WERNER COMPANY, LLC

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**DEMAND FOR JURY TRIAL**

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Plaintiff The Carsey-Werner Company LLC hereby demands trial by jury on all issues triable by a jury.

DATED: November 3, 2017

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By: \_\_\_\_\_

Alexander Rufus-Isaacs  
Attorneys for Plaintiff THE CARSEY-  
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