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10 Attorneys for Plaintiffs

11
12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

15 UNIVERSAL CITY STUDIOS
16 PRODUCTIONS LLLP; UNIVERSAL
CITY STUDIOS LLC; UNIVERSAL
17 TELEVISION LLC; UNIVERSAL
CONTENT PRODUCTIONS LLC;
18 DREAMWORKS ANIMATION LLC;
DISNEY ENTERPRISES, INC.;
PARAMOUNT PICTURES
19 CORPORATION; AMAZON CONTENT
SERVICES LLC; APPLE VIDEO
20 PROGRAMMING LLC; WARNER
BROS. ENTERTAINMENT INC.;
21 NETFLIX US, LLC; COLUMBIA
PICTURES INDUSTRIES, INC.; and
22 SCREEN GEMS, INC.,

23 Plaintiffs,

24 vs.

25 DWAYNE ANTHONY JOHNSON d/b/a
26 ALLACCESSTV and QUALITY
RESTREAMS; and DOES 1-20,

27 Defendants.
28

Case No. **2:21-cv-09361-AB (MRWx)**

JOINT RULE 26(f) REPORT

Date: June 3, 2022
Time: 10:00 a.m.
Location: 7B

Action Filed: December 2, 2021

1 By and through their attorneys of record, who are set forth below, the Parties
2 have prepared and hereby submit this jointly signed Scheduling Report following
3 the conference of counsel required by Federal Rule of Civil Procedures 16(b) and
4 26(f) and Central District Local Rule 26-1 and in advance of the June 3, 2022
5 Scheduling Conference.

6 **A. STATEMENT OF THE CASE**

7 This lawsuit arises out of the alleged infringement of Plaintiffs' copyrights in
8 connection with the unauthorized online streaming services, AllAccessTV
9 ("AATV") and Quality Restreams. Plaintiffs allege that Defendant Dwayne
10 Anthony Johnson d/b/a ALLACCESSTV and Quality Restreams ("Defendant
11 Johnson") (and other individuals and entities, who, along with Dwayne Anthony
12 Johnson, own or operate AATV and Quality Restreams) owns and operates AATV,
13 an infringing Internet Protocol television ("IPTV") and video-on-demand ("VOD")
14 service that sells—through an expanding network of resellers—unauthorized access
15 to copyrighted movies and television programs via live and title-curated television
16 channels and VOD offerings and Quality Restreams, which provides copyrighted
17 content to numerous prominent illicit IPTV services, including AATV. Plaintiffs
18 also allege the television channels and VOD features offered by Defendant Johnson
19 through these enterprises exploit the rights—without authorization—to many of
20 Plaintiffs' most popular movies and television programs.

21 Defendant Johnson disputes Plaintiffs' allegations.

22 **B. SUBJECT MATTER JURISDICTION**

23 This Court has federal question jurisdiction under 28 U.S.C. §§ 1331,
24 1338(a), and 17 U.S.C. § 501(b).

25 **C. LEGAL ISSUES**

26 The legal issues in this case involve: (i) whether Defendants are liable for the
27 unauthorized transmission and performances of Plaintiffs' Copyrighted Works to
28 members of the public on a mass scale, in violation of Plaintiffs' exclusive rights to

1 publicly perform the Copyrighted Works, 17 U.S.C. § 106(4); (ii) whether
2 Defendants are liable for infringing upon Plaintiffs' exclusive reproduction rights
3 through the unauthorized copying of the Copyrighted Works for Defendants' 24/7
4 channels and VOD offerings, *id.* § 106(1); and (iii) whether Defendants are
5 secondarily liable for the infringement of Plaintiffs' exclusive public performance
6 and reproduction rights in the unauthorized copying of the Plaintiffs' Copyrighted
7 Works, including by creating and growing a network of resellers who promote and
8 sell the infringing services.

9 **D. PARTIES, EVIDENCE, etc.**

10 The Parties are Plaintiffs Universal City Studios Productions LLLP,
11 Universal City Studios LLC, Universal Television LLC, Universal Content
12 Productions LLC, DreamWorks Animation LLC, Disney Enterprises, Inc.,
13 Paramount Pictures Corporation, Amazon Content Services LLC, Apple Video
14 Programming LLC, Warner Bros. Entertainment Inc., Netflix US, LLC, Columbia
15 Pictures Industries, Inc., and Screen Gems, Inc. (collectively, "Plaintiffs") and
16 Defendant Dwayne Anthony Johnson d/b/a ALLACCESSTV and Quality
17 Restreams ("Defendant Johnson"), and the individuals or entities, who, along with
18 Dwayne Anthony Johnson, own or operate the allegedly infringing services of
19 AATV and Quality Restreams.

20 The Court's Scheduling Order asks the Parties to identify all subsidiaries,
21 parents, and affiliates:

- 22 • Plaintiff Universal City Studios Productions LLLP is a wholly owned
23 indirect subsidiary of Comcast Corporation, a publicly traded
24 company. No other publicly held corporation owns 10% or more of
25 the equity of Universal City Studios Productions LLLP.
- 26 • Plaintiff Universal City Studios LLC is a wholly owned indirect
27 subsidiary of Comcast Corporation, a publicly traded company. No
28 other publicly held corporation owns 10% or more of the equity of

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Universal City Studios LLC.

- Plaintiff Universal Television LLC is a wholly owned indirect subsidiary of Comcast Corporation, a publicly traded company. No other publicly held corporation owns 10% or more of the equity of Universal Television LLC.
- Plaintiff Universal Content Productions LLC is a wholly owned indirect subsidiary of Comcast Corporation, a publicly traded company. No other publicly held corporation owns 10% or more of the equity of Universal Content Productions LLC.
- Plaintiff DreamWorks Animation LLC is a wholly owned indirect subsidiary of Comcast Corporation, a publicly traded company. No other publicly held corporation owns 10% or more of the equity of DreamWorks Animation LLC.
- Plaintiff Disney Enterprises, Inc. is a wholly owned subsidiary of The Walt Disney Company, a publicly traded company.
- Plaintiff Paramount Pictures Corporation is a wholly owned subsidiary of Paramount Global. Paramount Global is a publicly traded company. National Amusements, Inc., a privately held company, beneficially owns the majority of the Class A voting stock of Paramount Global. Paramount Global is not aware of any publicly held corporation owning 10% or more of its total common stock, i.e., Class A and Class B on a combined basis.
- Plaintiff Amazon Content Services LLC is a wholly owned indirect subsidiary of Amazon.com Inc., a publicly traded company.
- Plaintiff Apple Video Programming LLC is a wholly owned subsidiary of Apple Inc., a publicly traded company.
- Plaintiff Warner Bros. Entertainment Inc. is a wholly owned indirect subsidiary of AT&T Inc., a publicly traded company.

- 1 • Plaintiff Netflix US, LLC is a wholly owned subsidiary of Netflix Inc.,
2 a publicly traded company.
- 3 • Plaintiff Columbia Pictures Industries, Inc. is a wholly owned indirect
4 subsidiary of Sony Group Corporation, a publicly traded company.
- 5 • Plaintiff Screen Gems, Inc. is a wholly owned indirect subsidiary of
6 Sony Group Corporation, a publicly traded company.
- 7 • Defendant Dwayne Johnson d/b/a AllAccessTV and Quality
8 Restreams, is an individual.
- 9 • Defendants Does 1-20.

10 **E. DAMAGES**

11 Plaintiffs seek damages under the Copyright Act. Pursuant to 17 U.S.C. §
12 504(a), Plaintiffs have the right to elect, at any time before final judgment is
13 rendered, to recover either their actual damages or statutory damages. Plaintiffs
14 have not yet made a damages election.

15 Plaintiffs also seek attorneys’ fees and full costs incurred in this action
16 pursuant to 17 U.S.C. § 505, and prejudgment interest according to law.

17 Defendant Johnson has not yet asserted a claim for monetary relief.

18 **F. INSURANCE**

19 Defendant Johnson has no applicable insurance coverage.

20 **G. MOTIONS**

21 Plaintiffs filed a motion for preliminary injunction, which was resolved
22 pursuant to a stipulation of the Parties for entry of a stipulated preliminary
23 injunction, which was entered by the Court on February 17, 2022. Subject to
24 further discovery, Plaintiffs may seek leave to add additional defendants. Plaintiffs
25 reserve the right to seek further amendments to the Complaint prior to the deadline
26 set forth in Exhibit A.

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1 Defendant Johnson reserves the right to amend his pleadings including but
2 not limited to adding claims and/or defenses prior to the deadline set forth in
3 Exhibit A.

4 **H. DISPOSITIVE MOTIONS**

5 **1. Plaintiffs' Contentions**

6 Plaintiffs anticipate moving for summary judgment on the issue of
7 Defendants' liability.

8 **2. Defendant Johnson's Contentions**

9 Based on information currently available, Defendant Johnson does not
10 anticipate filing summary judgment motion(s) but reserves the right to file
11 dispositive motions as additional information becomes available.

12 **I. MANUAL FOR COMPLEX LITIGATION**

13 This Parties do not believe that this case would benefit from reference to the
14 procedures set forth in the Manual for Complex Litigation.

15 **J. STATUS OF DISCOVERY**

16 The Parties have had informal discussions regarding the exchange of
17 information but have not engaged in any formal discovery to date.

18 **K. DISCOVERY PLAN**

19 **1. Initial Disclosures (F.R.C.P. 26(f)(3)(A))**

20 The Parties propose to exchange initial disclosures on or before July 5, 2022.
21 The Parties do not feel that any other changes in the disclosures under Fed. R. Civ.
22 P. 26(a) should be made.

23 **2. Subjects On Which Discovery May Be Needed (F.R.C.P. 26(f)(3)(B))**

24 The Parties anticipate using all discovery methods allowed under the Federal
25 Rules, including depositions, requests for documents, interrogatories and requests
26 for admissions, and potentially entering into an appropriate stipulated protective
27 order.
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1 **Written Discovery:**

2 **Plaintiffs:**

3 Plaintiffs anticipate propounding an initial round of written discovery by July
4 5, 2022. Plaintiffs anticipate seeking information regarding, *inter alia*, Defendants’
5 liability and the willfulness of their conduct for purposes of the statutory damages
6 available under 17 U.S.C. § 504(c). Plaintiffs also anticipate seeking third-party
7 discovery from individuals or entities, who, along with Dwayne Anthony Johnson,
8 allegedly own or operate the infringing services of AATV and Quality Restreams,
9 and any business partners of Defendant Johnson.

10 **Defendant Johnson:**

11 Defendant anticipates serving discovery on Plaintiffs relating to ownership of
12 the Copyrighted Works, their claims for infringement in this case and any
13 investigation of same, the involvement of the Motion Picture Association in this
14 case and in any investigation, documents relating to other cases brought by
15 Plaintiffs or affiliated parties/entities with claims of copyright infringement as to
16 any/all of the Copyrighted Works including but not limited to discovery of
17 monetary judgments, settlement agreements, and other documents relating to
18 payments received as a result of those cases, any agreements between Plaintiffs and
19 the Motion Picture Association, documents relating to Plaintiffs’ and/or the Motion
20 Pictures Association’s relationship and involvement with <https://torrentfreak.com>,
21 and Plaintiffs’ alleged damages and attorneys’ fees.

22 **Depositions:**

23 **Plaintiffs:**

24 Plaintiffs anticipate taking the deposition of Defendant Johnson and any other
25 persons responsible for Defendants’ alleged transmission, performance and
26 reproduction of the Copyrighted Works at issue.

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1 Defendant Johnson:

2 Defendant Johnson may need to depose owners, executives, employees,
3 representatives, agents, of and/or witnesses relating to each Plaintiff. Defendant
4 Johnson may need to depose other witnesses as they are discovered.

5 **3. Phased Discovery (F.R.C.P. 26(f)(3)(B))**

6 At this time, the Parties do not believe that discovery should be conducted in
7 phases or be limited to or focused on particular issues.

8 **4. Electronically Stored Information (F.R.C.P. 26(f)(3)(C))**

9 The Parties do not believe there are any issues about disclosure, discovery, or
10 preservation of discoverable information at this time but reserve all rights relating to
11 same. The Parties agree to produce electronically stored information in .tif or
12 native format if practical or, in the alternative, in .pdf or other format following a
13 meet and confer between counsel regarding the form of production.

14 **5. Changes In Limitations On Discovery (F.R.C.P. 26(f)(3)(E))**

15 Plaintiffs:

16 Plaintiffs do not believe that any changes should be made in the limitations
17 on discovery imposed under the Federal Rules of Civil Procedure or the Court's
18 Local Rules, nor do Plaintiffs believe that other limitations should be imposed on
19 discovery. In particular, Plaintiffs do not believe they should be limited in the
20 number of discovery requests they can serve, especially where there are no such
21 limitations under the Federal Rules of Civil Procedure or the Court's Local Rules.
22 However, Plaintiffs are willing to agree to coordinate their discovery efforts to
23 avoid serving multiple sets of duplicative requests on Defendants.

24 Defendant Johnson:

25 Given the numerosity of Plaintiffs in this matter and the potential for
26 significant and prejudicial amounts of written discovery to be served on Defendant
27 Johnson, Defendant Johnson proposes that Plaintiffs be limited to one joint set of
28 requests for production including no more than fifty (50) requests, one joint set of

1 no more than thirty-five (35) interrogatories, and one joint set of no more than fifty
2 (50) requests for admission. Defendant Johnson believes these requested
3 limitations are necessary, while still providing both parties a fair opportunity to
4 conduct discovery.

5 Given the numerosity of Plaintiffs in this matter and the potential for
6 significant and prejudicial number and length of depositions of Defendant Johnson,
7 Defendant Johnson proposes that Plaintiffs collectively be permitted no more than
8 ten (10) hours on the record in any deposition of Defendant Johnson. Defendant
9 Johnson proposes that the length of time provided for in the Federal Rules of Civil
10 Procedure apply to depositions of each Plaintiff and other percipient witnesses.

11 **6. Any Other Orders That The Court Should Issue Under Rule 26(c) or**
12 **Under Rule 16(b) and (c) (F.R.C.P. 26(f)(3)(F))**

13 **Plaintiffs' Contentions:**

14 Should Defendants reveal in Initial Disclosures or discovery responses any
15 parties who used Plaintiffs' works without Plaintiffs' authorization, Plaintiffs may
16 move to add such entities as parties to this action in place of Doe Defendants or
17 may seek leave of Court to add additional parties if necessary (F.R.C.P.
18 16(c)(2)(B)). Plaintiffs reserve the right to make other amendments consistent with
19 the Federal Rules.

20 Plaintiffs do not anticipate any proposal or issue regarding special
21 procedures, severance, bifurcation, or other ordering proof (F.R.C.P. 16(c)(2)(L)-
22 (N)).

23 **Defendant Johnson's Contentions:**

24 The Court's Standing Order [Dkt. No. 13] states: "Any Defendant(s),
25 including "DOE" or fictitiously named Defendant(s), not served within 90 days
26 after the case is filed shall be dismissed pursuant to Fed. R. Civ. P. 4(m)." DOES 1-
27 20 have not been identified and were not served within ninety days after the case
28

1 was filed. Accordingly, Defendant Johnson requests that the DOE defendants be
2 dismissed.

3 Defendant Johnson reserves all rights to oppose any amendment of pleadings
4 and/or joinder of parties by Plaintiffs.

5 Defendant Johnson believes it is likely the Parties will request that the Court
6 issue a protective order and will work with Plaintiffs towards a stipulated order.

7 Defendant Johnson does not currently anticipate any proposal or issue
8 regarding special procedures, severance, bifurcation, or other ordering proof
9 (F.R.C.P. 16(c)(2)(L)-(N)).

10 **L. Discovery Cut-Off Date (F.R.C.P. 26(f)(3)(B))**

11 The Parties propose a discovery cut-off date of October 21, 2022.

12 **M. EXPERT DISCOVERY**

13 The Parties propose dates for expert discovery as follows:

14 Initial Disclosure: October 21, 2022

15 Rebuttal: November 18, 2022

16 Cut-off: December 12, 2022.

17 **N. SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION**

18 The Parties have had and continue to engage in settlement discussions. The
19 Parties have agreed that they prefer private mediation.

20 **O. TRIAL ESTIMATE**

21 Plaintiffs have requested a jury trial. The Parties currently estimate the trial in
22 this matter to last between five to eight Court days, depending on the number of
23 issues that may be resolved on summary judgment.

24 **P. TRIAL COUNSEL**

25 Plaintiffs' Trial Counsel: Elizabeth A. McNamara, Sean M. Sullivan.

26 Defendants' Trial Counsel: John T. Wilson, Jennifer M. Rynell.

1 **Q. INDEPENDENT EXPERT OR MASTER**

2 The Parties presently do not believe this case requires the Court to appoint a
3 master pursuant to Rule 53.

4 **R. SCHEDULE WORKSHEET**

5 The Parties have set forth their respective positions on a case timetable on the
6 Court’s Scheduling Worksheet, which is attached as Exhibit A.

7 **S. OTHER ISSUES**

8 The Parties do not at this time have other issues to raise with the Court.

9 DATED: May 20, 2022

DAVIS WRIGHT TREMAINE LLP

10 By: /s/ Sean M. Sullivan
11 Sean M. Sullivan

12 Elizabeth A. McNamara
13 Sean M. Sullivan
14 Samantha Lachman
15 DAVIS WRIGHT TREMAINE LLP

16 Attorneys for Plaintiffs

17 DATED: May 20, 2022

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Attorneys for Defendant

L.R. 5-4.3.4 Attestation

Pursuant to Local Rule 5-4.3.4(a)(2)(i), I hereby attest that all other signatories listed on this document, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized the filing.

DATED: May 20, 2022

DAVIS WRIGHT TREMAINE LLP

By: /s/ Sean M. Sullivan
Sean M. Sullivan

Elizabeth A. McNamara
Sean M. Sullivan
Samantha Lachman
DAVIS WRIGHT TREMAINE LLP

Attorneys for Plaintiff

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ATTACHMENT “A”

JUDGE ANDRÉ BIROTTE JR.
SCHEDULE OF PRETRIAL AND TRIAL DATES WORKSHEET

Please complete this worksheet jointly and file it with your Joint Rule 26(f) Report.
The Court ORDERS the parties to make every effort to agree on dates.

Case No. 2:21-cv-09361-AB (MRWx)		Case Name: Universal City Studios Productions LLLP et al v. Dwayne Anthony Johnson		
Trial and Final Pretrial Conference Dates		Pl(s)' Date mm/dd/yyyy	Def(s)' Date mm/dd/yyyy	Court Order mm/dd/yyyy
Check one: <input checked="" type="checkbox"/> Jury Trial or <input type="checkbox"/> Court Trial (Tuesday at 8:30 a.m., within 18 months after Complaint filed) Estimated Duration: <u>5-8</u> Days		05/30/2023	05/30/2023	<input type="checkbox"/> Jury Trial <input type="checkbox"/> Court Trial _____ Days
Final Pretrial Conference ("FPTC") [L.R. 16], Hearing on Motions In Limine (Friday at 11:00 a.m., at least 17 days before trial)		05/12/2023	05/12/2023	
Event ¹ Note: Hearings shall be on Fridays at 10:00 a.m. Other dates can be any day of the week.		Weeks Before FPTC	Pl(s)' Date mm/dd/yyyy	Def(s)' Date mm/dd/yyyy
Last Date to Hear Motion to Amend Pleadings /Add Parties [Friday]			09/30/2022	09/30/2022
Non-Expert Discovery Cut-Off (no later than deadline for <u>filing</u> dispositive motion)		17	10/21/2022	10/21/2022
Expert Disclosure (Initial)			10/21/2022	10/21/2022
Expert Disclosure (Rebuttal)			11/18/2022	11/18/2022
Expert Discovery Cut-Off		12 ²	12/12/2022	12/12/2022
Last Date to Hear Motions [Friday] <ul style="list-style-type: none"> • Rule 56 Motion due at least 5 weeks before hearing • Opposition due 2 weeks after Motion is filed • Reply due 1 week after Opposition is filed 		12	02/17/2023	02/17/2023
Deadline to Complete Settlement Conference [L.R. 16-15] <u>Select one:</u> <input type="checkbox"/> 1. Magistrate Judge (<i>with Court approval</i>) <input type="checkbox"/> 2. Court's Mediation Panel <input checked="" type="checkbox"/> 3. Private Mediation		10	03/03/2023	03/03/2023
Trial Filings (first round) <ul style="list-style-type: none"> • Motions In Limine • Memoranda of Contentions of Fact and Law [L.R. 16-4] • Witness Lists [L.R. 16-5] • Joint Exhibit List [L.R. 16-6.1] • Joint Status Report Regarding Settlement • Proposed Findings of Fact and Conclusions of Law [L.R. 52] (<i>court trial only</i>) • Declarations containing Direct Testimony, if ordered (<i>court trial only</i>) 		3	04/21/2023	04/21/2023
Trial Filings (second round) <ul style="list-style-type: none"> • Oppositions to Motions In Limine • Joint Proposed Final Pretrial Conference Order [L.R. 16-7] • Joint/Agreed Proposed Jury Instructions (<i>jury trial only</i>) • Disputed Proposed Jury Instructions (<i>jury trial only</i>) • Joint Proposed Verdict Forms (<i>jury trial only</i>) • Joint Proposed Statement of the Case (<i>jury trial only</i>) • Proposed Additional Voir Dire Questions, if any (<i>jury trial only</i>) • Evidentiary Objections to Decls. of Direct Testimony (<i>court trial only</i>) 		2	4/28/2023	4/28/2023

¹ The parties may seek dates for additional events by filing a separate Stipulation and Proposed Order. **Class actions and patent and ERISA cases in particular may need to vary from the above.**

² The parties may wish to consider cutting off expert discovery prior to the deadline for **filing** an MSJ.