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9 **UNITED STATES DISTRICT COURT**
 10 **CENTRAL DISTRICT OF CALIFORNIA**
 11

12 JAIME CIERO, an Individual,
 13 Plaintiff,
 14 v.
 15 THE WALT DISNEY COMPANY, a
 16 California Corporation; DISNEY
 17 ENTERPRISES, INC., a California
 18 Corporation; WALT DISNEY MOTION
 19 PICTURES GROUP, a California
 Corporation; WALT DISNEY PICTURES,
 a California Corporation;
 20 WONDERLAND MUSIC COMPANY,
 21 INC., a California Corporation; DISNEY
 22 MUSIC PUBLISHING, a California
 Corporation; KRISTEN ANDERSON
 23 LOPEZ, an Individual; ROBERT LOPEZ,
 and Individual; IDINA MENZEL, an
 24 Individual; DEMI LOVATO, an
 25 Individual; and DOES 1 – 10,
 26 Defendants.

Case No.:

PLAINTIFF’S COMPLAINT FOR:

- (1) DIRECT COPYRIGHT INFRINGEMENT;**
 - (2) SECONDARY COPYRIGHT INFRINGEMENT; AND**
 - (3) VIOLATION OF 17 U.S.C. § 1202**
- JURY TRIAL DEMANDED**

1 Plaintiff, Jaime Ciero, by and through his undersigned attorneys, hereby prays
2 to this honorable Court for relief based on the following:

3 **INTRODUCTION**

4 Jaime Ciero is a musician of international acclaim and regard who has created
5 and contributed to numerous critically and commercially successful compositions and
6 songs. One of Ciero's musical works, entitled "Volar," was misappropriated by the
7 Defendants and unlawfully copied and reproduced to create the global hit "Let it Go,"
8 which was featured as the primary song in, and a narrative basis for, the feature film
9 *Frozen*. "Volar" and "Let it Go" bear similarities so striking as to preclude the
10 possibility that the latter song was independently created. Before exploiting his work,
11 Defendants at no time contacted Ciero to obtain his consent in regard to their use of
12 his original material. This action seeks redress for Defendants' violations of the
13 Copyright Act.

14 **PARTIES**

15 1. At all times mentioned herein, JAIME CIERO ("Ciero") was an
16 individual residing in Los Angeles County, California.

17 2. Plaintiff is informed and believes and thereon alleges that THE WALT
18 DISNEY COMPANY, DISNEY ENTERPRISES, INC., WALT DISNEY MOTION
19 PICTURES GROUP, WALT DISNEY PICTURES, and DISNEY MUSIC
20 PUBLISHING (collectively "Disney"), are related California corporations and
21 business entities that do business in and with the residents of California and this
22 District.

23 3. Plaintiff is informed and believes that WONDERLAND MUSIC
24 COMPANY, INC. ("Wonderland") is a California corporation that does business in
25 and with the residents of California and this District.

26 4. Plaintiff is informed and believes that KRISTEN ANDERSON LOPEZ
27 ("K. Lopez") is an individual doing business in and with the residents of California.

1 5. Plaintiff is informed and believes that ROBERT LOPEZ (“R. Lopez”) is
2 an individual doing business in and with the residents of California.

3 6. Plaintiff is informed and believes that IDINA MENZEL (“Menzel”) is an
4 individual doing business in and with the residents of California.

5 7. Plaintiff is informed and believes that DEMI LOVATO (“Lovato”) is an
6 individual doing business in and with the residents of California.

7 8. Plaintiff is informed and believe and thereon alleges that Defendants are
8 agents and alter egos of one another and share common interests and unity of
9 interests, as well as shared and ownership between the Defendant entities to the
10 extent that it would inequitable if the acts in question are treated as those of the
11 entities alone. Plaintiff is informed and believes and thereon alleges that at all times
12 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
13 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
14 at all times acting within the scope of such agency, affiliation, alter-ego relationship
15 and/or employment; and actively participated in or subsequently ratified and/or
16 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
17 circumstances, including, but not limited to, full knowledge of each violation of
18 Plaintiff’s rights and the damages to Plaintiff proximately caused thereby.

19 9. Plaintiff is unaware of the true names and capacities of the defendants
20 sued herein as DOES 1 through 10, inclusive, and for that reason, sue defendant(s)
21 under such fictitious names. Plaintiff is informed and believe and based thereon
22 allege that such fictitiously named defendants are responsible in some manner for the
23 occurrences alleged herein, and that Plaintiff’s damages as herein alleged were
24 proximately caused by the conduct of said defendants. Plaintiff will seek to amend
25 the complaint when the names and capacities of such fictitiously named defendants
26 are ascertained. As alleged herein, the term “Plaintiff” shall mean the named plaintiff,
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1 and “Defendants” shall mean all named defendants and all fictitiously named
2 defendants.

3 **JURISDICTION AND VENUE**

4 10. This Court has personal jurisdiction over each and every one of the
5 Defendants. Venue in this Court is proper under 28 U.S.C. § 1391(c) and 1400(a)
6 because one or more Defendants reside and/or carry on business here, and the
7 wrongful acts of Defendants took place, in whole or in part, in this District.

8 11. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §
9 101 *et seq.*

10 12. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
11 1338 (a) and (b).

12 **GENERAL FACTUAL ALLEGATIONS**

13 13. Plaintiff created and owns exclusive and/or beneficial copyrights and
14 other rights in the song entitled “Volar,” of which one version has been recorded and
15 performed by Ciero and another version recorded and performed by Ciero and the
16 singer Karina Moreno (collectively “Subject Song”).

17 14. The Ciero version of the Subject Song was first published in 2008 and
18 was performed and broadcast around the world before the commencement of the
19 infringement at issue. The Ciero/Moreno version of the Subject Song was first
20 published in in 2009 and was performed and broadcast around the world before the
21 commencement of the infringement at issue

22 15. The Subject Song was registered with ASCAP before the infringement at
23 issue.

24 16. Plaintiff has submitted both versions of the Subject Song to the United
25 States Copyright Office for registration, and complied with all necessary formalities
26 in doing so. In the alternative, if one or both of the two versions of the Subject Song
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1 referenced herein were first published abroad, one or both would be exempt from the
2 registration requirement per the relevant international treaties and accords.

3 17. Since its initial release and publication, the Subject Song was a huge
4 international success, reaching millions of listeners and landing on numerous charts
5 of the most popular and top-performing songs. It has been professionally recorded
6 and widely and publicly performed in this District and throughout the United States
7 and the world by means of records, radio, streaming channels, television, video,
8 audio, and other media. Recordings of and other copies of the Subject Song have also
9 been widely published, broadcast, and/or sold throughout the United States, including
10 in this District.

11 18. Defendants have had an ongoing and continuous opportunity to access to
12 the Subject Song in various ways including aforementioned public performances,
13 records, streaming services, and broadcast.

14 19. Defendants, and each of them, have continuously and repeatedly
15 infringed, and are presently infringing, Plaintiff's copyright in the Subject Song by
16 performing, broadcasting, streaming, marketing, selling, licensing, and otherwise
17 exploiting and monetizing the song entitled "Let it Go" ("Infringing Song")

18 20. Defendants copied substantial qualitative and quantitative portions of
19 both versions of the Subject Song in creating the Infringing Song, including
20 constituent elements that are original. The Subject Song and the Infringing Song
21 include note combinations and structures, hooks, melodies, lyrics, themes,
22 production, and textures that are at least substantially similar. Plaintiff hereby
23 incorporates by reference his sound recordings of the two versions of the Subject
24 Song, and the sound recording of the Infringing Song.

25 21. The Infringing Song is extrinsically and intrinsically similar to the
26 Subject Song.

1 22. On information and belief, Plaintiff alleges that R. Lopez and K. Lopez,
2 in concert with Disney, developed and distributed the Infringing Work for the benefit
3 of themselves, Wonderland, and others; and that Disney, Lovato, and Menzel
4 recorded, distributed, and publicly performed the Infringing Work.

5 23. On information and belief, Plaintiff alleges that Disney incorporated the
6 Infringing Work into live and filmed versions of *Frozen* and *Frozen* merchandise and
7 distributed, performed, monetized, and otherwise profited from *Frozen*, *Frozen*
8 merchandise, and the exploitation of the Infringing Song in connection with the
9 foregoing.

10 24. The Infringing Song is the primary musical element of the feature film
11 *Frozen*. It is the theme song for the film and play and the lead single that was used in
12 marketing, advertising, and throughout the film and play. The use of the Infringing
13 Song in connection with *Frozen* added substantial value to the film and resulted in
14 substantial added revenue to Defendants.

15 25. The soundtrack to *Frozen*, which includes multiple versions of the
16 Infringing Song, and the performance and display of *Frozen* itself, have further
17 enabled Defendants to profit from their unauthorized copy of the Subject Song. The
18 foregoing material has been widely and successfully marketed, distributed, and
19 monetized in this District and elsewhere in the United States and the rest of the
20 world. The Infringing Work and *Frozen* have been repeatedly played on theater
21 screens, television, home video, broadcast, streaming channels, online platforms,
22 radio, and other outlets and media sources in this District and elsewhere in the United
23 States and the rest of the world.

24 26. A live version of *Frozen* was or is to be performed in numerous theaters,
25 including on Broadway. On information and belief, it is alleged that the Infringing
26 Song will be a primary and substantial element of the live version of *Frozen*, and this
27 infringement will continue unless enjoined by this Court.

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1 **FIRST CLAIM FOR RELIEF**

2 (For Direct Copyright Infringement – Against all Defendants, and Each of
3 Them)

4 27. Plaintiff repeats, re-alleges, and incorporates herein by reference as
5 though fully set forth, the allegations contained in the preceding paragraphs of this
6 Complaint.

7 28. Plaintiff owns the copyright in the Subject Song’s composition and
8 recording, which were submitted for registration with the United States Copyright
9 Office before the occurrence of the infringement claimed herein. All formalities were
10 complied with in connection with this submission.

11 29. Defendants had a reasonable possibility to access the Subject Song
12 through radio play, broadcast, online streaming, online transmission, download,
13 Youtube or other video service, or other dissemination. Plaintiff is informed and
14 believes and thereon alleges that Defendants, and each of them, had access to the
15 Subject Song, including, without limitation, through (a) listening to the recording via
16 Plaintiff’s or others’ public performances or recordings of the Subject Song, (b)
17 streaming or downloading the Subject Song online, (c) listening to the Subject Song
18 through a third party, (d) viewing the sheet music or other written indicia reflecting
19 the Subject Song. Plaintiff further alleges that the identical nature of the copying
20 establishes access.

21 30. The striking similarities between the Subject Song and Infringing Song
22 also establishes a possibility to access.

23 31. The Infringing Song is an unauthorized reproduction and copy of the
24 Subject Song, and is an unlawful derivative thereof. Defendants’ distribution, public
25 performance, display, and creation of a derivative work of the Subject Song infringes
26 Plaintiff’s exclusive rights in the Subject Song in violation of the Copyright Act, 17
27 U.S.C. § 101 *et seq.*

1 32. Defendants did not seek or receive Plaintiff's consent or authorization to
2 copy, appropriate, sample, cover, reproduce, or interpolate any portion of the Subject
3 Song. Yet, the Infringing Song incorporates and includes a substantial and material
4 portion of the Subject Song in its composition and performance.

5 33. Defendants' conduct has at all times been, and continues to be, knowing,
6 willful, and with complete disregard to Plaintiff's rights.

7 34. As a proximate cause of Defendants' wrongful conduct, Plaintiff has
8 been irreparably harmed.

9 35. The Infringing Song copies quantitatively and qualitatively distinct,
10 important, and recognizable portions of the Subject Song, as discussed herein.

11 36. From the date of creation of the Infringing Song, Defendants, and each,
12 have infringed Plaintiff's copyright interest in the Subject Song by, without
13 limitation: (a) authorizing the live performance, reproduction, distribution and sale of
14 the records and digital downloads through the execution of licenses, and/or actually
15 selling, manufacturing, and/or distributing physical or digital or electronic copies of
16 the Infringing Song through various physical and online sources; (b) performing the
17 Infringing Song at live productions and other performances of *Frozen* (c)
18 broadcasting, displaying, showing, streaming, and distributing the film *Frozen*; (d)
19 participating in and furthering the aforementioned infringing acts, and/or sharing in
20 the proceeds therefrom, all through substantial use of the Subject Song in and as part
21 of the Infringing Song, packaged in a variety of configurations and digital downloads,
22 mixes and versions, and performed in a variety of ways including, but not limited to,
23 audio and video; and (e) marketing, advertising, selling, and distributing merchandise
24 such as videos and other copies of the physical and digital copies of the film, dolls
25 and other toys, apparel and other merchandise, and other product that reference or
26 incorporate, in whole or in part, the Infringing Song and/or *Frozen*; (f) licensing, sub-
27 licensing, assigning, and transferring rights in and to the Infringing Song; (g) selling

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1 tickets to, passes to, copies of, and access to live and recorded performances of the
2 Infringing Song, *Frozen*, or other programs, projects, events, or theme park
3 exhibitions that incorporate, in whole or in part, the Infringing Song.

4 37. Plaintiff is informed and believes and thereon alleges that Defendants,
5 and each of them, captured, performed, and distributed songs and recordings thereof
6 that were unauthorized copies of the Subject Song, and exploited said material in
7 numerous commercial ways, including without limitation by incorporating it in
8 *Frozen*, of which the Infringing Song is a primary component.

9 38. Plaintiff is informed and believes and thereon alleges that Defendants,
10 and each of them, infringed Plaintiff's copyrights by creating infringing derivative
11 works from the Subject Song and by performing and publishing the infringing work
12 to the public, including without limitation, through live and recorded performances
13 and sales of product incorporating same.

14 39. Plaintiff is informed and believes and thereon alleges that Defendants,
15 and each of them, infringed Plaintiff's rights by copying the Subject Song without
16 Plaintiff's authorization or consent.

17 40. Due to Defendants', and each of their, acts of infringement, Plaintiff has
18 suffered general and special damages, including without limitation, lost profits,
19 royalties, license fees, and other revenues, in an amount to be established at trial.

20 41. Due to Defendants' acts of copyright infringement as alleged herein,
21 Defendants, and each of them, have obtained direct and indirect profits they would
22 not otherwise have realized but for their infringement of Plaintiff's rights in the
23 Subject Song. As such, Plaintiff is entitled to disgorgement of Defendants' profits
24 directly and indirectly attributable to Defendants' infringement of Plaintiff's rights in
25 the Subject Song in an amount to be established at trial.

26 42. To the extent that the infringement at issue took place, or will take place,
27 after the date of Plaintiff's registration of the Subject Song, Plaintiff will have the
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1 right to elect to recover statutory damages pursuant to 17 U.S.C. § 504(c), in an
2 amount to be proven at trial.

3 43. To the extent that the infringement at issue took place, or will take place,
4 after the date of Plaintiff's registration of the Subject Song, Plaintiff is entitled to
5 recover his reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

6 44. Plaintiff is entitled to recover his costs pursuant to 17 U.S.C. § 505.

7 45. Defendants' conduct is causing and, unless enjoined by this Court, will
8 continue to cause Plaintiff irreparable injury that cannot be fully compensated or
9 measured in monetary terms. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a
10 permanent injunction prohibiting the reproduction, distribution, sale, public
11 performance or other use or exploitation of the Subject Song and Infringing Song.

12 46. Because Defendants' conduct as alleged herein was willful and/or
13 reckless, Plaintiff is entitled to seek enhanced damages, such as statutory damages of
14 up to \$150,000.00 and/or to preclude Defendants from proffering certain affirmative
15 defenses and legal positions.

16 **SECOND CLAIM FOR RELIEF**

17 (For Indirect Copyright Infringement – Against all Defendants, and Each of
18 Them)

19 47. Plaintiff repeats, re-alleges, and incorporates herein by reference as
20 though fully set forth, the allegations contained in the preceding paragraphs of this
21 Complaint.

22 48. Defendants and each of them are vicariously and/or contributorily liable
23 for copyright infringement in connection with the unauthorized exploitation of the
24 Subject Song

25 49. Defendants, and each of them, with knowledge that each of their and
26 third parties' conduct constituted infringement, materially contributed to, caused,
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1 induced, assisted with, and otherwise facilitated the unauthorized exploitation of the
2 Subject Song and the creation and monetization of the Infringing Song.

3 50. Defendants, and each of them, had the right and ability to preclude or put
4 a stop to the unauthorized exploitation of the Subject Song and the creation and
5 monetization of the Infringing Song, and failed to exercise those rights. And
6 Defendants, and each of them, profited through the infringement.

7 51. Defendants', and each of their, infringing conduct as alleged herein has
8 caused actual damage to Plaintiff and resulted in profits to the Defendants, and each
9 of them.

10 52. Due to Defendants', and each of their, acts of infringement, Plaintiff has
11 suffered general and special damages, including without limitation, lost profits,
12 royalties, license fees, and other revenues, in an amount to be established at trial.

13 53. Due to Defendants' acts of copyright infringement as alleged herein,
14 Defendants, and each of them, have obtained direct and indirect profits they would
15 not otherwise have realized but for their infringement of Plaintiff's rights in the
16 Subject Song. As such, Plaintiff is entitled to disgorgement of Defendants' profits
17 directly and indirectly attributable to Defendants' infringement of Plaintiff's rights in
18 the Subject Song in an amount to be established at trial.

19 54. To the extent that the infringement at issue took place, or will take place,
20 after the date of Plaintiff's registration of the Subject Song, Plaintiff will have the
21 right to elect to recover statutory damages pursuant to 17 U.S.C. § 504(c), in an
22 amount to be proven at trial.

23 55. To the extent that the infringement at issue took place, or will take place,
24 after the date of Plaintiff's registration of the Subject Song, Plaintiff is entitled to
25 recover his reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

26 56. Plaintiff is entitled to recover his costs pursuant to 17 U.S.C. § 505.
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1 57. Defendants' conduct is causing and, unless enjoined by this Court, will
2 continue to cause Plaintiff irreparable injury that cannot be fully compensated or
3 measured in monetary terms. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a
4 permanent injunction prohibiting the reproduction, distribution, sale, public
5 performance or other use or exploitation of the Subject Song and Infringing Song.

6 58. Because Defendants' conduct as alleged herein was willful and/or
7 reckless, Plaintiff is entitled to seek enhanced damages, such as statutory damages of
8 up to \$150,000.00 and/or to preclude Defendants from proffering certain affirmative
9 defenses and legal positions.

10 **THIRD CLAIM FOR RELIEF**

11 (For Violation of 17 U.S.C. § 1202 – Against R. Lopez, K. Lopez, Disney, and
12 Wonderland)

13 59. Plaintiff repeats, re-alleges, and incorporates herein by reference as
14 though fully set forth, the allegations contained in the preceding paragraphs of this
15 Complaint.

16 60. Plaintiff provided and included content management information in
17 connection with the publication and distribution of the Subject Song. This included,
18 without limitation, including his name, the title, and other credits in connection with
19 the Subject Song. In addition, digital publications and distributions of the Subject
20 Song included meta data and other digital identifiers and/or links to such information
21 that established that Plaintiff was the author and/or owner of the Subject Song.

22 61. Defendants, and each of them, in creating the Infringing Song, removed
23 the entirety of Plaintiff's content management information.

24 62. Defendants, and each of them, in distributing the Infringing Song,
25 including without limitation, in connection with *Frozen*, failed to include Plaintiff's
26 content management information.

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1 63. Defendants, and each of them, provided or distributed false copyright
2 information by failing to identify Plaintiff as the author of the material at issue and
3 instead claiming that they were the author of said material, with the intent to induce,
4 enable, facilitate, or conceal infringement. They have also distributed and/or imported
5 for distribution this copyright management information, which is false.

6 64. Defendants, and each of them, have intentionally removed and/or altered
7 the Subject Song's copyright management information and distributed and/or
8 imported for distribution copyright information knowing that the copyright
9 management information had been removed or altered without authority of the
10 copyright owner or the law, and distributed, imported for distribution, and/or publicly
11 performed works, copies of works, and/or phonorecords, knowing that copyright
12 management information had been removed or altered without authority of the
13 copyright owner or the law, and did so knowing, and/or having reasonable grounds to
14 know, that it would induce, enable, facilitate, or conceal an infringement of copyright
15 and other rights.

16 65. Given the misconduct alleged above, Plaintiff seeks actual and statutory
17 damages, as well as costs and attorneys' fees and injunctive relief, pursuant to 17
18 U.S.C. § 1203.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, Plaintiff respectfully prays for judgment against all
21 Defendants, and each of them individually, as follows:

- 22 1. A declaration that Defendants have infringed Plaintiff's rights in the Subject
23 Song in violation of the Copyright Act;
- 24 2. A declaration that Defendants are directly, vicariously and/or contributorily
25 liable for copyright infringement, as applicable;
- 26 3. A permanent injunction requiring Defendants and their agents, servants,
27 employees, officers, attorneys, successors, licensees, partners, and assigns,
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1 and all persons acting in concert or participation with each or any one of
2 them, to cease directly and indirectly infringing, and causing, enabling,
3 facilitating, encouraging, promoting, inducing, and/or participating in the
4 infringement of any of Plaintiff's rights protected by the Copyright Act;

- 5 4. For a constructive trust to be entered over any films, recordings, products,
6 files, online programs, and other material, and all revenues resulting from
7 the exploitation of same, for the benefit of Plaintiff.
- 8 5. For either statutory damages or the actual damages sustained by Plaintiff
9 pursuant to 17 U.S.C. § 505;
- 10 6. For special and compensatory damages in an amount according to proof in
11 excess of the jurisdictional limit of this court;
- 12 7. For an accounting of all revenues relating to the infringement at issue
13 and/or costs savings and financial benefits resulting from the infringement.;
- 14 8. For statutory and actual damages, as well as injunctive relief, costs, and
15 attorneys' fees pursuant to 17 U.S.C. § 1203;
- 16 9. For injunctive relief from any and all present and/or future exploitation;
- 17 10. For pre-judgment and post-judgment interest;
- 18 11. For attorney's fees, where applicable, interest, and costs of suit; and
- 19 12. For such other and further relief as to this Court seems just and proper.

20 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
21 38 and the 7th Amendment to the United States Constitution.

22 Respectfully submitted,

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24 Dated: November 23, 2017

By: /s/ Scott Alan Burroughs
Scott Alan Burroughs, Esq.
David R. Shein, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff