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8 Attorney for Plaintiff
9 Bryanston Distributors, Inc.

10 **UNITED STATES DISTRICT COURT FOR THE**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 BRYANSTON DISTRIBUTORS, INC.,
13 a Nevada corporation,

14 Plaintiff

15 vs.

16 THE CINEFAMILY, a California
17 corporation and DOES 1-10, Inclusive,

18 Defendants

CASE NO: 2:14CV4610

PLAINTIFFS COMPLAINT FOR:

COPYRIGHT INFRINGEMENT
(17 U.S.C. § 501 et seq.);

CONTRIBUTORY COPYRIGHT
INFRINGEMENT;

UNFAIR COMPETITION (CA B&P
§ 17200 ET SEQ).

DEMAND FOR JURY TRIAL

19
20 Plaintiff Bryanston Distributors, Inc., a Nevada corporation by and through their
21 attorney Allan B. Gelbard, Esq., file their Complaint against defendants The
22 Cinefamily, a California corporation and Does 1-10, Inclusive; and allege as follows:

23
24 **JURISDICTION**

25
26 1. This action arises under 17 U.S.C. § 101, *et seq.* Therefore, this Court
27 has original jurisdiction pursuant to 28 U.S.C. § 1338 as well as supplemental
28 jurisdiction over the additional state cause of action pursuant to 28 U.S.C. § 1338(b).

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1 VENUE

2
3 2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b).

4
5 PARTIES

6
7 3. Plaintiff BRYANSTON DISTRIBUTORS, INC., (“Bryanston” or
8 “Plaintiff”) is a Nevada corporation having its principal place of business at 10785 W.
9 Twain Ave., Suite 102, Las Vegas, NV 89135.

10
11 4. Plaintiff is informed and believes and thereupon alleges that defendant
12 THE CINEFAMILY (hereinafter “Cinefamily” or “Defendant”) is a California
13 corporation with its principal place at 611 N. Fairfax Ave., Los Angeles, CA 90036.

14
15 5. Plaintiff is informed and believes and thereupon alleges that Defendant
16 DOES 1-5, Inclusive, are the true legal names of additional individuals and/or entities
17 who’s actions are at issue herein. Plaintiff does not know the true name or capacity of
18 the Defendants sued herein as DOES 1-5 and therefore sues said Defendants by such
19 fictitious names. Plaintiff is informed and believes and thereon alleges, that DOES 1-5
20 are responsible in some manner for the occurrences herein alleged, and that Plaintiff’s
21 damages as hereinafter alleged were proximately caused by the acts of such
22 Defendants, and each of them.

23
24 6. Plaintiff is informed and believes and thereupon alleges that Defendant
25 DOES 6-10, Inclusive, are additional individuals who personally controlled the
26 entities who’s actions are at issue herein. Plaintiff does not know the true name or
27 capacity of the Defendant sued herein as DOES 6-10 and therefore sues said
28 Defendants by such fictitious names. Plaintiff is informed and believes and thereon

1 alleges, that DOES 6-10 are responsible in some manner for the occurrences herein
2 alleged, and that Plaintiff's damages as hereinafter alleged were proximately caused by
3 the acts of such Defendants, and each of them.

4
5 7. Plaintiff is informed and believes and thereupon alleges that DOES 6-10
6 personally authorised, controlled and/or assisted defendants Cinefamily and/or DOES
7 1-5 in their unlawful activities alleged herein.

8
9 8. Plaintiff is informed and believes and thereupon alleges that at all times
10 herein relevant, Defendants and each of them, were the agents, servants and
11 employees of their Co-Defendants and were acting and conspiring both individually
12 and within the scope of such agency, service and employment while performing the
13 acts complained of herein.

14
15 9. Plaintiff is informed and believes and thereupon alleges that at all times
16 relevant hereto:

17
18 A) That DOES 6-10, Inclusive dominated, influenced and controlled
19 Defendants Cinefamily and DOES 1-5, Inclusive, and all other
20 employees thereof, as well as the business affairs of Cinefamily
21 and DOES 1-5.

22
23 B) That Cinefamily and/or DOES 1-5, Inclusive are, and at all times
24 relevant hereto were, mere shells and naked frameworks which
25 DOES 6-10, Inclusive used as conduits for his/her/their personal
26 business, property and affairs.

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- 1 C) That there is such a unity of interest and ownership between one or
2 more of the DOE 6-10 defendants (on the one hand) and
3 Cinefamily and/or the DOE 1-5 defendants (on the other hand) that
4 the separateness of Cinefamily and/or one or more of the DOE 1-5
5 Defendants as entities has ceased.
6
7 D) That adherence to the fiction of the separate corporate existence of
8 Cinefamily and DOES 1-5 would, under the circumstances,
9 sanction a fraud and promote injustice.
10
11 E) That Cinefamily and/or one or more of the DOE 1-5 defendants are
12 alter egos of one or more of the DOE 6-10 defendants who are
13 personally liable for the obligations of Cinefamily and/or DOES 1-
14 5 as described below.

15
16 **GENERAL ALLEGATIONS**
17

18 10. Plaintiff is in the business of producing and distribution numerous highly
19 successful motion picture films which are distributed in theaters, through fixed media
20 (e.g., DVD, BlueRay, etc.) and through the World Wide Web.
21

22 11. Plaintiff has made and continues to make substantial investments of time,
23 effort and expense in the production, marketing and branding of its products.
24

25 12. In 1984, the film Savage Streets, the subject of this litigation, was
26 completed. The film, directed by Danny Steinmann, starred Linda Blair and featured
27 numerous additional famous performers including but not limited to John Vernon,
28 Robert Dryer, Sal Landi, and Linnea Quigley. The film has become a “cult classic.”

1 13. Savage Streets was produced by Ginso Investment Corp. which
2 subsequently changed its name to Savage Streets Productions, Inc. (“SSP”).
3

4 14. Plaintiff is informed and believes, and thereupon alleges that at all times
5 relevant hereto, SSP complied in all respects with the Copyright Act, 17 U.S.C. §§
6 101, *et seq.*, and secured the exclusive rights and privileges under copyright in and to
7 Savage Streets. The original screenplay to Savage Streets was registered with the
8 Library of Congress on or about November 15, 1983 (Copyright Registration # PA
9 563-890); and upon completion, the film was registered with the Library of Congress
10 on or about July 30, 1984 (Copyright Registration # PA 216-551).
11

12 15. On or about September 1, 1984, SSP transferred all rights, title and
13 interest, including the copyrights, in and to Savage Streets to Motion Picture
14 Marketing, Inc. (“MPM”).
15

16 16. On or about November 20, 2007, MPM transferred all rights, title and
17 interest, including the copyrights, in and to Savage Streets to Plaintiff Bryanston
18 Distributors, Inc. The transfer was recorded in the Library of Congress on or about
19 April 16, 2008.
20

21 17. Since the dates of registration, all copies of Savage Streets have been
22 manufactured in strict conformity with the Copyright Act, 17 U.S.C. §§ 101, *et seq.*,
23 including 17 U.S.C. §§ 401-412, and all other applicable laws. SSP, MPM and
24 Plaintiff have fully maintained the validity of the copyrights in and to Savage Streets
25 and each’s exclusive successive rights therein.
26

27 18. At no time has Plaintiff authorized Defendant to copy, reproduce,
28 manufacture, duplicate, disseminate or publically perform Savage Streets.

1 19. Plaintiff is informed and believes and thereupon alleges that Defendants
2 are in the business of, among other things, operating a movie theater in Hollywood,
3 California that, as part of its regular business practices, sells tickets to and publically
4 performs various motion picture films. Plaintiff is further informed and believes, and
5 thereupon alleges, that in many cases, Defendants do not acquire licenses and/or
6 lawful permission to publically perform many of these films.

7
8 20. In or about June 2013, Plaintiff became aware that Defendants were
9 advertising, and selling tickets to, a late night public screening of Savage Streets to be
10 held at a midnight show on June 23, 2013. Plaintiff had not licensed Defendants, or
11 any of them, the rights to publically perform Savage Streets, nor provided a print of
12 the film for projection.

13
14 21. On or about June 21, 2013, Plaintiff contacted representatives of the
15 Motion Picture Association of America, Content Protection division, and advised
16 them - in their role as investigators of content piracy - that Cinefamily was advertising
17 a screening of Savage Streets and that such a public performance would be in
18 violation of Bryanston's exclusive rights under copyright.

19
20 22. Plaintiff is informed and believes, and thereupon alleges that on or about
21 June 21, 2013 at approximately 1:00PM, MPAA Investigator David Horan ("Horan")
22 telephonically contacted Defendant's employee Nedjelko Spaich ("Spaich"), identified
23 himself as an MPAA Investigator, and advised Spaich (in his capacity as an
24 Cinefamily employee) that the public performance of Savage Streets would be illegal.
25 He also advised Spiach that the film print was likely stolen property. Mr. Spaich
26 stated that he would advise the general manager, who he identified as "Hadrian" of the
27 call.
28

1 23. Plaintiff is informed and believes, and thereupon alleges that at
2 approximately 2:45PM on June 21, 2013, Horan received a return call from Hadrian
3 Belove (“Belove”) who identified himself as the Cinefamily manager. Horan advised
4 Belove, as the Cinefamily manager, that the public performance of Savage Streets
5 would be illegal and that the film print was likely stolen property. Horan also advised
6 Belove that he should undertake due diligence to ascertain whether Cinefamily had all
7 necessary legal rights to publically perform Savage Streets. He also informed Belove
8 that Plaintiff claimed to be the copyright holder and provided Belove with Plaintiff’s
9 contact information.

10
11 24. At no time did Belove, or any other Defendant, contact Plaintiff
12 pertaining to the pending public performance of Savage Streets. Rather, Plaintiff is
13 informed and believes, and thereupon alleges, that having been placed on actual notice
14 that they did not have the lawful rights to publically perform Savage Streets,
15 Defendants decided to surreptitiously carry through their plan to unlawfully screen the
16 film. To that end, Defendants removed Savage Streets from their marquis and their on-
17 line internet advertising, leaving 2 other films “Angel” and “Vice Squad” on the
18 billing.

19
20 25. Plaintiff’s president, Edward Parry (“Parry”), had been advised that
21 Defendants oft-times surreptitiously played unlicensed films in their theater.
22 Therefore, Parry, accompanied by a retired private investigator, attended the midnight
23 screening on June 23, 2013. Defendants employees excitedly announced that “the
24 print has arrived” and shortly thereafter, Defendants willfully and publically
25 performed Savage Streets, from beginning to end, for their paying audience.

26
27 ///

1 33. As Defendants’ infringement was intentional, Plaintiff is entitled to an
2 award of statutory and exemplary damages, attorney’s fees and costs of suit.
3

4 **SECOND CAUSE OF ACTION**

5 **CONTRIBUTORY COPYRIGHT INFRINGEMENT**

6
7 34. Plaintiff re-alleges all facts included or inferred in Paragraphs 1 - 33,
8 inclusive, above.
9

10 35. Plaintiff is informed and believes and thereupon alleges that Defendants
11 have intentionally and wilfully facilitated the infringement of Savage Streets by third
12 parties, by taking possession of, knowingly public performing, and returning to said
13 third parties, a stolen print of Savage Streets.
14

15 36. Defendant’s actions constitute intentional contributory infringement of
16 Plaintiff’s exclusive rights under copyright.
17

18 37. As Defendants’ infringement was intentional, Plaintiff is entitled to an
19 award of Statutory and exemplary damages, attorney’s fees and costs of suit.
20

21 **THIRD CAUSE OF ACTION**

22 **UNFAIR COMPETITION**

23 **CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200 ET SEQ.**

24
25 38. Plaintiff re-alleges all facts included or inferred in Paragraphs 1 - 37,
26 inclusive, above.
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28

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1 39. Defendants intentionally and willfully publically performed Savage
2 Streets, having actual and/or constructive knowledge that they did not have the lawful
3 right to do so, and that the film print was stolen property, in the State of California in
4 an effort to gain a financial windfall through unlawfully competing with Plaintiff and
5 Plaintiff’s lawful licensees. Defendants’ activities constitute unlawful, unfair and
6 fraudulent business practices and unfair, deceptive, untrue and misleading advertising.

7
8 40. Defendants’ actions are likely to cause confusion, mistake and deception
9 in the minds of Plaintiffs customers, members of the trade, and the general public as to
10 the origin and/or sponsorship of Defendants’ good and/or services.

11
12 41. As a result of Defendants’ wrongful conduct, Plaintiffs have suffered
13 damages, including but not limited to loss of earnings and goodwill, in an amount to
14 be proven at trial, but in no case less than one million dollars (\$1,000,000.00).

15
16 42. As Defendants’ unlawful business practices included willful violation of
17 Plaintiff’s rights, Plaintiff is entitled to an award of statutory penalties including treble
18 damages, attorneys’ fees and costs of suit.

19
20 **WHEREFORE; PLAINTIFF PRAYS:**

21
22 1. That Defendants be required to pay to Plaintiff’s actual damages
23 proximately resulting from Defendants’ copyright infringement, contributory
24 infringement, and unfair competition; and,

25
26 2. That Defendants account for all gains, profits, and advantages derived by
27 Defendants by their infringement of Plaintiff’s copyrights or such damages as to this
28 Court shall appear proper within the provisions of the copyright statutes, up to

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1 \$150,000.00 for each of Plaintiff's Works which was intentionally and unlawfully
2 infringed by Defendants; and,

3

4 3. That Defendant disgorge all gains, profits and advantages derived by said
5 unfair competition,; and,

6

7 4. For statutory and/or exemplary damages, as awarded by this Court; and,

8

9 5. That Defendants be required to deliver up to be impounded during the
10 pendency of this action all copies of Savage Streets, in any format, in Defendants'
11 possession or under their control and to deliver up for destruction all infringing copies
12 and all film prints, audiovisual masters, photographic masters, plates, molds,
13 equipment and other matter for making such infringing copies.

14

15 6. That Defendants pay to Plaintiff reasonable attorney's fees pursuant to 17
16 U.S.C. § 505.

17

18 7. That Defendants pay to Plaintiff the costs of this action; and,

19

20 8. For such additional and further relief which this Court deems just and
21 proper.

22

23 **DEMAND FOR JURY TRIAL**

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25 PLAINTIFF hereby respectfully demands a jury trial as provided by Rule 38(a)
26 of the Federal Rules of Civil Procedure.

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1 Dated: this 14th day of August, 2014.

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Bryanston Distributors, Inc.

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