

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

S. VICTOR WHITMILL,)
)
Plaintiff,)
)
v.) Civil Action No. 4:11-cv-752
)
WARNER BROS. ENTERTAINMENT INC.,) **Jury Trial Demanded**
)
Defendant.)

VERIFIED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff S. Victor Whitmill alleges the following against defendant Warner Bros.
Entertainment Inc.

Introduction

1. Mr. Whitmill is a visual artist living in rural Missouri. Among his creations is one of the most distinctive tattoos in the nation, an original design he created on the upper left side of former world heavyweight champion boxer Mike Tyson's face (the "Original Tattoo") (*see* image on page 3, below). When Mr. Whitmill created the Original Tattoo, Mr. Tyson agreed that Mr. Whitmill would own the artwork and thus, the copyright in the Original Tattoo. Warner Bros. Entertainment, Inc. — without attempting to contact Mr. Whitmill, obtain his permission, or credit his creation — has copied Mr. Whitmill's Original Tattoo and placed it on the face of another actor in its upcoming motion picture, THE HANGOVER 2. For Mr. Whitmill, this case is not about Mike Tyson, Mike Tyson's likeness, or Mike Tyson's right to use or control his identity. This case is about Warner Bros. appropriation of Mr. Whitmill's art and Warner Bros. unauthorized use of that art, separate and apart from Mr. Tyson. Not only is this infringing copy (the "Pirated Tattoo") used throughout the movie, but Warner Bros. also uses the Pirated Tattoo extensively in advertisements and promotions

without Mr. Tyson. (*See* image on page 5, below.) This unauthorized exploitation of the Original Tattoo constitutes copyright infringement.

Jurisdiction and Venue

2. This is an action for copyright infringement arising under the Copyright Act of 1976, as amended, 17 U.S.C. § 101 *et seq.* (the “Copyright Act”). The Court has subject matter jurisdiction under 17 U.S.C. § 501 and 28 U.S.C. §§ 1331 and 1338(a).

3. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1400 because defendant does business, may be found, and is subject to personal jurisdiction here.

Plaintiff, His Art, and the Original Tattoo

4. Plaintiff S. Victor Whitmill is an award-winning visual artist who works in various mediums, including the creation, design, and application of tattoo art to bodies. He is a citizen of the State of Missouri and lives in a small town in the south-central portion of the state.

5. On February 10, 2003, while living in Las Vegas, Nevada, Mr. Whitmill created and applied an original and distinctive tattoo to the upper left side of the face of the former, world heavyweight champion boxer Michael Gerard “Mike” Tyson (the “Original Tattoo”). True and accurate photographs of Mr. Whitmill in the process of tattooing the Original Tattoo onto Mr. Tyson and of Mr. Tyson viewing the tattoo immediately after it was completed by Mr. Whitmill are displayed below and attached to this Complaint as Exhibits 1 and 2.



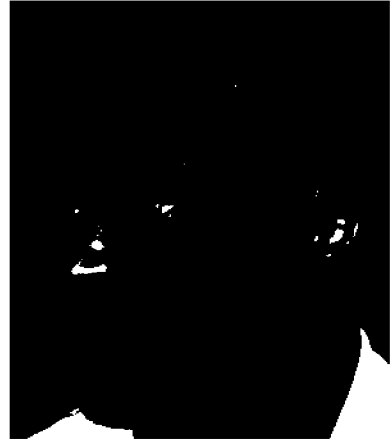
6. Mr. Whitmill, doing business at the time as Paradox-Studio of Dermagraphics, is the sole creator, author, and owner of all rights, including copyright, in the Original Tattoo, which is original and fixed in a tangible medium of expression.

7. On the day Mr. Whitmill created the Original Tattoo, Mr. Tyson signed a release form acknowledging “that all artwork, sketches and drawings related to [his] tattoo and any photographs of [his] tattoo are property of Paradox-Studio of Dermagraphics.” (A true and accurate copy of the Feb. 10, 2003 Tattoo Release, redacted in accordance with the Court’s rules is attached as Exhibit 3.)

8. A true and accurate photograph of Original Tattoo is shown to the right and attached as Exhibit 4.

9. Plaintiff has registered the copyright in Original Tattoo. A true and correct copy of the Certificate of Registration for the Original Tattoo, No. VA 1-767-704, is attached as Exhibit 5.

10. Plaintiff has never copied the Original Tattoo onto anyone else and has never licensed or otherwise authorized anyone else to copy, distribute, or publicly disseminate the Original Tattoo or make derivative works based upon it.



Defendants' Infringement

11. On information and belief, Defendant Warner Bros. Entertainment Inc. ("Warner Bros.") is a Delaware corporation with its principal place of business at 4000 Warner Boulevard, Burbank, California. Warner Bros. is engaged in the production, acquisition and distribution of motion pictures for theatrical exhibition, home entertainment and other forms of distribution.

12. Mr. Whitmill recently learned that Warner Bros. is planning to release a motion picture later this Spring entitled THE HANGOVER 2 (the "Movie").

13. On information and belief, the Movie features a virtually exact reproduction of the Original Tattoo, which appears on the upper left side of the Stu Price character's face, played by actor Ed Helms. As used in this Complaint, the term "Pirated Tattoo" shall refer to any version of the Original Tattoo that appears anywhere but where Mr. Whitmill originally created it, namely, on the upper left side of Mr. Tyson's face.

14. A close-up of the Pirated Tattoo from the advertising poster (attached as Exhibit 6), and the Original Tattoo from a photograph of Mr. Tyson are displayed side-by-side below.



15. On information and belief, the Pirated Tattoo is a recurring device and plays an important role in the plot of the Movie.

16. The Pirated Tattoo is prominently featured in the marketing and promotional materials for the Movie as demonstrated by a current movie poster (the "Movie Poster") that defendants are using to advertise the Movie. A true and correct copy of the Movie Poster is attached as Exhibit 6 and reproduced below.



15 At all relevant times, Warner Bros. has had access to the Original Tattoo.

16 There is substantial similarity between the copyrightable expression in the Original
Tattoo and the Pirated Tattoo.

17 Mr. Whitmill has never been asked for permission for, and has never consented to,
the use, reproduction, or creation of a derivative work based on his Original Tattoo, including the
Pirated Tattoo. Nor has he ever been asked or agreed to the public display and distribution of a

motion picture containing the Pirated Tattoo, or to the use of any of his other exclusive rights in the Original Tattoo under the Copyright Act.

18 Warner Bros. has already infringed Mr. Whitmill's copyright through its unauthorized copying, distribution and public display of the Pirated Tattoo in advertising and promotion for the Movie and by making an unauthorized derivative work—namely, the Pirated Tattoo—that is based upon and copies virtually all of the copyrightable subject matter of the Original Tattoo.

19 If not enjoined, Warner Bros. will continue to infringe Mr. Whitmill's copyright by using the Pirated Tattoo to advertise, market, and promote the Movie; by releasing the Movie and otherwise distributing or licensing others to distribute the Movie in various formats and distribution channels; and, by distributing or licensing derivative works that include the Pirated Tattoo.

20 Defendant's conduct constitutes, at the very least, reckless copyright infringement in disregard of the rights of Mr. Whitmill.

21 These wrongful acts of defendant have caused irreparable injury to Mr. Whitmill, and unless this Court restrains defendant from further use of the Pirated Tattoo, Mr. Whitmill will continue to suffer irreparable injury for which he has no adequate remedy at law.

22 As a direct and proximate result of defendant's wrongful acts, defendant has been and will continue to be unjustly enriched, and Mr. Whitmill has suffered and will continue to suffer damages in an amount not yet fully determined.

WHEREFORE, Plaintiff prays that this Court enter judgment in its favor and against defendant as follows:

A. A preliminary injunction during the pendency of this action and a permanent injunction thereafter enjoining and restraining defendant, its agents, servants, employees, attorneys, partners, licensees, divisions, affiliates, parent corporation(s), and all others in active concert or participation with any of them from copying, distributing, publicly

displaying, or otherwise making any use of the Pirated Tattoo, both in the Movie and otherwise.

B. An award of monetary damages sufficient to compensate Plaintiff for the injuries suffered as a result of Defendant's wrongful conduct;

C. An award of Defendant's profits and unjust enrichment realized from its infringement;

D. An award to Plaintiff of his costs and reasonable attorney's fees expended in this action; and

E. An award of such other and further relief as the Court deems just and proper.

Jury Demand

Plaintiff demands trial by jury of all issues so triable.

Respectfully submitted,

/s/ Geoffrey G. Gerber

Michael A. Kahn (#35411MO)

mkahn@brickhouselaw.com

Pete Salsich III (44886MO)

psalsich@brickhouselaw.com

Geoff G. Gerber (#47097MO)

ggerber@brickhouselaw.com

The BrickHouse Law Group

PROFESSIONAL CORPORATION

1006 Olive Street, Ste. 303

St. Louis, Missouri 63101-2048

Tel: (314) 932-1070

Attorneys for Plaintiff

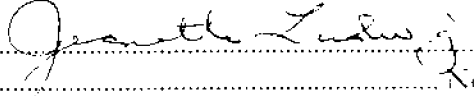
VERIFICATION

STATE OF MISSOURI)
)
COUNTY OF PULASKI)

Before me, the undersigned authorized authority, in and for said State and County, personally appeared Victor Whitmill, who, being by me first duly sworn, deposes and states as follows: that the factual averments contained in the foregoing Verified Complaint for Injunctive and Other Relief are true and correct to the best of his knowledge information and belief.


STEVEN VICTOR WHITMILL

Subscribed and sworn to before me this 25th day of April, 2011.


.....
Notary Public

My Commission Expires:

September 21, 2013

[SEAL]

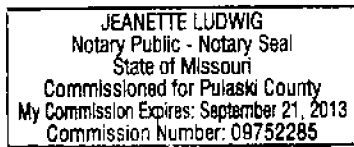




EXHIBIT 1



EXHIBIT 2

PARADOX-STUDIO OF DERMAGRAPHICS
4225 FIDUS DR. #210 LAS VEGAS NV 89103 (702) 452-7969

TATTOO RELEASE FORM

- I hereby release Paradox-Studio of Dermagraphics, it's owners, employees and artists from all actions and demands now and in the future.
- I understand and believe that the artist is competent in the art of applying tattoos, and that only appropriate instruments and techniques will be utilized.
- I am satisfied that the equipment to be used has been properly cleaned and cared for, and that the tubes and single use needles have been properly sterilized in an autoclave.
- I also believe that the artist has demonstrated the proper level of professionalism necessary to perform the application of the tattoo.
- I fully understand that the tattoo will be permanent, and can only be removed with a surgical or laser procedure that may leave permanent scarring.
- I have not had a history of jaundice or hepatitis within the last twelve (12) months.
- I do not have the HIV virus, AIDS, or any blood-related diseases that will prohibit the proper healing of the tattoo and pose a risk to the tattoo artist.
- I do not have hemophilia, epilepsy, or a heart condition.
- I am not pregnant.
- I am not under the influence of drugs or alcohol.
- I have received and read written aftercare instructions and agree that it is my responsibility to properly heal and care for the tattoo after its application.
- I understand that all artwork, sketches and drawings related to my tattoo and any photographs of my tattoo are property of Paradox-Studio of Dermagraphics.
- I am over 18 years of age.

I have read, and I understand, all of the above. I hereby certify that all of the information on this release form is true and correct.

Name _____ Age _____
please print last first m.i.

Address _____
street city state zip

Phone: (702) 451-3171 Today's Date _____
area code month day year

Signature _____

For office use only

Description of tattoo Small tattoo on upper arm Location of tattoo Upper arm
 Copy of state I.D. on file _____ Artist [Signature]

Redacted

Exhibit 3



EXHIBIT 4



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Acting Register of Copyrights, United States of America

Registration Number
VA 1-767-704

Effective date of registration:
April 19, 2011

Title _____

Title of Work: Tribal Tattoo

Completion/Publication _____

Year of Completion: 2003

Date of 1st Publication: February 10, 2003

Nation of 1st Publication: United States

Author _____

▪ **Author:** Victor Whitmill, dba Paradox-Studio of Dermagraphics

Author Created: Artwork on 3-D object

Citizen of: United States

Domiciled in: United States

Copyright claimant _____

Copyright Claimant: Victor Whitmill

613 Royal Road, Waynesville, MO, 65583, United States

Rights and Permissions _____

Organization Name: The BrickHouse Law Group Professional

Name: Corporation
Geoff Gerber

Email: ggerber@brickhouselaw.com

Telephone: 314-932-1070

Address: 1006 Olive Street, Ste. 303

Saint Louis, MO 63101-2048 United States

Certification _____

Name: Geoffrey G. Gerber

Date: April 19, 2011

Correspondence: Yes



EXHIBIT 6

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

S. Victor Whitmill

(b) County of Residence of First Listed Plaintiff Pulaski
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Michael A. Kahn, The BrickHouse Law Group PC, 1006 Olive St., Ste. 303, St. Louis, MO 63101, (314)932-1070

DEFENDANTS

Warner Bros. Entertainment Inc.

County of Residence of First Listed Defendant New Castle, DE
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|--|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

17 U.S.C. Section 101, et seq.

Brief description of cause:
Copyright Infringement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

04/28/2011

Geoffrey G. Gerber

Digitally signed by Geoffrey G. Gerber
DN: cn=Geoffrey G. Gerber, o=The BrickHouse Law Group Professional Corporation, ou,
email=ggerber@brickhouselaw.com, c=US
Date: 2011.04.28 14:15:48 -0500

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

S. Victor Whitmill)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 4 : 11 - cv - 752
Warner Bros.)	
Entertainment Inc.)	
)	
Defendant,)	
)	

ORIGINAL FILING FORM

THIS FORM MUST BE COMPLETED AND VERIFIED BY THE FILING PARTY WHEN INITIATING A NEW CASE.

THIS SAME CAUSE, OR A SUBSTANTIALLY EQUIVALENT COMPLAINT, WAS PREVIOUSLY FILED IN THIS COURT AS CASE NUMBER _____ AND ASSIGNED TO THE HONORABLE JUDGE _____.

THIS CAUSE IS RELATED, BUT IS NOT SUBSTANTIALLY EQUIVALENT TO ANY PREVIOUSLY FILED COMPLAINT. THE RELATED CASE NUMBER IS _____ AND THAT CASE WAS ASSIGNED TO THE HONORABLE _____. THIS CASE MAY, THEREFORE, BE OPENED AS AN ORIGINAL PROCEEDING.

NEITHER THIS SAME CAUSE, NOR A SUBSTANTIALLY EQUIVALENT COMPLAINT, HAS BEEN PREVIOUSLY FILED IN THIS COURT, AND THEREFORE MAY BE OPENED AS AN ORIGINAL PROCEEDING.

The undersigned affirms that the information provided above is true and correct.

Date: April 28, 2011

/s/ Geoffrey G. Gerber
Signature of Filing Party

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

S. Victor Whitmill

_____,
Plaintiff (s),

v.

Warner Bros.
Entertainment Inc.,
Defendant(s).

)
)
)
)
)
)
)
)
)
)

Case No. 4:11-cv-752

NOTICE OF INTENT TO USE
PROCESS SERVER

Comes now Plaintiff S. Victor
Whitmill and notifies the court of the intent to use
(Plaintiff or Defendant)

Parcels Inc.

(name and address of process server)

230 N. Market Street

Wilmington, DE 19801

To serve: Warner Bros. Entertainment Inc.

_____ in the
(name of defendants to be served by this process server)

above-styled cause. The process server listed above possesses the
requirements as stated in Rule 4 of the Federal Rules of Civil Procedure.

The undersigned affirms the information provided above is true and correct.

04/28/2011

(date)

/s/ Geoffrey G. Gerber

(attorney for Plaintiff)

(attorney for Defendant)

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

S. Victor Whitmill)	
)	
)	
Plaintiff(s),)	
)	Case No. 4:11-cv-752
vs.)	
Warner Bros. Entertainment Inc.)	
)	
Defendant(s).)	

**DISCLOSURE OF CORPORATION INTERESTS
CERTIFICATE**

Pursuant to Rule 2.09 of the Local Rules of the United States District Court for the Eastern District of Missouri and Rule 7.1 of the Federal Rules of Civil Procedure, Counsel of record for Warner Bros. hereby gives notice the following corporate interests are disclosed: Entertainment Inc.

1. The parent companies of the corporation:

2. Subsidiaries not wholly owned by the corporation:

3. Any publicly held company that owns ten percent (10%) or more of the corporation:

Signature (Counsel for Plaintiff/Defendant)
Print Name: _____
Address: _____

City/State/Zip: _____
Phone: _____

I hereby certify a true copy of the foregoing Disclosure of Corporate Interest Certificate was serve (by mail, by hand delivery or by electronic notice) on all parties this ___ Day of _____, 20__.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri

S. Victor Whitmill

Plaintiff

v.

Warner Bros. Entertainment Inc.

Defendant

)
)
)
)
)
)
)

Civil Action No. 4:11-cv-752

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Warner Bros. Entertainment Inc.
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Michael A. Kahn
Pete W. Salsich, III
Geoffrey G. Gerber
The BrickHouse Law Group Professional Corporation
1006 Olive Street, Ste. 303
Saint Louis, MO 63101

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 4:11-cv-752

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)*
was received by me on *(date)* .

I personally served the summons on the individual at *(place)*
on *(date)* ; or

I left the summons at the individual's residence or usual place of abode with *(name)*
, a person of suitable age and discretion who resides there,
on *(date)* , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* , who is
designated by law to accept service of process on behalf of *(name of organization)*
on *(date)* ; or

I returned the summons unexecuted because ; or

Other *(specify):*

My fees are \$ for travel and \$ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: