

ARIAS OZZELLO & GIGNAC LLP

1 J. Paul Gignac, State Bar No. 125676
2 Mischa N. Barteau, State Bar No. 274474
3 **ARIAS OZZELLO & GIGNAC LLP**
4 115 S. La Cumbre Lane, Suite 300
5 Santa Barbara, California 93105
6 Telephone: (805) 683-7400
7 Facsimile: (805) 683-7401
8 j.paul@aogllp.com
9 mbarteau@aogllp.com

6 J.A. Ted Baer, State Bar No. 135092
7 **LAW OFFICE OF J.A. TED BAER**
8 21 E. Canon Perdido Street, Suite 223
9 Santa Barbara, California 93101
10 Telephone: (805) 963-7177
11 Facsimile: (801) 730-2874
12 ted@tedbaerlaw.com

10 Attorneys for Plaintiff
11 Kelly Wilson

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

15 KELLY WILSON, an individual,
16 Plaintiff,

17 vs.

18 THE WALT DISNEY COMPANY, a Delaware
19 corporation; DISNEY ENTERPRISES, INC., a
20 Delaware corporation; WALT DISNEY
21 PICTURES, a California corporation; WALT
22 DISNEY MOTION PICTURES GROUP, INC.,
23 a California corporation; and DOES 1 through
24 25, inclusive,
25 Defendants.

Case No.

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT AND DECLARATORY
RELIEF**

DEMAND FOR JURY TRIAL

25 Plaintiff Kelly Wilson (“Wilson” or “Plaintiff”) hereby alleges the following claims
26 for relief against defendants The Walt Disney Company, Disney Enterprises, Inc., Walt
27 Disney Pictures, and Walt Disney Motion Pictures Group, Inc. (together, “Disney”), and
28 Does 1 through 25, inclusive (with Disney, “Defendants”).

INTRODUCTION

1
2 1. Plaintiff is the creator of *The Snowman*, a short 2D computer animated
3 motion picture about an “average Joe” snowman who must battle a gang of hungry rabbits
4 to save his carrot nose. Plaintiff created *The Snowman* between 2008 and 2010, and *The*
5 *Snowman* has been widely disseminated by way of screenings at eight film festivals and
6 publication on the Internet.

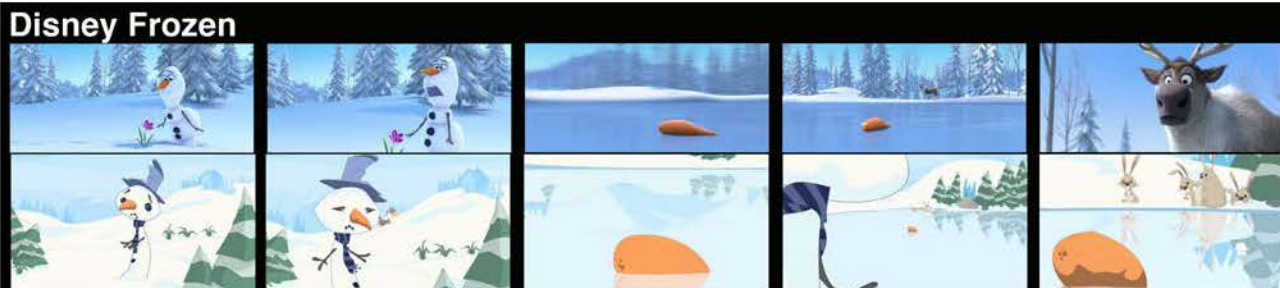
7 2. Defendants produced and released *FROZEN*, a feature-length 3D computer
8 animated motion picture set in a wintry land.

9 3. *FROZEN* was released shortly before Thanksgiving in November 2013.
10 *FROZEN* broke box-office records and earned an estimated \$110.6 million worldwide in its
11 opening weekend. *FROZEN* is one of Defendants’ most acclaimed and successful animated
12 motion pictures, and it recently won two Academy Awards and has earned more than \$1
13 billion in box office revenues worldwide.

14 4. In June 2013, Defendants released the “teaser trailer” for *FROZEN* (the
15 “*FROZEN* teaser trailer”). The *FROZEN* teaser trailer is substantially similar to *The*
16 *Snowman*, and it is almost identical to the original elements of *The Snowman*, including,
17 but not limited to: the plot, themes, dialogue, mood, setting, pace, characters, and sequence
18 of events. A frame-by-frame comparison of *The Snowman* and the *FROZEN* teaser trailer,
19 shown in paragraph 5 below, demonstrates how and why an ordinary observer would regard
20 the *FROZEN* teaser trailer as substantially similar to *The Snowman*.

21 5. The depiction of the character Olaf the snowman in the *FROZEN* trailers and
22 in the movie *FROZEN* is, likewise, substantially similar to the depiction of the snowman
23 character in *The Snowman*. The differences in the shape and depth of the visual depiction
24 of the snowmen characters are explained by the fact that the snowman in *The Snowman* was
25 created using 2-D software, whereas Olaf the snowman in *FROZEN*, the *FROZEN* teaser
26 trailer and other *FROZEN* trailers was created using 3-D software.

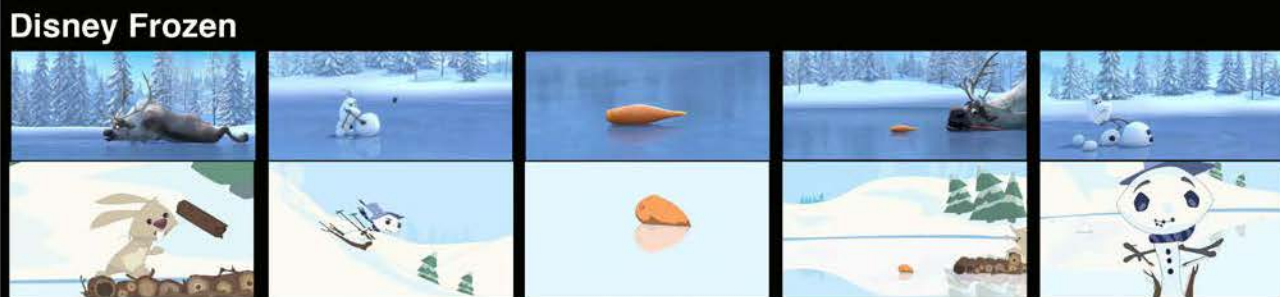
ARIAS OZZELLO & GIGNAC LLP



6 **The Snowman**



12 **The Snowman**



19 **The Snowman**



25 **The Snowman**

26 6. Defendants had access to Plaintiff's *The Snowman* prior to the creation of
 27 *FROZEN*, the *FROZEN* teaser trailer, and other *FROZEN* trailers. Defendants copied a
 28 substantial portion of *The Snowman* and used it as the *FROZEN* teaser trailer, and the

1 depiction of the character Olaf the snowman in other *FROZEN* trailers and throughout the
2 movie *FROZEN* substantially copies original elements of the snowman character expressed
3 in *The Snowman*. Therefore, Defendants are infringing upon Plaintiff's copyright in *The*
4 *Snowman*.

5 7. Defendants' conduct is unlawful. It is proscribed by the United States
6 Copyright Act. In this action, Plaintiff seeks, among other things, damages attributable to
7 the infringement and declaratory relief to remedy Defendants' actions.

8 **JURISDICTION AND VENUE**

9 8. This Court has original subject matter jurisdiction over this action and the
10 claims asserted herein, pursuant to 28 U.S.C. § 1331 ("federal question jurisdiction") and §
11 1338(a) (actions arising under any Act of Congress relating to copyright), in that this action
12 arises under the laws of the United States and, more specifically, Acts of Congress relating
13 to copyrights.

14 9. Defendants are subject to personal jurisdiction of the Court because they
15 reside, have agents, do or transact business, or are otherwise found, and have purposefully
16 availed themselves of the privilege of doing business in California and this District.

17 10. Venue is proper in this District pursuant to 28 U.S.C. § 1400(a) because
18 Defendants have a regular and established place of business in this District and may be
19 found in this District. Venue is also proper in this District pursuant to 28 U.S.C. §
20 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims
21 occurred in this District and a substantial part of the property that is the subject of this
22 action is situated in this District. Alternatively, venue is also proper in this District
23 pursuant to 28 U.S.C. § 1391(b)(3) because Defendants have a regular and established
24 place of business in this District and may be found in this District.

25 **THE PARTIES**

26 11. At all times material hereto, Plaintiff was an individual residing in Mill
27 Valley, California. Plaintiff is the creator, writer, director, animator, and producer of the
28 *The Snowman*. Plaintiff owns the exclusive copyright(s) to *The Snowman*.

1 12. Plaintiff is informed and believes and thereon alleges that defendant The
2 Walt Disney Company is a Delaware corporation with its principal place of business at 500
3 South Buena Vista Street, Burbank, California, 91521, duly authorized to do and doing
4 business in this District. At all times material hereto, The Walt Disney Company has been
5 engaged in the business of, among other things, developing, producing, and distributing
6 animated feature films. Plaintiff is informed and believes and thereon alleges that
7 defendant The Walt Disney Company produced and released the movie entitled *FROZEN*
8 and produced and released the *FROZEN* teaser trailer and other trailers for *FROZEN*, all of
9 which infringe upon Plaintiff's copyright in *The Snowman*.

10 13. Plaintiff is informed and believes and thereon alleges that defendant Disney
11 Enterprises, Inc. is a Delaware corporation with its principal place of business at 500 South
12 Buena Vista Street, Burbank, California, 91521, duly authorized to do and doing business
13 in this District. At all times material hereto, Disney Enterprises, Inc. was the owner of
14 rights associated with feature-length motion pictures produced and distributed by affiliated
15 companies of The Walt Disney Company and/or their predecessors in interest. Plaintiff is
16 informed and believes and thereon alleges that defendant Disney Enterprises, Inc. produced
17 and released the movie entitled *FROZEN* and produced and released the *FROZEN* teaser
18 trailer and other trailers for *FROZEN*, all of which infringe upon Plaintiff's copyright in
19 *The Snowman*.

20 14. Plaintiff is informed and believes and thereon alleges that defendant Walt
21 Disney Pictures is a California corporation with its principal place of business at 500 South
22 Buena Vista Street, Burbank, California, 91521, duly authorized to do and doing business
23 in this District. At all times material hereto, Walt Disney Pictures has been engaged in the
24 business of, among other things, developing, producing, and distributing animated feature
25 films. Plaintiff is informed and believes and thereon alleges that defendant Walt Disney
26 Pictures produced and released the movie entitled *FROZEN* and produced and released the
27 *FROZEN* teaser trailer and other trailers for *FROZEN*, all of which infringe upon Plaintiff's
28 copyright in *The Snowman*.

1 15. Plaintiff is informed and believes and thereon alleges that defendant Walt
 2 Disney Motion Pictures Group, Inc. is a California corporation with its principal place of
 3 business at 500 South Buena Vista Street, Burbank, California, 91521, duly authorized to
 4 do and doing business in this District. At all times material hereto, Walt Disney Motion
 5 Pictures Group, Inc. has been engaged in the business of, among other things, developing,
 6 producing, and distributing animated feature films. Plaintiff is informed and believes and
 7 thereon alleges that defendant Walt Disney Motion Pictures Group, Inc. produced and
 8 released the movie entitled *FROZEN* and produced and released the *FROZEN* teaser trailer
 9 and other trailers for *FROZEN*, all of which infringe upon Plaintiff's copyright in *The*
 10 *Snowman*.

11 16. The true names and capacities, whether individual, corporate, partnership,
 12 associate, agent, employee, or otherwise of defendants named in this complaint as Does 1
 13 through 25, inclusive (the "Doe Defendants"), are unknown to Plaintiff, who therefore sues
 14 such defendants by such fictitious names. Plaintiff will amend this complaint to allege the
 15 true names and capacities of the Doe Defendants when she has ascertained the same.
 16 Plaintiff is informed and believes, and on that basis alleges that, at all relevant times, the
 17 Doe Defendants were responsible in some manner for the conduct herein alleged and
 18 proximately caused Plaintiff's damages. Plaintiff is informed and believes, and on that
 19 basis alleges that, at all relevant times, the Doe Defendants were the agents of, and/or were
 20 acting in concert with, each of the other defendants and, in doing the things alleged, were
 21 acting within the scope of such agency. Any reference to the named defendants herein
 22 shall also constitute a reference to the Doe Defendants.

23 FACTUAL BACKGROUND

24 I. *The Snowman*

25 17. Plaintiff is the holder of the exclusive copyright to *The Snowman*, and
 26 Plaintiff registered her copyright in *The Snowman*. A true and correct copy of the
 27 Certificate of Registration for *The Snowman*, No. PA 1-860-757, is attached hereto as
 28 Exhibit 1.

1 18. Plaintiff has never licensed or otherwise authorized Defendants to copy,
2 distribute, or publicly disseminate *The Snowman*, or make derivative works based upon it.

3 19. *The Snowman* was published in 2010 and has been widely disseminated and
4 available for viewing since 2011 by way of screenings at film festivals and postings on the
5 Internet.

6 20. *The Snowman* was screened at eight film festivals around the country from
7 2011 through 2012: Green Bay International Film Festival (Green Bay, WI 02/25/2011–
8 02/27/2011); San Francisco International Film Festival (San Francisco, CA 04/21/2011–
9 05/05/2011); Animation Block Party (Brooklyn, NY 07/29/2011–07/31/2011); Palo Alto
10 International Film Festival (Palo Alto, CA 09/29/2011–10/02/2011); Santa Barbara
11 International Film Festival (Santa Barbara, CA 01/26/2012–02/05/2012); Film Streams
12 Festival (Omaha, NE 03/2012); Claremont 5 Second Film Festival (Claremont, CA
13 05/17/2012); and Prescott Film Festival (Prescott, AZ 08/01/2012–08/08/2012).

14 21. Plaintiff won the award for “Youth Work Honorable Mention” for *The*
15 *Snowman* at the 54th San Francisco International Film Festival in 2011, in a category where
16 *The Snowman* competed with a short film created by an employee of Pixar Animation
17 Studios (“Pixar”)—a subsidiary of Disney—and it was made known by Film Festival
18 producers that Pixar employees were present for the screenings. In fact, at screenings of
19 the short films in 2011, both Plaintiff and the Pixar employees were invited on stage
20 together to discuss their respective films.

21 22. *The Snowman* has been posted on the Internet and available on Plaintiff’s
22 website kellywilsonfilms.com since 2010. *The Snowman* is currently known to be available
23 for viewing on the Internet at the following locations:

- 24 a. http://kellywilsonfilms.com/films_pages/snowman_Page.html
25 b. <http://vimeo.com/52869137>
26 c. <http://www.youtube.com/watch?v=PJ6c7RLV8ew>
27 d. <http://www.imdb.com/video/wab/vi3563493657>

28 ///

1 23. Plaintiff created *The Snowman* and submitted *The Snowman*—in part and in
2 full—to Defendants as part of job applications on four different occasions from 2009
3 through 2012. *The Snowman* was also submitted via DVD to Defendants in 2010 as part of
4 a job application from *The Snowman*'s co-creator Neil Wrischnik. Disney has
5 surreptitiously appropriated Plaintiff's valuable work *The Snowman* to create the *FROZEN*
6 teaser trailer and the character of Olaf the snowman in *FROZEN* without any attempt to
7 obtain authorization from Plaintiff or to accord her credit.

8 **II. FROZEN and the FROZEN Teaser Trailer**

9 24. Plaintiff is informed and believes, and on that basis alleges, that Defendants
10 began production of *FROZEN* in or around 2011-2012. The *FROZEN* teaser trailer was
11 published on the Internet on or around June 18, 2013, at
12 <http://www.youtube.com/watch?v=-WdC4DaYIeQ>, and it is believed to have appeared in
13 movie theaters around the same time. Defendants' unlawful use of the *FROZEN* teaser
14 trailer and Olaf the snowman is continuing.

15 25. *FROZEN*'s theatrical release premiered in Hollywood, California on
16 November 19, 2013, and *FROZEN* was widely released in movie theaters across the United
17 States and internationally on November 27, 2013. A sing-along version of *FROZEN* was
18 released in theaters in the United States on January 31, 2014.

19 26. The *FROZEN* teaser trailer was used to promote *FROZEN* worldwide, and
20 the fun, lovable, and universally appealing depiction of Olaf the snowman indisputably
21 built a market for the film and its related products. In fact, *FROZEN* now holds the record
22 for the largest Thanksgiving-weekend film opening ever, and *FROZEN* also set an opening
23 weekend record among Walt Disney Animation Studios films.

24 27. Many ordinary observers and film reviewers have commented on the fact that
25 the *FROZEN* teaser trailer built great momentum and interest in *FROZEN*, but that it does
26 not actually represent a "preview" of the movie. For example, Dan Kois, writing for
27 SLATE, describes the *FROZEN* teaser trailer as misleading, noting that it prompted his 6-
28 year-old daughter to say: "I thought this movie was about a snowman and a reindeer

1 fighting for a carrrrroooottttttt!” Similarly, FORBES wrote an article entitled “In Defense of
2 Disney’s Misleading ‘Frozen’ Marketing” and attributed *FROZEN*’s opening weekend
3 success to “a successful version of an underrated form of advertising: ‘the false under-
4 sell.’”

5 **III. Similarities Between the Snowman Characters in *The Snowman* and *FROZEN***

6 28. *The Snowman* begins with a winter scene and a shot of the awkward and
7 clumsy looking snowman being approached by a bird. The bird lands on the snowman’s
8 carrot nose and knocks it off of the snowman’s head, and the snowman is unable to retrieve
9 his carrot nose to re-attach it. Four rabbits appear and are interested in the snowman’s
10 carrot nose. The snowman is concerned that he will lose his carrot nose to the rabbits, and
11 the snowman attempts to retrieve his carrot nose and keep it away from the rabbits. In his
12 effort to do so, the snowman pushes himself and the carrot nose down a hill of ice and onto
13 a frozen body of water.

14 29. Both the snowman and the rabbits end up on the frozen body of water, and
15 both are pursuing the carrot nose. However, both are unable to cross the ice in order to
16 retrieve the carrot nose because the ice is too slippery. The snowman and the rabbits then
17 devise separate plans to retrieve the snowman’s carrot nose.

18 30. The rabbits place logs of wood on the ice at increments in order to cross the
19 ice, and the snowman attaches sticks to himself that he uses as skis to ski down the snow
20 hill and onto the ice. The snowman succeeds in retrieving his carrot nose before the rabbits
21 can get to it. In the rabbits’ attempt to retrieve the carrot nose, one of the rabbits breaks the
22 ice and falls into the water.

23 31. The snowman is concerned for the rabbit and helps pull the rabbit out of the
24 water with his carrot nose. The message that is being conveyed is clear: the snowman is
25 willing to risk losing his carrot nose in order to save the rabbit. The rabbit is grateful; it
26 returns the lifesaving carrot nose back to the snowman and then hops away. The snowman
27 is happy, presumably for saving the rabbit and getting back his carrot nose. The snowman
28 also appears pleased to have found companionship and collegiality in helping the rabbit.

1 There is a mutual respect and sense of fulfillment between the snowman and the rabbits that
2 is evident at the conclusion of the short film.

3 32. The *FROZEN* teaser trailer is strikingly similar to the entirety of *The*
4 *Snowman*. It begins with a similar winter scene and Olaf the snowman amidst snow-
5 covered trees. Olaf the snowman is an awkward and clumsy character that sniffs a flower,
6 sneezes and then loses his carrot nose on a body of frozen water. The carrot nose is spotted
7 by a moose who is across the frozen body of water and who is interested in Olaf the
8 snowman's carrot nose. Olaf the snowman is concerned that he will lose his carrot nose to
9 the moose and attempts to reach the carrot nose to keep it away from the moose.

10 33. Both Olaf the snowman and the moose attempt to cross the frozen body of
11 water to retrieve the carrot nose, but both are unable to do so because the ice is too
12 slippery. Both Olaf the snowman and the moose inch their way closer to the carrot nose,
13 but both find the carrot nose out of their reach. Olaf the snowman then uses one of his
14 stick arms as a catapult to project his head closer to the carrot nose.

15 34. Olaf the snowman manages to grab the carrot nose, but in the struggle over
16 the carrot nose, the carrot nose is propelled onto the snow embankment. The moose then
17 runs after the carrot nose and retrieves it, and Olaf the snowman is sad for losing his carrot
18 nose. However, in an act of kindness, the moose returns with the carrot nose and places it
19 on Olaf the snowman's face. The moose then begins to hop. Olaf the snowman and the
20 moose appear happy and grateful to each other and exchange a moment of affection. There
21 is a mutual respect and sense of fulfillment between Olaf the snowman and the moose that
22 is evident at the conclusion of the *FROZEN* teaser trailer.

23 35. The *FROZEN* teaser trailer copies the key plot elements, characters, themes,
24 events, setting, mood, pace, dialogue, and sequence of *The Snowman*, including without
25 limitation, the following:

- 26 a. **PLOT:** *The Snowman* and the *FROZEN* teaser trailer present the exact same
27 plot in exactly the same sequence. Both *The Snowman* and the *FROZEN*
28 teaser trailer are stories intended for an audience of all ages about a snowman

1 competing with animals on slippery ice to recover his carrot nose. Both
2 works are stories where the snowman seeks companionship and is ultimately
3 fulfilled by finding friendship with former foes while helping new-found
4 friends. There is no difference in the plot between the two works, except that
5 *The Snowman* is longer in running time and therefore has additional plot
6 elements. Both works are about: (1) a snowman competing with animals for
7 a carrot nose on slippery ice; and (2) the formerly adversarial animals acting
8 out of friendship to return the carrot nose to the snowman.

9 b. **CHARACTERS:** The snowmen in *The Snowman* and the *FROZEN* teaser
10 trailer are substantially similar characters because: (1) the snowman in *The*
11 *Snowman* and Olaf the snowman in the *FROZEN* teaser trailer are depicted as
12 equally complex characters; and (2) the corollary, analogous character to the
13 rabbits in *The Snowman* is the moose in the *FROZEN* teaser trailer. The
14 snowmen in both works are characterized in the same way in terms of their
15 personalities and visual depictions, and the corollary competing animals in
16 both works are characterized in the same way. Moreover, the artistic
17 rendering of the snowmen in both *The Snowman* and the *FROZEN* teaser
18 trailer is likewise substantially similar. Both snowmen are portrayed as
19 awkward, insecure and clumsy, and both are portrayed as having lanky
20 bodies with heads larger than their bodies. While there are minor differences
21 in the visual depictions of the snowmen, these differences are explained by
22 the simple fact that the snowmen were created using different software. The
23 snowman character in *The Snowman* was created using 2D software, whereas
24 Olaf the snowman was created using 3D software, which affects and explains
25 the differing depictions of the mouth, eyes and overall shape of the
26 snowmen.

27 c. **THEMES:** The themes in both *The Snowman* and the *FROZEN* teaser trailer are
28 the same. Both works exhibit the same themes of competition, sacrifice,

1 friendship and gratitude. All of these themes are presented in the same way in
2 *The Snowman* and the *FROZEN* teaser trailer.

3 i. Competition: First, in *The Snowman*, the snowman competes with
4 the rabbits on the slippery ice to retrieve the carrot. Similarly, in
5 the *FROZEN* teaser trailer, Olaf the snowman competes with the
6 moose on the slippery ice to retrieve the carrot. Second, in *The*
7 *Snowman*, the snowman is able to take hold of the carrot before
8 the rabbit does. Similarly, in the *FROZEN* teaser trailer, Olaf the
9 snowman is able to take hold of the carrot before the moose does.
10 Third, in *The Snowman*, the snowman loses his carrot nose to the
11 rabbit when both he and the rabbit have a grip on the carrot but the
12 rabbit ends up wresting control of the carrot from the snowman.
13 Similarly, in the *FROZEN* teaser trailer, Olaf the snowman loses
14 his carrot nose to the moose when both he and the moose have a
15 grip on the carrot but the moose ends up wresting control of the
16 carrot from Olaf the snowman.

17 ii. Sacrifice: In *The Snowman*, after losing the carrot to the rabbit,
18 the snowman appears concerned and sad. However, in a
19 surprising turn of events, instead of keeping the carrot for itself,
20 the rabbit returns the carrot to the snowman. Similarly, in the
21 *FROZEN* teaser trailer, after losing the carrot to the moose, Olaf
22 the snowman appears concerned and sad. However, in a
23 surprising turn of events, instead of keeping the carrot for itself,
24 the moose returns the carrot to Olaf the snowman.

25 iii. Friendship: In *The Snowman*, the snowman is introduced as a
26 solitary character who longs for friendship. The snowman
27 encounters a group of rabbits on a lake and is forced to compete
28 against them in an effort to retrieve his lost carrot nose. In the

1 course of competing for the snowman's carrot nose, the snowman
 2 and the rabbits develop a friendship, which is ultimately gratifying
 3 for both the snowman and the rabbits. Similarly, in the *FROZEN*
 4 teaser trailer, Olaf the snowman is introduced as solitary character
 5 who longs for friendship. Olaf the snowman encounters a moose
 6 on a lake and is forced to compete against it in an effort to retrieve
 7 his lost carrot nose. In the course of competing for Olaf the
 8 snowman's carrot nose, Olaf the snowman and the moose develop
 9 a friendship, which is ultimately gratifying for both Olaf the
 10 snowman and the moose.

11 iv. Gratitude: In *The Snowman*, once the formerly adversarial rabbit
 12 has returned the carrot nose to the snowman, the snowman is
 13 grateful and smiles. Similarly, in the *FROZEN* teaser trailer, once
 14 the formerly adversarial moose has returned the carrot nose to
 15 Olaf the snowman, Olaf the snowman is grateful and smiles.

16 d. **EVENTS**: The events in the *FROZEN* teaser trailer and in *The Snowman* are
 17 the same. The only difference is that the *FROZEN* teaser trailer is shorter in
 18 running time than *The Snowman*, and therefore not all events that appear in
 19 *The Snowman* appear in the *FROZEN* teaser trailer. Conversely, almost all
 20 events that appear in the *FROZEN* teaser trailer appear in *The Snowman*.

21 e. **SETTING, MOOD, AND PACE**: The setting, mood, and pace are the same
 22 in both the *FROZEN* teaser trailer and *The Snowman*.

23 i. **Setting**: Both *The Snowman* and the *FROZEN* teaser trailer have
 24 the exact same setting, color palette, and scene selection.

25 ii. **Mood**: Both *The Snowman* and the *FROZEN* teaser trailer depict a
 26 snowman competing with animals in a way that is endearing,
 27 appealing, and heart-warming.

28 iii. **Pace**: Both *The Snowman* and the *FROZEN* teaser trailer progress

1 at the same pace and in the same order of events.

2 f. **DIALOGUE:** *The Snowman* contains no dialogue. Similarly, Olaf the
3 snowman in the *FROZEN* teaser trailer only utters one word (“hello”) and
4 then screams. Other than that one word, the *FROZEN* teaser trailer contains
5 no dialogue.

6 g. **SEQUENCE OF EVENTS:** The sequence of events is exactly the same in
7 both *The Snowman* and the *FROZEN* teaser trailer. Both are presented in a
8 straight, linear trajectory with the events happening in the same sequence in
9 both *The Snowman* and the *FROZEN* teaser trailer.

10 36. The striking similarities between *The Snowman* and the *FROZEN* teaser
11 trailer have been widely noted by ordinary observers who have seen *The Snowman* and the
12 *FROZEN* teaser trailer. For example, the animation blog *Awesome Robo!* has an entry
13 entitled “THE UNCANNY RESEMBLANCE BETWEEN DISNEY’S ‘FROZEN’ TEASER
14 AND A 2009 STUDENT ANIMATION” (at [http://www.awesome-robo.com/2013/06/the-](http://www.awesome-robo.com/2013/06/the-uncanny-resemblance-between-disneys.html)
15 [uncanny-resemblance-between-disneys.html](http://www.awesome-robo.com/2013/06/the-uncanny-resemblance-between-disneys.html)) and writes that “there were some striking
16 similarities between the [*FROZEN*] teaser and a short [film] written, produced and directed
17 by Kelly Wilson in 2009 called *The Snowman*, which featured an identical scenario, down
18 to the resolution.” The blog further notes that “[b]oth shorts feature a clumsy snowman
19 that loses his nose, which lands on a frozen lake that gets the attention of a carrot eating
20 creature. Rabbits in *The Snowman*, a reindeer in *Frozen*. In both shorts the carrot lands on
21 a frozen lake, and a struggle ensues in which the snowman and creature struggle to get the
22 carrot back. Both shorts feature the creature getting the carrot instead of the snowman,
23 nearly eating it, and changing their mind last minute before handing it back to the
24 snowman.” Similarly, a video review of the *FROZEN* teaser trailer (at
25 <http://www.youtube.com/watch?v=qanoZhFNfD8>) calls it “less of a teaser, and more of a
26 short film” and says “if you think this looks familiar, you may have seen Kelly Wilson’s
27 short film *The Snowman* back in 2009, which shares a lot of similarities to the *FROZEN*
28 teaser. Okay, *it’s practically identical* to the *FROZEN* teaser.” (emphasis added)

1 37. Plaintiff has received inquiries from the media, including TODAY.com and
2 NBCNews.com, raising the similarities between *The Snowman* and *FROZEN* and asking
3 whether Disney obtained Plaintiff's permission to copy *The Snowman*.

4 38. The similarities between *The Snowman* and *FROZEN* are not limited to those
5 displayed in the *FROZEN* teaser trailer. There are substantial similarities between the
6 character Olaf the snowman throughout the movie *FROZEN* and in all of its affiliated
7 trailers, on the one hand, and Plaintiff's original depiction of the snowman in *The*
8 *Snowman*, on the other hand, including without limitation, the following:

- 9 a. Olaf the snowman's physical appearance is strikingly similar to the snowman
10 in *The Snowman*. Naturally, because Olaf was created by the master
11 animators at Disney, and because Olaf was created using 3-D software
12 whereas *The Snowman* was created using 2-D software, Olaf's appearance is
13 more developed, and he looks like a more professionally created animated
14 character. Nonetheless, both snowmen are portrayed with a thin body and
15 heads larger than their bodies—contrary to traditional depictions of snowmen.
16 The traditional snowman is depicted as having a large, round body and a
17 head smaller than its body.
- 18 b. Both Olaf the snowman in *FROZEN* and the snowman in *The Snowman* lose
19 their carrot noses and succeed in recovering them only because of the
20 generosity of animal adversaries. In *The Snowman*, the snowman loses his
21 carrot nose, the snowman competes against a band of rabbits to recover his
22 carrot nose and, ultimately, the snowman uses his carrot nose to help save his
23 new found friend the rabbit. In the *FROZEN* teaser trailer, the same
24 sequence of events takes place in the same setting, except with a moose
25 instead of rabbits. Similarly, in *FROZEN*, Olaf is constantly losing parts of
26 his body that must be retrieved and re-attached by other characters.
- 27 c. The snowman in *The Snowman* is introduced as an awkward, clumsy and
28 insecure snowman who lacks a defined sense of identity and who longs for

1 friendship and companionship. Similarly, in *FROZEN*, Olaf the snowman is
 2 introduced as an awkward, clumsy and insecure snowman who lacks a
 3 defined sense of identity and who longs for friendship and companionship.

4 d. In *The Snowman*, the snowman is seeking companionship, is confronted by
 5 threatening animals, and is ultimately fulfilled by finding friendship and
 6 helping his new-found friends. Similarly, in *FROZEN*, Olaf the snowman is
 7 seeking companionship, is confronted by a threatening animal, and is
 8 ultimately fulfilled by finding friendship and helping his new-found friends.

9 e. In *The Snowman*, the snowman is willing to sacrifice a part of himself to save
 10 one of the rabbits when he uses his carrot nose to pull the rabbit out of the
 11 water. Similarly, in *FROZEN*, Olaf the snowman is willing to let himself
 12 melt in order to warm Princess Anna by the fire and save her from freezing.

13 **FIRST CLAIM FOR RELIEF FOR COPYRIGHT INFRINGEMENT**

14 **(Against All Defendants)**

15 39. Plaintiff incorporates by reference paragraphs 1 through 38, inclusive, and
 16 re-alleges them here as though fully set forth herein.

17 40. *The Snowman* is an original work of authorship fixed in a tangible means of
 18 expression that constitutes a motion picture and/or audiovisual work pursuant to 17 U.S.C.
 19 § 102(a) and that is subject to copyright protection under the Copyright Act, 17 U.S.C. §§
 20 101 *et seq.*

21 41. Plaintiff's exclusive rights to *The Snowman* extend to each protectable
 22 component of *The Snowman*, including the right to create derivative works.

23 42. Plaintiff has the right and standing to enforce her exclusive rights to *The*
 24 *Snowman* and its copyrightable component parts.

25 43. At all times material hereto, Plaintiff has duly complied with all of the
 26 provisions of the copyright laws of the United States applicable to *The Snowman*.

27 44. Defendants had access to *The Snowman*. *The Snowman* was screened at eight
 28 film festivals, including at least one where Pixar employees were present and competing in

1 the same category as Plaintiff's *The Snowman*. Additionally, *The Snowman* was submitted
 2 to Defendants as part of job applications on numerous occasions. Finally, *The Snowman*
 3 has been widely available for viewing on the Internet since 2010.

4 45. By producing and distributing the *FROZEN* teaser trailer, *FROZEN*, and
 5 other trailers affiliated with *FROZEN*, Defendants have reproduced, copied, prepared
 6 derivative works based upon, and distributed copies of substantial portions of *The*
 7 *Snowman*, including key plot elements, characters, events, and sequences for their own use,
 8 without Plaintiff's permission or authorization. Defendants continue to do so.

9 46. Defendants' conduct constituted, and continues to constitute, infringement
 10 upon Plaintiff's exclusive rights to reproduce, copy, prepare derivative works based upon,
 11 and distribute *The Snowman*, all in violation of 17 U.S.C. §§ 106 and 501.

12 47. Defendants' infringement was, and continues to be, intentional, deliberate,
 13 willful, malicious, and in blatant disregard of Plaintiff's exclusive rights.

14 48. Defendants' infringing conduct has caused Plaintiff to suffer damages and
 15 harm, including, but not limited to, lost derivative market exploitation opportunity, lost
 16 revenues and profits, loss of creative attribution, lost market share, and other damages,
 17 including costs and attorneys' fees, the exact nature and extent of which will be proven at
 18 trial but which exceeds the minimum jurisdictional requirements of this Court.

19 49. Accordingly, Plaintiff is entitled to an award against Defendants for the
 20 recovery of Defendants' profits, Plaintiff's actual damages or statutory damages, punitive
 21 damages, and attorneys' fees and costs, pursuant to 17 U.S.C. §§ 504 and 505.

22 **SECOND CLAIM FOR RELIEF FOR A DECLARATORY JUDGMENT**

23 **(Against All Defendants)**

24 50. Plaintiff incorporates by reference paragraphs 1 through 38, inclusive, and
 25 re-alleges them here as though fully set forth herein.

26 51. An actual controversy has arisen and now exists relating to the rights and
 27 duties of Plaintiff and Defendants under U.S. copyright laws in that Plaintiff contends that
 28 Defendants' use, reproduction, marketing, sale, and distribution of *FROZEN*, the *FROZEN*

1 teaser trailer, and other trailers affiliated with *FROZEN* infringe upon Plaintiff's exclusive
 2 copyrights in *The Snowman*. Upon information and belief, Plaintiff alleges that Defendants
 3 contend that their use, reproduction, marketing, sale, and distribution of *FROZEN*, the
 4 *FROZEN* teaser trailer, and other trailers affiliated with *FROZEN* are lawful.

5 52. A judicial declaration is necessary and appropriate at this time under the
 6 circumstances presented in order that the parties may ascertain their respective rights.

7 53. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and
 8 Rule 57 of the Federal Rules of Civil Procedure, Plaintiff is entitled to a judicial
 9 determination of her rights and a judicial declaration that Defendants' use, reproduction,
 10 marketing, sale, and distribution of *FROZEN*, the *FROZEN* teaser trailer, and other trailers
 11 affiliated with *FROZEN* infringe upon Plaintiff's exclusive rights in *The Snowman* in
 12 violation of the U.S. copyright laws.

13 PRAYER FOR RELIEF

14 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

15 1. That Defendants be adjudged to have infringed upon Plaintiff's copyrights in
 16 *The Snowman*, in violation of 17 U.S.C. §§ 106 and 501;

17 2. That Defendants be required to account to Plaintiff for any and all profits
 18 derived by their exploitation of *The Snowman* in all media, from all sources, worldwide;

19 3. That Defendants be ordered to pay over to Plaintiff all damages, including
 20 future damages, that Plaintiff has sustained, or will sustain, as a consequence of the acts
 21 complained of herein and that Plaintiff be awarded any profits derived by Defendants as a
 22 result of said acts, or as determined by said accounting, or in the alternative, statutory
 23 damages, pursuant to 17 U.S.C. § 504;

24 4. For a judicial declaration that Defendants' use, reproduction, marketing, sale,
 25 and distribution of *FROZEN*, the *FROZEN* teaser trailer, and other trailers affiliated with
 26 *FROZEN* infringe on Plaintiff's exclusive rights in *The Snowman* under the copyright laws;

27 5. That Plaintiff be awarded her costs, attorneys' fees, and expenses in this
 28 action pursuant to 17 U.S.C. § 505;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 6. That Plaintiff be awarded pre-judgment interest; and
- 7. That Plaintiff have such other and further relief as the Court may deem appropriate.

Dated: March 28, 2014

ARIAS OZZELLO & GIGNAC LLP

By: 

J. Paul Gignac
Mischa N. Barteau

LAW OFFICE OF J.A. TED BAER
J.A. Ted Baer

Attorneys for Plaintiff
Kelly Wilson

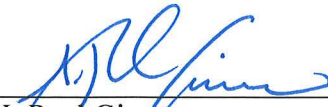
ARIAS OZZELLO & GIGNAC LLP

DEMAND FOR JURY TRIAL

Plaintiff Kelly Wilson hereby demands a trial by jury.

Dated: March 28, 2014

ARIAS OZZELLO & GIGNAC LLP

By: 

J. Paul Gignac
Mischa N. Barteau

LAW OFFICE OF J.A. TED BAER
J.A. Ted Baer

Attorneys for Plaintiff
Kelly Wilson

ARIAS OZZELLO & GIGNAC LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

Certificate of Registration



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

Register of Copyrights, United States of America

Registration Number
PA 1-860-757

Effective date of registration:
July 6, 2013

Title

Title of Work: The Snowman

Completion/Publication

Year of Completion: 2010

Date of 1st Publication: February 27, 2011

Nation of 1st Publication: United States

Author

- **Author:** Kelly Anne Wilson
Author Created: entire motion picture, production/producer, direction/director
Citizen of: United States
Year Born: 1984
- **Author:** Neil David Wischnik
Author Created: entire motion picture, direction/director, Animator
Citizen of: United States
Year Born: 1985

Copyright claimant

Copyright Claimant: Kelly Anne Wilson
10 Milland Dr. Apt E8, Mill Valley, CA, 94941, United States

Copyright Claimant: Neil David Wischnik
10 Milland Dr. Apt E8, Mill Valley, CA, 94941, United States

Rights and Permissions

Name: Kelly Wilson
Email: kellyannewilson@gmail.com
Address: 10 Milland Dr. Apt. E8
Mill Valley, CA 94941 United States
Telephone: 310-415-5964

Certification

Registration #: PA0001860757

Service Request #: 1-959856411



0000PA00018607570202

Kelly Wilson
10 Milland Dr. Apt. E8
Mill Valley, CA 94941 United States