SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

WARNERMEDIA DIRECT, LLC, Plaintiff, v. PARAMOUNT GLOBAL, SOUTH PARK DIGITAL STUDIOS LLC, and MTV ENTERTAINMENT STUDIOS Defendants.	Index No. __________ **SUMMONS**

To the Above-Named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's counsel within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

The basis of venue in New York County is C.P.L.R. § 503.

Dated: New York, NY
February 24, 2023

Respectfully submitted,

WALDEN MACHT & HARAN LLP

By: /s/ Jim Walden

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WARNERMEDIA DIRECT, LLC, Plaintiff, v. PARAMOUNT GLOBAL, SOUTH PARK DIGITAL STUDIOS LLC, and MTV ENTERTAINMENT STUDIOS Defendants.	Index No. __________ **COMPLAINT** **DEMAND FOR JURY TRIAL**

COMPLAINT

Plaintiff WarnerMedia Direct, LLC ("Warner/HBO"), by and through its undersigned attorneys, asserts the following claims against defendants Paramount Global ("Paramount"), South Park Digital Studios LLC ("SPDS"), and MTV Entertainment Studios ("MTV") (collectively, "Defendants"). Warner/HBO, Paramount, SPDS, and MTV are referred to collectively herein as "the Parties."

NATURE OF ACTION

1. This is a case about Defendants' opportunistic repudiation of Warner/HBO's exclusive streaming rights in the popular animated comedy series *South Park*, for which Warner/HBO agreed to pay more than half a billion dollars. When Paramount decided to launch a new streaming platform of its own ("Paramount+"), its priorities changed drastically, and Defendants embarked on a multi-year scheme to unfairly take advantage of Warner/HBO by breaching its contract and stealing its content. That scheme, which was blatantly intended to prop up Paramount+ at the expense of Warner/HBO, is the subject of this lawsuit.

2. *South Park* ("the Series") is an extremely valuable franchise. The Series has aired for more than twenty years and throughout that time has remained wildly popular with its fanbase,

which is primarily composed of the key age 18-34 demographic. Although nearly all *South Park* episodes first air on Comedy Central, one of Paramount's cable channels, a lucrative aftermarket has emerged for the digital rights to this content. Similar to sitcoms such as *Friends* and *The Big Bang Theory*, the *South Park* franchise is "anchor" content on any platform, and therefore central to branding and marketing for any distributor of the Series. The availability of *South Park* episodes on a streaming platform can increase subscribers and subscription fees, as well as draw in advertisers.

3. Cognizant of this tremendous value, SPDS—a joint venture between Paramount and *South Park*'s creators, Matt Stone and Trey Parker—held open bids in September 2019 for the exclusive streaming rights to *South Park*. SPDS publicly announced that these rights would encompass both the existing library, as well as 30 new episodes for upcoming seasons 24, 25, and 26 (more than 300 episodes in all). The bidding was fierce, with a number of major entertainment companies vying to acquire the rights. In the end, Warner/HBO had to aggressively outbid its competitors to win exclusive rights to the Series, signing a contract with SPDS in October 2019. Under its terms, Warner/HBO agreed to pay more than half-a-billion dollars to SPDS in exchange for exclusive streaming rights to the Series' entire library and three new seasons of content.

4. In reliance on gaining these exclusive rights, HBO Max (the Warner/HBO streaming platform) started touting its exclusive streaming of *South Park* in its advertising.

5. After the Parties started performing under the contract, Paramount launched its own streaming platform, Paramount+. While that was certainly within Paramount's rights, on information and belief, SPDS, Paramount, and MTV Entertainment Studios (Paramount's indirect subsidiary) then engaged in an illicit scheme to unfairly and deceptively divert to its nascent streaming platform *South Park* content belonging exclusively to Warner/HBO. Defendants

apparently considered the success of Paramount+ to warrant—if not require—multiple and flagrant duplicitous contortions of fact and breaches of contract, as well as other forms of misconduct described in detail below.

6. Warner/HBO brings this lawsuit to vindicate its rights and recover the hundreds of millions of dollars in damages incurred as a result of Defendants' misconduct. On information and belief, even Defendants have valued those damages in the hundreds of millions.

THE PARTIES

7. Plaintiff WarnerMedia Direct, LLC ("Warner/HBO") is a limited liability company organized and existing under the laws of Delaware with its principal place of business in New York, New York. Warner/HBO is the domestic operator of HBO Max, a subscription video-on-demand streaming platform.

8. Defendant Paramount Global ("Paramount"), formerly known as ViacomCBS, Inc., is a corporation organized and existing under the laws of Delaware with its principal place of business in New York, New York. Paramount is a multinational mass media and entertainment corporation that owns and operates properties such as Paramount Pictures (a film and television studio), CBS Entertainment Group (consisting of the CBS television network, television stations, and other CBS-branded assets), media networks (consisting of cable television networks including Comedy Central, MTV, Nickelodeon, BET, and Showtime), and streaming platforms (including Paramount+ and Pluto TV).

9. Defendant South Park Digital Studios LLC ("SPDS") is a limited liability company organized and existing under the laws of Delaware with its principal place of business in California. SPDS is a joint venture between Paramount and the creators of South Park, Trey Parker ("Parker") and Matt Stone ("Stone").

10. Defendant MTV Entertainment Studios ("MTV") is, upon information and belief, an indirect subsidiary of Paramount Global, and has its principal place of business in New York, New York.

JURISDICTION AND VENUE

11. This Court has jurisdiction over Defendants pursuant to CPLR §§ 301 and 302, because Paramount's and MTV's principal place of business are in New York and Defendants regularly conduct and transact business in New York.

12. Venue is proper in New York County pursuant to CPLR § 503 because Warner/HBO and Paramount are residents of New York County.

13. This case is appropriate for assignment to the Commercial Division because the amount in controversy exceeds $500,000 and the primary claims pertain to breach of contract and business torts.

FACTUAL ALLEGATIONS

A. BACKGROUND

14. Warner/HBO is part of Warner Bros. Discovery ("WBD"), a leading global media and entertainment company that creates and distributes the world's most differentiated and complete portfolio of content and brands across television, film, and streaming. WBD's iconic brands and products include HBO, HBO Max, Discovery Channel, discovery+, CNN, DC, HGTV, Food Network, OWN, Investigation Discovery, TLC, Magnolia Network, TNT, TBS, TruTV, Travel Channel, MotorTrend, Animal Planet, Science Channel, Warner Bros. Pictures, Warner Bros. Television, Warner Bros. Games, New Line Cinema, Cartoon Network, Adult Swim, Turner Classic Movies, Discovery en Español, Hogar de HGTV, and others.

15. Warner/HBO, together with its affiliated entities, operate HBO Max, a subscription video-on-demand streaming platform, and licenses content on its behalf for distribution on the

platform. By purchasing a monthly subscription to HBO Max, users can access this content by streaming programs on demand via either an ad-supported or non-ad-supported plan.

16. HBO Max features original programming from its namesake network, HBO, along with programming and films curated from across WBD's portfolio of networks, brands, and franchises, and licensed from third-party studios and producers.

17. Like any streaming platform, HBO Max is specifically programmed to attract and retain the broadest possible range of subscribers, as the competition to obtain popular content is extremely fierce among streaming platforms. The inclusion of exclusive content offerings generally attracts premium advertisers.

18. *South Park* is an extraordinarily popular animated television series. New episodes of the Series have consistently been among the top performers on HBO Max since its launch in 2020, based on key streaming metrics such as "first views" (*i.e.,* the first show a subscriber watches when they launch the streaming platform), "total hours viewed," and "viewing accounts" (*i.e.,* what number/percentage of subscribers have engaged with the Series).

19. Since its debut in 1997, South Park has been nominated for 18 Emmys (winning five), was adapted into a theatrical film (1999's *South Park: Bigger, Longer & Uncut*, which grossed over $80 million worldwide—approximately $150 million in today's dollars—on a $21 million budget), and has been watched by tens of millions of viewers.

20. *South Park* episodes currently premiere on Comedy Central, a cable network owned by Paramount.

B. <u>EARLY COLLABORATION BETWEEN PARAMOUNT AND WARNER</u>

21. In 1998, Paramount Pictures Corporation ("PPC"), a Paramount affiliate that owns and operates the Paramount Pictures film and television studios, entered into a Joint Production Agreement (the "1998 Agreement") with Warner Bros. Entertainment Inc. ("WB"), then a division

of Time Warner Entertainment Company, L.P., and now a subsidiary of WBD, and an affiliate of Warner/HBO.

22. Pursuant to the 1998 Agreement, WB and PPC each had a 50% interest in the motion picture that would become *South Park: Bigger, Longer & Uncut*, as well as in its copyright and any sequel.

23. Pursuant to the 1998 Agreement, and premised on their shared ownership, the Parties agreed that all subsequent productions based on the motion picture—including sequels and feature length home video productions—would require mutual agreement in writing.

C. SPDS OFFERS WARNER/HBO AN EXCLUSIVE LICENSE TO STREAM *SOUTH PARK* EPISODES

24. Two decades later, on September 12, 2019, Paramount and its subsidiary, Comedy Central, issued a press release announcing that *South Park*'s creators, Parker and Stone, were extending the Series by "**three seasons and 30 episodes in a new deal with Comedy Central, taking the longest-running primetime scripted series in cable through an unprecedented 26th season and at least 327 episodes**."[1]

25. SPDS then solicited bids for the exclusive right to stream the 30 new episodes after their Comedy Central premieres, as well as the exclusive right to stream the existing library of old episodes (representing, in total, more than 300 episodes).

26. *South Park* is premium content and a top performer, especially with the highly prized 18-34 audience that is dedicated to the show and engages in repeated viewing.

[1] Press Release, "South Park Renewed Through a Historic 26th Season," Comedy Central, https://southpark.cc.com/news/3r78fl/south-park-renewed-through-historic-26th-season.

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27. Warner/HBO expected *South Park* to serve as a critical content offering that would differentiate HBO Max from other streaming platforms, attract new subscribers by targeting a key demographic that HBO content alone did not traditionally serve, and solidify its subscriber base.

28. Warner/HBO participated in the bidding process, which was extremely competitive.[2]

29. During the bidding process, SPDS encouraged Warner/HBO to propose a flat-rate, per-episode license fee that would apply equally to *all* Series episodes: both the older "library" episodes (seasons 1 through 23) and the new episodes to be produced for seasons 24 through 26.

30. On information and belief, SPDS knew that the older "library" episodes of *South Park* were far less valuable than the new episodes SPDS would be licensing for seasons 24 through 26.

31. Nevertheless, SPDS told Warner/HBO that it would likely reject any bid that offered differentiated pricing for the older episodes (as opposed to the new episodes).

32. In other words, SPDS said that it would consider only offers with the highest "flat fee" per episode (whether old or new).

33. Warner/HBO acted in reliance on that information, assuming that SPDS was making similar statements to other bidders.

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[2] *See* "Bidding War for 'South Park' U.S. Streaming Rights Could Hit $500 Million," VARIETY, (Oct. 18, 2019), https://variety.com/2019/tv/news/bidding-war-for-south-park-u-s-streaming-rights-could-hit-500-million-1203375769 (noting **"elbows are being sharpened in the fight for coveted reruns as streaming services look to bulk up their content libraries and appeal to subscribers that are faced with an ever-increasing array of direct-to-consumer entertainment choices"**); "'South Park' Plays the Go-Go Steaming Field with Bids Approaching $500M," DEADLINE (Oct. 18, 2019), https://deadline.com/2019/10/south-park-plays-the-go-go-streaming-field-with-bids-approaching-500m-1202764073/ (noting **"*South Park* is exploring the booming streaming marketplace for established shows"**).

34. To calculate a single, blended, per-episode rate as SPDS requested, Warner/HBO agreed to consider the value of the existing library, the value of the new episodes, and the total number of new episodes.

35. By adding the relatively lower per-episode fee amounts for the library episodes to the relatively higher per-episode fees for the new episodes, and then dividing that by the combined number of old and new episodes, Warner/HBO would be able to offer a competitive flat-fee per-episode bid.

36. Thus, SPDS's representations that the new seasons would comprise 30 episodes were essential to Warner/HBO's calculation of its proposed per-episode rate. On information and belief, SPDS knew that its representations about the number of new episodes were dispositive in securing the highest possible bids.

37. On information and belief, SPDS knew that if it actually intended to offer fewer than 10 episodes for each of the new seasons, the reduced number of episodes would mean a lower flat-fee per-episode bid.

38. Conversely, on information and belief, SPDS knew that more new *South Park* episodes would garner higher flat-fee bids.

39. Thus, SPDS's representation of 10 new episodes per season was essential to the bids made by Warner/HBO and other bidders.

40. In October 2019, prior to receiving Warner/HBO's bid, SPDS again confirmed to Warner/HBO that the exclusive streaming license would include at least 333 total episodes—in other words, the 303 existing "library" episodes and 10 new episodes for each of seasons 24 through 26.

41. Exclusivity was so important to Warner/HBO that when SPDS asked Warner/HBO whether it would consider sharing the rights to *South Park* with CBS All Access or another Paramount streamer, Warner/HBO rejected the proposition as a "non-starter."

42. In reliance on SPDS's representations, on or about October 19, 2019, Warner/HBO proposed a flat-rate license fee of $1,687,500 for each episode—offering a total of more than *half a billion dollars* for the exclusive domestic streaming rights to the 333 *South Park* episodes SPDS had agreed to license.

D. SPDS LICENSES EXCLUSIVE STREAMING RIGHTS TO *SOUTH PARK* TO WARNER/HBO

43. Following an intensive bidding war, SPDS accepted Warner/HBO's bid.

44. On October 22, 2019, the Parties entered into an agreement, using a binding term sheet that memorialized the terms of the deal (the "2019 Agreement").

45. Although, by its terms, the Parties expected to subsequently draft a final agreement, at SPDS's suggestion, the Parties agreed to treat the term sheet as the final agreement.

46. The 2019 Agreement's term extended from June 24, 2020 through June 23, 2025 (the "Term").

47. The 2019 Agreement provided for two types of content (collectively, the "Licensed Content").

a. The first type of content comprised long-form episodes (*i.e.*, over 20 minutes) that first premiered on a non-streaming platform, (*i.e.,* a Nielsen-rated basic cable network such as Comedy Central or a major broadcast network such as CBS) ("Type A Licensed Content").

b. The second type of content comprised all season 24-26 episodes that did not meet the premiering criteria applicable to Type A Licensed Content (*e.g.,* long-form content that premiered on a streaming platform) ("Type B Licensed Content").

48. SPDS gave Warner/HBO the exclusive[3] U.S. rights to stream:

a. All long-form episodes from seasons 1 through 23 (all of which were identified in "Exhibit A" to the 2019 Agreement);

b. The long-form documentary *6 Days to Air: The Making of South Park*;

c. All Type A Licensed Content for seasons 24 through 26; and

d. Selected short-form content.

49. SPDS gave HBO Max "**the option but not the obligation**" to license Type B Licensed Content.

50. The 2019 Agreement specifically provided that Warner/HBO's streaming rights were "exclusive."

51. The 2019 Agreement provided for a bargained-for blended-rate "License Fee" of $1,687,500 for each episode of the Series covered by the Agreement.

52. The 2019 Agreement contained "Exhibit A," which listed every *South Park* long-form episode released at the time of the execution of the Agreement. Each season listed consisted of at least 10 episodes.

E. SPDS INITIALLY SUSPENDS SEASON 24 BUT PRODUCES TWO "SPECIALS"

53. While the Parties initially agreed that HBO Max would receive in 2020 the first episodes of the new *South Park* season 24, in March 2020, SPDS informed Warner/HBO that it would not go forward with production of season 24 as a result of the COVID pandemic.

54. Despite the pandemic, however, SPDS proceeded to produce **other** *South Park* content. Specifically, between September 2020 and March 2021, it produced two COVID-themed

[3] The Agreement includes certain limited exceptions to exclusivity relevant only to seasons 1-10 and not relevant to Plaintiff's claims. Under this exception, Pluto TV was permitted to stream a limited number of episodes from season 1-10 per week, on an ad-interrupted basis.

"specials" (collectively, the "Pandemic Specials"), each of which was approximately 50 minutes long and initially premiered on Comedy Central. The first, *The Pandemic Special*, aired on September 30, 2020. The second, *South ParQ Vaccination Special,* aired on March 10, 2021.

55. Before its release, SPDS insisted to Warner/HBO that *The Pandemic Special* was *not* the first episode of the new season but agreed that it was "Licensed Content" under the 2019 Agreement.

56. However, since *The Pandemic Special* was approximately 50 minutes in length, the Parties also agreed to a license fee of over $3.3 million—double the regular single-episode fee.

57. During this period, SPDS gave various assurances to Warner/HBO that the season 24 episodes would be coming soon.

58. However, SPDS stated that season 24 would consist of a series of longer "specials"—rather than the promised 10-episode season which was more desirable and lucrative to Warner/HBO.[4]

F. THE ILLICIT CONSPIRACY EMERGES

59. As of 2021, none of the ten 22-minute episodes for season 24 (*i.e.*, the Type A Content) had been delivered to HBO Max under the 2019 Agreement.

60. In January 2021, Paramount announced that it intended to launch its own streaming platform, Paramount+.

[4] This is because HBO Max could stagger ten 22-minute episodes over a 10-week period, rather than the much-condensed exhibition period permitted by only two or four 50-minute episodes. HBO Max prefers to release programs with a long-established and devoted fan base, like *South Park* over a longer period, which allows for a longer marketing and promotion period and increases the time period in which subscribers are engaged with the platform. This reduces "churn"—subscribers canceling and restarting subscriptions—and makes it less likely that subscribers will move to a competing platform.

61. Paramount decided to make *South Park* a core part of its strategy to grow Paramount+.

62. To do so, on information and belief, Paramount, SDPS, and MTV Entertainment Studios ("MTV"), acting in concert, planned to divert as much of the new *South Park* content as possible to Paramount+ in order to boost that nascent streaming platform.

63. Indeed, in August 2021, less than six months after the launch of Paramount+, one Paramount+ executive admitted that it intended to use *South Park* "to help fuel" Paramount+ and that "[f]ranchising marquee content like *South Park* . . . is at the heart of [their] strategy to continue growing Paramount+." But this strategy ignored—and, indeed, expressly repudiated—Warner/HBO's exclusive rights to stream *South Park*'s new and existing episodes through June 2025.

64. On August 25, 2021, in furtherance of their scheme, Paramount's indirect subsidiary, MTV, announced[5] a new deal with Parker and Stone, reportedly worth *more than $900 million.* As Stone publicly described it, "**we have f—k you money now**."

65. That deal provided, among other things, that extensive new *South Park* content would premiere exclusively on Paramount+ over the next five years—even though: (1) HBO Max had exclusive U.S. streaming rights to all long-form *South Park* episodes through season 26; (2) SPDS had the obligation to offer Warner/HBO any Type B Licensed Content during the Term; and (3) SPDS had yet to provide HBO Max with a *single episode* of *South Park* season 24, having repeatedly told HBO Max that the Pandemic Specials were **not** part of season 24.

[5] *See* Press Release, MTV Entertainment Studios inks new and expansive deal with creators Trey Parker and Matt Stone through 2027, Comedy Central, https://southpark.cc.com/news/ivrtcw/mtv-entertainment-studios-inks-new-and-expansive-deal-with-creators-trey-parker-and-matt-stone-through-2027.

66. Rather than honor its obligations to Warner/HBO, on information and belief, SPDS, acting in concert with Paramount and MTV, engaged in a campaign of verbal trickery designed to circumvent the terms of the 2019 Agreement. To accomplish this, Defendants used grammatical sleight-of-hand, characterizing new content as "movies," "films," or "events" to side-step SPDS's contractual obligations.

67. Specifically, MTV publicly announced that, under the Paramount+ deal, 14 "made-for-streaming movies" (as opposed to "episodes" or "events") would premiere on Paramount+, starting with two "films" in 2021.

68. On information and belief, MTV, in coordination with Paramount and SPDS, characterized the programming that would premiere on Paramount+ as "movies" or "films" in a calculated and deliberate attempt to distinguish them from the Pandemic Specials that were included as part of the Licensed Content under the 2019 Agreement.

69. Moreover, on information and belief, the 14 made-for-television "movies" SPDS promised to Paramount+ were substantially similar in kind to the Pandemic Specials that had been provided to Warner/HBO as Licensed Content pursuant to the 2019 Agreement.

G. <u>SPDS LICENSES TWO "SUPERSIZED" *SOUTH PARK* EPISODES TO PARAMOUNT+, IN VIOLATION OF THE 2019 AGREEMENT</u>

70. On October 27, 2021, Paramount+ and MTV issued a press release announcing that two *South Park* "events" would premiere exclusively on Paramount+.

71. The press release stated that the first "event," entitled *South Park: Post COVID*, would premiere on Paramount+ in the United States on November 25, 2021, and that the second "event" would premiere in December 2021 (collectively, the "Post-COVID Content").

72. Paramount's announcement shocked Warner/HBO for three reasons.

73. First, SPDS had not yet provided Warner/HBO with *any* season 24 episodes.

74. Second, SPDS had told Warner/HBO in June 2021 that the next *South Park* episodes it would receive would be set in the future, post-COVID—just like the Post-COVID Content being provided directly to Paramount+.

75. Third, calling the Post-COVID Content "events" did not vitiate SPDS's obligation to first offer Warner/HBO the option to stream that content, as it had with the Pandemic Specials.

76. Prior to the press release, SPDS had not given Warner/HBO any notice of its plan to divert the Post-COVID Content to Paramount+.

77. Shortly after MTV's announcement, and after previously telling Warner/HBO that the Pandemic Specials were **not** part of season 24, SPDS reversed its position, deciding not only that the two Pandemic Specials in fact **were** part of season 24, but also that they would constitute four—not two—episodes of season 24.

78. SPDS further assured Warner/HBO that it would "still get the remaining six episodes of season 24" to be delivered in the first quarter of 2022, thus re-affirming its recognition of Warner/HBO's right to receive 10 episodes of new *South Park* content per season.

79. On December 8, 2021, Paramount+ and MTV issued another press release, on information and belief at Defendant SPDS's direction or with its permission, announcing that yet *another South Park* episode was being provided to Paramount+—making clear that Defendants were again depriving Warner/HBO of its rights so that it could "fuel" Paramount+.

80. Specifically, they announced that the "second of this year's exclusive 'South Park' events," entitled *South Park: Post COVID: The Return of COVID,* would premiere on Paramount+ in the United States later that month.

81. It had become evident that Paramount sought to use the Post-COVID Content to boost Paramount+'s subscribership, in flagrant disregard of Warner/HBO's contractual rights.

Moreover, on information and belief, Paramount and SPDS deliberately characterized the Post-COVID Content as "events" rather than "episodes" in a disingenuous attempt to distinguish them from the Pandemic Specials provided to Warner/HBO under the 2019 Agreement.

82. But these so-called "events" were substantially similar in format and length to the Pandemic Specials, which SPDS had agreed constituted Licensed Content under the 2019 Agreement. All four episodes featured the iconic characters from the prior 23 seasons of *South Park*, addressed similar subject matter (COVID), and had similar running times (approximately 50-60 minutes per episode).

83. Incredibly, this was not Defendants' only duplicity with respect to the Post-COVID Content. When MTV and Paramount+ announced the Post-COVID Content, they had initially characterized the episodes as "movies." However, when WB pointed out that exploitation of movie sequels to *South Park: Bigger, Longer & Uncut* required WB's written consent under the 1998 Agreement, MTV, on information and belief, in coordination with Paramount and SPDS, changed its characterization of the Post-COVID Content from "movies" to "events."

84. Thus, on information and belief, Defendants engaged in a simple and obvious artifice of mischaracterizing the content to avoid obligations under both the 2019 and 1998 Agreements.

85. SPDS's failure to offer Warner/HBO the option to license the Post-COVID Content for HBO Max was another clear breach of the 2019 Agreement.

H. SPDS AGAIN BREACHES THE 2019 AGREEMENT

86. Defendants' machinations did not stop there. After repeatedly claiming that the Pandemic Specials did not constitute episodes of season 24 of the Series, SPDS reversed course *for the third time* in January 2022 and announced that those two episodes alone would count as *the entirety* of season 24, and that season 25 would consist of only six episodes—in direct violation of

SPDS's agreement that each new season under the 2019 Agreement would include at least 10 episodes, for a total of 30 new episodes.

87. On information and belief, this announcement was made in concert with, or at the direction of, Paramount.

88. As of February 9, 2023, notwithstanding the clear terms of the 2019 Agreement, SPDS had provided Warner/HBO with only *eight* new *South Park* episodes: the two Pandemic Specials it claims constitute the entirety of season 24 and six episodes for season 25.

89. SPDS provided Warner/HBO with the first episode of season 26 on February 9, 2023, and the second episode of season 26 on February 16, 2023. Prior to that, SPDS had not provided Warner/HBO with any new *South Park* content since the final episode of season 25 premiered on March 17, 2022.

90. On information and belief, season 26 will also consist of only six, rather than ten, episodes.

91. Yet, since announcing its massive deal with Paramount+ in August 2021, SPDS has provided Paramount+ with four supersized *South Park* episodes of the same format and similar length as the two supersized Pandemic Specials which SPDS had provided to Warner/HBO as the *entirety* of season 24: the Post-COVID Content, *South Park The Streaming Wars Part 1* (*"Streaming Wars Part 1"*) and *South Park The Streaming Wars Part 2* ("*Streaming Wars Part 2"*) (collectively, the "Streaming Wars Content"), in violation of the 2019 Agreement.

92. Moreover, pursuant to the MTV deal with Stone and Parker, SPDS is scheduled to provide an additional 10 supersized *South Park* episodes to Paramount+ over the next five years, including at least four during the Term of the 2019 Agreement. This is a further diversion of content

to Paramount+ that should be going to Warner/HBO, and a further dilution of the exclusivity Warner/HBO expressly bargained for.

I. DEFENDANTS' CONDUCT HAS CAUSED SUBSTANTIAL INJURY TO WARNER/HBO

93. Warner/HBO has suffered, and continues to suffer, significant damages because of Defendants' misconduct.

94. First, by providing Warner/HBO with fewer than half of the promised episodes, SPDS deprived it of the ability to release new *South Park* episodes over an extended period of time and drove loyal *South Park* fans to a competing streaming platform.

95. Second, SPDS caused Warner/HBO to significantly overpay for each *South Park* episode, since—at SPDS's express instruction—it calculated the blended per-episode rate based on SDPS's representation that it would receive 30 new episodes over three seasons, not the mere 14 episodes that SPDS subsequently and improperly chose to provide.

96. Third, and in contrast, since announcing its $900 million deal with Paramount+ in August 2021, SPDS has provided Paramount+ with four supersized South Park episodes of the same format and similar length as the two supersized Pandemic Specials provided to Warner/HBO as season 24: (1) the Post-COVID Content, and (2) the Streaming Wars Content—all, in violation of the 2019 Agreement.

97. Finally, Paramount and SPDS have been unfairly enriched by their own deliberate misconduct, through which, on information and belief, they have profited at Warner/HBO's expense. Warner/HBO is entitled to disgorgement of the value of any profits Defendants earned as a result of their misconduct. Had SDPS adhered to its obligation under the 2019 Agreement, HBO Max would have attracted even more new subscribers.

98. Paramount enjoyed a sizeable increase in its subscriptions during the quarter that the Post-COVID Content was released on Paramount+.

99. For example, during Paramount's Q4 2021 earnings call, CEO Robert Bakish reported that the "company added 9.4 million new streaming subscribers in Q4 alone, 80% of them on Paramount+."[6] Significantly, the surge in subscribers came during the quarter that the Post-COVID Content aired exclusively on Paramount+.

100. Paramount+ similarly experienced a huge uptick around the time *Streaming Wars Part 1* aired (June 2, 2022). Bakish reported that "Paramount+ [had] added 4.9 million global subscribers," touting Paramount+'s status "as one of the fastest growing premium streaming services" and attributing its growth to "strong performances. . . [including by] . . . our latest South Park special, *South Park The Streaming Wars*."[7]

101. Following the release of *Streaming Wars Part 2* (July 3, 2022), Bakish told investors that in Q3, Paramount+ had gained another 4.6 million global subscribers, for a total of 46 million subscribers and that year-over-year revenue for Paramount+ had grown by 95%.[8]

102. These reports further demonstrate that Paramount has earned massive profits—to Warner/HBO's detriment—from the release of *South Park* on Paramount+.

103. As a result of Defendants' misconduct, Warner/HBO has incurred, and continues to incur, damages in excess of $200 million dollars.

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[6] Transcript of Paramount Global 4Q21 Earnings Call, Feb 15, 2022, at 19, https://ir.paramount.com/static-files/8e4932d4-89c0-4ad9-882b-529bc31a44a8.
[7] Transcript of Paramount Global 2Q22 Earnings Call, Aug. 4, 2022, at 4, https://ir.paramount.com/static-files/63a9d94c-58e4-4ba0-a004-51acb5ada613.
[8] Transcript of Paramount Global 3Q22 Earnings Call, Nov. 2, 2022, at 4, https://ir.paramount.com/static-files/df4682f9-ea95-4a49-b2ee-0de7a2d9bc2b.

CAUSES OF ACTION

FIRST CAUSE OF ACTION
BREACH OF CONTRACT
(Against SPDS)

104. Warner/HBO incorporates by reference paragraphs 1–103 as if fully set forth herein.

105. The 2019 Agreement between Warner/HBO and SPDS is a valid and enforceable contract.

106. Warner/HBO has performed its obligations under the 2019 Agreement in all material aspects.

107. SPDS breached the 2019 Agreement, which grants Warner/HBO the exclusive right and license to make seasons 24 through 26 of the Series available on HBO Max via streaming and temporary download, by diverting and licensing episodes of the Series to Paramount+.

108. SPDS breached the 2019 Agreement by failing to offer Warner/HBO the right to license the Post-COVID Content and Streaming Wars Content.

109. SPDS breached the 2019 Agreement by providing Warner/HBO with fewer than 10 episodes for each of seasons 24 and 25 of the Series, and on information and belief, for season 26 of the Series.

110. SPDS's breaches directly and proximately caused Warner/HBO to be damaged in an amount to be proven at trial.

SECOND CAUSE OF ACTION
BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING
(Against SPDS)

111. Warner/HBO incorporates by reference paragraphs 1–103 as if fully set forth herein.

112. By virtue of their dealings, SPDS and Warner/HBO assumed a relationship of trust and confidence.

113. SPDS had a duty to act fairly and in good faith and to do nothing that would have the effect of destroying, interfering, frustrating, or injuring the rights of Warner/HBO to receive the benefits of the 2019 Agreement.

114. SPDS breached the implied covenant of good faith and fair dealing by engaging in a course of conduct that did and was intended to deprive Warner/HBO of its rights under the 2019 Agreement. SPDS has, among other things, destroyed, interfered with, frustrated, and injured Warner/HBO's rights by diverting and licensing *South Park* episodes to Paramount+, failing to offer Warner/HBO the right to license the Post-COVID Content and the Streaming Wars Content, and providing Warner/HBO with fewer than 10 episodes for each of seasons 24 and 25 of the Series, and, on information and belief, season 26 of the Series.

115. As a direct and proximate result of SPDS's breach of the implied covenant of good faith and fair dealing under the 2019 Agreement, Warner/HBO has been injured and damaged in an amount to be proven at trial.

THIRD CAUSE OF ACTION
DECEPTIVE PRACTICES IN VIOLATION OF GBL § 349
(Against SPDS, Paramount, and MTV)

116. Warner/HBO repeats and realleges the allegations in paragraphs 1–103 as if fully set forth herein.

117. Defendants' marketing and sale of streaming subscriptions constitutes consumer-oriented conduct.

118. By virtue of the conduct alleged above, Defendants have engaged in acts and practices that were materially deceptive and have resulted in consumer injury and broad adverse impact on the public at large.

119. On information and belief, Defendants' conduct was willful and intentional, and intended to unfairly compete against Warner/HBO, divert its subscribers to Paramount+, steal its valuable streaming rights, and entice its advertisers.

120. On information and belief, Defendants' conduct also had a significant consumer-facing impact, causing substantial confusion over which streaming platform had "exclusive" rights to *South Park* and necessitating that consumers purchase streaming subscriptions from Paramount+ when they already believed such exclusivity resided with HBO Max.

121. As a result of Defendants' unlawful acts, including but not limited to conducting economic activity in a deceitful and anti-competitive manner, consumers have been harmed.

122. As a result of Defendants' unlawful acts, Warner/HBO has suffered injury to its reputation, as well as monetary damages, including but not limited to lost advertising revenue, in an amount to be determined at trial.

123. Defendants' conduct, as described above, warrant the award of attorneys' fees to Warner/HBO.

FOURTH CAUSE OF ACTION
TORTIOUS INTERFERENCE WITH CONTRACT
(Against Paramount and MTV)

124. Warner/HBO incorporates by reference paragraphs 1–103 as if fully set forth herein.

125. Warner/HBO has a valid agreement with SPDS, which grants it the exclusive right and license to make the 24th through 26th seasons of the Series available on Warner/HBO's HBO Max video on-demand streaming platform.

126. Paramount and MTV had and has full knowledge of Warner/HBO's 2019 Agreement with SPDS.

127. Based on information and belief, as well as the facts recited herein, Paramount and MTV maliciously and intentionally induced SPDS to breach its Agreement with Warner/HBO. As a result of Paramount's actions, SPDS breached the Agreement repeatedly, including by (1) failing to offer Warner/HBO the right to license the *South Park* Post-COVID Content and the Streaming Wars Content; (2) providing Warner/HBO with fewer than 10 episodes for each of seasons 24 and 25 of the Series; and, on information and belief, season 26 of the Series; and (3) diverting and licensing *South Park* episodes to Paramount+.

128. Paramount and MTV had and has no lawful justification for its tortious interference with Warner/HBO's Agreement with SPDS.

129. Paramount and MTV acted wrongfully and employed improper means because their purpose in interfering with the contract was to appropriate the benefits of Warner/HBO's Agreement with SPDS.

130. Paramount and MTV acted maliciously and with wanton disregard for Warner/HBO's rights.

131. As a result of Paramount and MTV's tortious interference with Warner/HBO's Agreement with SPDS, Warner/HBO has suffered and will continue to suffer irreparable harm, as well as significant monetary damages to be determined at trial.

FIFTH CAUSE OF ACTION
UNJUST ENRICHMENT
(Against Paramount and MTV)

132. Warner/HBO incorporates by reference paragraphs 1–103 as if fully set forth herein.

133. Paramount and MTV have enjoyed substantial revenue through advertising and gaining subscribers as a result of Paramount+'s streaming of *South Park* content.

134. This benefit was obtained at Warner/HBO's expense, as Warner/HBO invested hundreds of millions to secure the exclusive right to stream the Licensed Content in order to gain revenue through, but not limited to, advertising and new subscribers.

135. It would be against equity and good conscience to permit Paramount and MTV to retain any profits from their misconduct.

136. By reason of the foregoing, Warner/HBO has incurred damages, the total amount of which will be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Warner/HBO prays for judgment in its favor and against Defendants and respectfully requests the following relief:

A. Judgment against SPDS on the First, Second, and Third Causes of Action;

B. Judgment against Paramount and MTV on the Third, Fourth, and Fifth Causes of Action;

C. An award to Warner/HBO equal to all damages incurred as a result of Defendants' wrongful conduct, including but not limited to compensatory damages, consequential damages, and disgorgement of all profits;

D. Punitive damages;

E. Reasonable attorneys' fees and costs associated with bringing this action; and

F. Such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for all issues so triable.

Dated: New York, NY
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