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 8 JAIME CIERO

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

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

Case No.:

**PLAINTIFF’S COMPLAINT FOR:**

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

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

3 **INTRODUCTION**

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

14 **PARTIES**

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

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

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

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

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

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

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

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

3 **JURISDICTION AND VENUE**

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

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

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

12 **GENERAL FACTUAL ALLEGATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 **FIRST CLAIM FOR RELIEF**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 **SECOND CLAIM FOR RELIEF**

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

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

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

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

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

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

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

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

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

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

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

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

10 **THIRD CLAIM FOR RELIEF**

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

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

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

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

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

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1 and all persons acting in concert or participation with each or any one of  
2 them, to cease directly and indirectly infringing, and causing, enabling,  
3 facilitating, encouraging, promoting, inducing, and/or participating in the  
4 infringement of any of Plaintiff's rights protected by the Copyright Act;

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

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

22 Respectfully submitted,

23  
24 Dated: November 23, 2017

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