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10 **COLUMBIA PICTURES TELEVISION, INC.,**
11 **COLUMBIA TRISTAR TELEVISION, INC.,**
12 **and TRISTAR TELEVISION, INC.**

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 **COLUMBIA PICTURES**
16 **INDUSTRIES, INC., a Delaware**
17 **corporation; COLUMBIA PICTURES**
18 **TELEVISION, INC., a Delaware**
19 **corporation; COLUMBIA TRISTAR**
20 **TELEVISION, INC., a California**
21 **corporation; and TRISTAR**
22 **TELEVISION, INC., a Delaware**
23 **corporation,**

24 **Plaintiffs,**

25 **v.**

26 **REPLAYTV, INC., a Delaware**
27 **corporation; and SONICBLUE INC., a**
28 **Delaware corporation,**

Defendants.

CASE NO. 01-10221

COMPLAINT FOR:

1. **COPYRIGHT INFRINGEMENT**
2. **CONTRIBUTORY COPYRIGHT INFRINGEMENT**
3. **VICARIOUS COPYRIGHT INFRINGEMENT**
4. **VIOLATION OF SECTION 553 OF THE COMMUNICATIONS ACT**
5. **VIOLATION OF SECTION 605 OF THE COMMUNICATIONS ACT**
6. **UNFAIR BUSINESS PRACTICES UNDER CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200, et seq.**

FILED
MAY 28 2 21 PM '01
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.

DT (MANx)

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1 Plaintiffs Columbia Pictures Industries, Inc., Columbia Pictures Television, Inc.,
2 Columbia TriStar Television, Inc., and TriStar Television, Inc. (collectively, "Plaintiffs")
3 allege:

4 JURISDICTION AND VENUE

5 1. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and
6 1338, under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and under the Communications
7 Act, 47 U.S.C. §§ 553 and 605. Pursuant to 28 U.S.C. § 1367, this Court has
8 supplemental jurisdiction over Plaintiffs' state law claim (Count VI) because it is so
9 related to Plaintiffs' federal claims as to form part of the same case or controversy.

10 2. This Court has personal jurisdiction over defendants ReplayTV, Inc.
11 ("Replay") and SONICblue Inc. ("SONICblue") (collectively, "Defendants"), and venue is
12 proper in this Judicial District pursuant to 28 U.S.C. § 1391(b). Defendants both maintain
13 their principal places of business in California and conduct extensive commercial
14 activities in this State, including in this Judicial District. Further, a substantial part of the
15 events or omissions giving rise to this lawsuit, as well as substantial injury to Plaintiffs,
16 have occurred or will occur in this District as a result of Defendants' acts of copyright
17 infringement and impending acts of copyright infringement, violations of the
18 Communications Act, and unfair competition, as alleged in detail below. Venue is also
19 proper in this Judicial District pursuant to 28 U.S.C. § 1400(a) in that Defendants may be
20 found in this District in light of their extensive commercial activities in this District.

21 THE PARTIES

22 3. Plaintiff Columbia Pictures Industries, Inc. ("Columbia Industries") is a
23 Delaware corporation with its principal place of business in Culver City, California.

24 4. Plaintiff Columbia Pictures Television, Inc. ("Columbia Television") is a
25 Delaware corporation with its principal place of business in Culver City, California.

26 5. Plaintiff Columbia TriStar Television, Inc. ("CTTV") is a California
27 corporation with its principal place of business in Culver City, California

28 6. Plaintiff TriStar Television, Inc. ("TriStar Television") is a Delaware

1 corporation with its principal place of business in Culver City, California.

2 7. Plaintiffs are informed and believe, and on that basis allege, that defendant
3 Replay is a Delaware corporation with its principal place of business in Mountain View,
4 California. Plaintiffs are further informed and believe, and on that basis allege, that
5 Replay is a wholly-owned subsidiary of defendant SONICblue.

6 8. Plaintiffs are informed and believe, and on that basis allege, that defendant
7 SONICblue is a Delaware corporation with its principal place of business in Santa Clara,
8 California. Plaintiffs are further informed and believe, and on that basis allege, that
9 SONICblue is the parent company of Replay.

10 BACKGROUND FACTS

11 Plaintiffs' Motion Picture and Television Program Content

12 9. Plaintiffs are among the largest and most successful producers and
13 distributors of motion pictures and television programming in the United States and the
14 world. Plaintiffs are engaged in the business of developing, producing, and distributing,
15 and licensing to others the right to distribute and exhibit, motion pictures and television
16 programming.

17 10. Plaintiffs are the owners of United States copyrights in a substantial number
18 of motion pictures and television programs. For example, Columbia Industries owns the
19 copyrights or the exclusive distribution rights in such major motion pictures as *Big Daddy*,
20 *First Knight*, *28 Days*, *The End of the Affair*, and *Charlie's Angels*; Columbia Television
21 owns the copyrights or exclusive distribution rights in many episodes of television series
22 telecast by United States television networks and individual stations, including such
23 television series as *Ripley's Believe It Or Not*, *V.I.P.*, and *The Ricki Lake Show*; CTTV
24 owns the copyrights in television series, including *Dawson's Creek*, *Family Law*, and *King*
25 *of Queens*; and TriStar Television owns the copyrights in such television series as *Mad*
26 *About You* and *The Nanny*.

27 11. Plaintiffs have registered or filed applications to register with the United
28 States Copyright Office their copyrights in each of the works identified in Paragraph 10

1 above. Attached hereto as Exhibit A, and incorporated herein by this reference, is a
2 schedule of illustrative copyright registrations for certain works in which Plaintiffs own
3 the copyright or exclusive distribution rights.

4 12. Plaintiffs, either directly or through their affiliates or licensees, distribute
5 their audiovisual works for exhibition in theaters, through television broadcasts, on cable
6 and direct-to-home satellite services (including basic, premium, and "pay-per-view"
7 television services), and/or on portable media (e.g., digital versatile discs ("DVDs") and
8 videocassette tapes).

9 13. Plaintiffs have invested (and continue to invest) substantial sums of money
10 and effort each year to develop, produce, and distribute motion pictures and television
11 programs protected under copyright and other laws. Defendants' actions, as described
12 below, deprive Plaintiffs of exclusive rights under copyright and other laws, and the
13 economic value of such rights, including the following:

14 a. Advertiser Supported Broadcasts. Plaintiffs derive value from
15 licensing their copyrighted material for broadcast exhibition to television networks like
16 ABC, CBS, Fox, NBC, and The WB Television Network (and stations affiliated with
17 them), and hundreds of local, independent terrestrial broadcast stations around the
18 country. Networks and stations finance payment for those licenses by selling time for
19 commercial advertisements inserted in or adjacent to each program. Plaintiffs derive
20 additional value from so-called "barter" arrangements whereby, in exchange (in whole or
21 in part) for the licensing of Plaintiffs' content, Plaintiffs receive broadcasting commercial
22 advertising time, which Plaintiffs then resell.

23 b. Basic Cable Channels. Plaintiffs also generate value by licensing
24 their motion pictures and television programs for exhibition through so-called "basic"
25 non-broadcast television channels such as TBS, TNT, and Lifetime. The principal means
26 by which non-broadcast channels derive revenues to pay Plaintiffs for licensing of
27 Plaintiffs' content are from the sale of commercial time to advertisers and from fees paid
28 by distributors such as cable systems and satellite carriers (who in turn receive monthly

1 fees paid by subscribers).

2 c. Premium Pay Television Program Services. Plaintiffs also generate
3 value by licensing their motion pictures and television programs for exhibition via
4 premium pay television program services such as Showtime, HBO, and Starz/Encore.
5 Premium services, which are available to subscribers to cable, satellite, and other multi-
6 channel video distribution systems, are typically made available to consumers for a
7 monthly fee. The premium services use these subscription fees to fund licensing of
8 Plaintiffs' works.

9 d. Pay-Per-View, Video On Demand, and Near Video On Demand.
10 Plaintiffs further derive value by licensing their motion pictures and television programs
11 for viewing by the public through pay-per-view delivery (in which a viewer obtains one-
12 time access to a particular program, such as a feature film, a live boxing event, or a
13 concert, in return for payment of a fee for that access), video on demand (in which a
14 viewer can choose to watch a particular program at any time of the viewer's choosing, also
15 in return for payment of a fee for that access), and near video on demand (in which a
16 viewer can choose to watch a particular program at one of several times offered by the
17 program distributor, also in return for payment of a fee for that access). Video on
18 demand, near video on demand, and pay-per-view services (collectively, "pay-per-view")
19 fund the licensing of Plaintiffs' content with the access fees charged to individual viewers.

20 e. Home Video Exhibition. Plaintiffs also generate value from the sale
21 or rental for home viewing of authorized copies of their copyrighted works in various
22 formats, including video cassette and DVD.

23 14. To encourage Plaintiffs and others to create and exploit their works, the law
24 permits Plaintiffs, as the owners of copyrights or exclusive distribution rights in their
25 works, to control, among other things, the copying, distribution, and public performance
26 of those works. Interference with this control will erode the value of Plaintiffs' works,
27 and hence undermine the incentive for Plaintiffs to create expressive works. In addition,
28 the amount of monies available to Plaintiffs for the development, production, and

1 distribution of Plaintiffs' works will be substantially reduced if the amount of advertising
2 revenues and subscription fees to Plaintiffs' licensees is reduced, or if, by reason of the
3 making available of free copies of Plaintiffs' works, the home video market is adversely
4 affected.

5 **Defendants' ReplayTV 4000**

6 15. Defendants' ReplayTV 4000 is comprised of a ReplayTV 4000 hard disc
7 digital video recorder ("DVR") and related services that make and distribute to third
8 parties unauthorized digital copies of copyrighted motion pictures and television
9 programs. The ReplayTV 4000 DVR (including the models "RTV 4040," "RTV 4080,"
10 "RTV 4160," or "RTV 4320" DVR (collectively the "ReplayTV 4000 unit")) is integrated
11 with continuous online Internet connections to Defendants' servers and facilities. (The
12 ReplayTV 4000 unit and related services are collectively referred to as "ReplayTV
13 4000".)

14 16. ReplayTV 4000 includes the following: (a) a feature that permits
15 ReplayTV 4000 to record and store programs identified by key words entered by
16 Defendants' customers; (b) expanded storage, including a massive hard drive that at
17 present permits permanent librarying of up to 320 hours of programs, thus fostering the
18 copying and distribution of a vast amount of material protected by copyright; (c) a feature
19 that sorts and organizes these unauthorized recordings; (d) an Internet service that from
20 remote locations causes the recording of programs, thus further increasing the
21 unauthorized copying and distribution of Plaintiffs' works; (e) a feature that automatically
22 permits the viewing of recorded programs "commercial free," and that therefore ensures
23 that all, or almost all, commercials are automatically omitted when viewing the program;
24 and (f) a function that allows the unauthorized distribution and public performance from a
25 user's ReplayTV 4000 unit over the Internet of copies of motion pictures or television
26 programs protected by copyright, including Plaintiffs' motion pictures and television
27 programs, to at least 15 third party members of the public who also own the ReplayTV
28 4000 unit.

1 17. No Plaintiff has granted any license, permission, or authorization to
2 Defendants, or to past, present, or future customers of Defendants, to use ReplayTV 4000
3 to copy, to distribute, or to perform publicly, over the Internet or otherwise, any of
4 Plaintiffs' works (including those listed in Exhibit A).

5 18. Defendants cause, accomplish, facilitate, and induce the unauthorized
6 reproduction, distribution, and public performance of Plaintiffs' valuable works and
7 encourage unauthorized access to subscription programming, in violation of both federal
8 and state law. For example, a ReplayTV 4000 customer who has a paid subscription to a
9 premium pay television service (like HBO or Showtime) can send a perfect digital copy of
10 any program transmitted on that service (or on any other subscription or pay-per-view
11 service) to any other individual who has the ReplayTV 4000 unit. This type of activity,
12 which can be accomplished whether or not the individual receiving the program has paid
13 for a subscription to that service, obviously diminishes sales of subscription and "pay-per-
14 view" services. Such activity also diminishes the sale of prerecorded DVD, videocassette
15 tape, and other copies of programs transmitted by these services, and negatively impacts
16 the value of these programs in subsequent distribution cycles (e.g., syndication).
17 ReplayTV 4000's expanded storage and sorting features and Internet service organize
18 disparate recordings into coherent collections, and cause, facilitate, induce, and encourage
19 the "librarying" of digital copies of copyrighted material. These "librarying" features
20 indisputably harm the sale of DVDs, videocassette tapes, and other copies, usurp
21 Plaintiffs' right to determine the degree of "air time" a particular program receives in
22 various cycles of that program's distribution (thereby diminishing the value of that
23 programming for subsequent cycles of distribution through syndication or other
24 licensing), and materially contribute to unlicensed channels that unfairly compete with
25 Plaintiffs' licensing of their motion picture and television product.

26 19. Defendants maintain continuous, direct involvement with their customers
27 well after the sale of each ReplayTV 4000 unit, in that Defendants maintain a permanent
28 online broadband Internet connection between the ReplayTV 4000 units and Defendants'

1 customers, on the one hand, and Defendants' servers and facilities, on the other hand.
2 Upon installation, the ReplayTV 4000 unit communicates with Defendants via the
3 broadband Internet connection. The ReplayTV 4000 unit is programmed to communicate
4 with Defendants each night and to download automatically from Defendants' server a
5 current electronic program guide, such that the user can cause ReplayTV 4000 to record
6 and store those motion pictures and television programs listed on the program guide onto
7 a hard drive built into the unit. Defendants also use the broadband Internet connection to
8 collect information about the types of programs that are copied onto the ReplayTV 4000
9 unit's hard drive and about what programs customers want or may want ReplayTV 4000
10 to copy and/or distribute. In addition, Defendants have the ability, from their own
11 facilities, to update and overwrite the software installed on their customers' devices, which
12 ability will permit Defendants to add features to their service, or remove features from it.

13 20. ReplayTV 4000 threatens to cause extraordinary and continuous harm to
14 Plaintiffs' businesses. Unless enjoined, Defendants' distribution of the ReplayTV 4000
15 unit and their active facilitation of the use of that unit to illegally copy, distribute, and
16 publicly perform Plaintiffs' copyrighted works will irreparably injure Plaintiffs and the
17 public.

18 **CLAIMS FOR RELIEF**

19 **COUNT I**

20 **COPYRIGHT INFRINGEMENT IN VIOLATION OF THE COPYRIGHT ACT.**

21 **17 U.S.C. §§ 101, ET SEQ.**

22 21. Plaintiffs incorporate by reference each and every allegation set forth in
23 paragraphs 1 through 20, inclusive, as though fully set forth herein.

24 22. Plaintiffs are the copyright owners or exclusive distributors of the works
25 listed in Exhibit A, as well as many other motion pictures and television programs
26 transmitted by United States television program services, each of which contain a large
27 number of creative elements wholly original to Plaintiffs and which are copyrightable
28 subject matter under the laws of the United States.

1 23. Plaintiffs have obtained (or have applied for) copyright registration
2 certificates for each work listed in Exhibit A. In doing so, Plaintiffs have complied in all
3 respects with 17 U.S.C. § 101, *et seq.*, the statutory deposit and registration requirements
4 thereof and all other laws governing federal copyrights.

5 24. Each of the works listed in Exhibit A, have, with authorization of Plaintiffs,
6 been recorded, printed, reproduced, published, and distributed throughout the United
7 States and all copies made by Plaintiffs or their licensees under their authority or license,
8 have been made and published in strict conformity with the provisions of 17 U.S.C. §§
9 401 and 409, *et seq.*, and all other laws governing federal copyright.

10 25. By causing, accomplishing, participating in, and enabling the actual or
11 imminent unauthorized copying, electronic distribution, and public performance of
12 unauthorized copies of Plaintiffs' works (including the works listed on Exhibit A) in the
13 manner described above, Defendants are engaging in and imminently will engage in a vast
14 number of direct copyright infringements, including infringements of Plaintiffs'
15 copyrighted works, in violation of sections 106 and 501 of the Copyright Act, 17 U.S.C.
16 §§ 106 and 501.

17 26. The foregoing unauthorized acts by Defendants are not otherwise
18 permissible under the Copyright Act.

19 27. Defendants' acts have caused and will continue to cause substantial
20 irreparable harm that cannot fully be compensated or measured in money to Plaintiffs
21 unless further infringement by Defendants is enjoined and restrained by this Court.
22 Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiffs are
23 entitled to preliminary and permanent injunctions prohibiting further infringements of
24 Plaintiffs' copyrights.

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COUNT II

CONTRIBUTORY COPYRIGHT INFRINGEMENT IN VIOLATION OF THE
COPYRIGHT ACT, 17 U.S.C. §§ 101, ET SEQ.

28. Plaintiffs incorporate by reference each and every allegation set forth in paragraphs 1 through 20, inclusive, and 22 through 24 as though fully set forth herein.

29. By participating in, facilitating, assisting, enabling, materially contributing to, and encouraging the actual or imminent unauthorized copying, electronic distribution, and public performance of unauthorized copies of Plaintiffs' works (including the works listed on Exhibit A) by ReplayTV 4000 customers in the manner described above, with full knowledge of their illegal consequences, Defendants are contributing to and inducing a vast number of copyright infringements, including infringements of Plaintiffs' copyrighted works, in violation of sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

30. Defendants know or have reason to know of the actual or imminent infringement of Plaintiffs' copyrights. Defendants actively promote the infringements as a reason to purchase their products, provide tools that are indispensable to these infringements, and continuously facilitate the infringements.

31. The unauthorized copying and distribution of Plaintiffs' copyrighted works by ReplayTV 4000 customers that Defendants participate in, facilitate, assist, induce, enable, materially contribute to, and encourage through the acts described above is without Plaintiffs' consent and is not otherwise permissible under the Copyright Act.

32. The foregoing acts of infringement by Defendants have been willful, intentional, purposeful, and with indifference to the rights of Plaintiffs.

33. Defendants' acts have caused and will continue to cause substantial irreparable harm that cannot fully be compensated or measured in money to Plaintiffs unless further infringement by Defendants is enjoined and restrained by this Court. Plaintiffs have no adequate remedy at law.

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COUNT III

VICARIOUS COPYRIGHT INFRINGEMENT IN VIOLATION OF THE
COPYRIGHT ACT, 17 U.S.C. §§ 101, ET SEQ.

34. Plaintiffs incorporate by reference each and every allegation set forth in paragraphs 1 through 20, inclusive, and 22 through 24 as though fully set forth herein.

35. Defendants have the right and ability to supervise and/or control the infringing conduct of the users of ReplayTV 4000. Defendants have the particular right and ability to supervise and/or control such activity as it pertains to the unauthorized copying and distribution of Plaintiffs' copyrighted works by ReplayTV 4000 users.

36. Defendants' regular involvement is an indispensable link in their customers' infringing conduct. Although Defendants could have designed ReplayTV 4000 so as to prevent the making of unauthorized digital copies and the unauthorized distribution of Plaintiffs' copyrighted works, instead Defendants specifically designed ReplayTV 4000 (and planned their ongoing communication with and assistance to their customers) to facilitate the digital copying and distribution of such copyrighted works.

37. Defendants have a direct financial interest in the infringements of Plaintiffs' copyrights by ReplayTV 4000 customers. Defendants' economic success is directly tied to the popularity of the infringing conduct that Defendants seek to encourage. For example, Defendants admit that ReplayTV 4000 is designed to enable users to copy a massive volume of programs (up to 320 hours' worth) and view them without the commercials, and that ReplayTV 4000 is designed to enable users to distribute digital copies of entire copyrighted works to others -- all without permission of the copyrighted owner. These new infringing capabilities of ReplayTV 4000 are among Defendants' principal selling points.

38. Defendants' acts constitute vicarious infringement of Plaintiffs' copyrights and exclusive rights under copyright in violation of 17 U.S.C. §§ 106 and 501.

39. Defendants' acts have caused and will continue to cause substantial irreparable harm that cannot fully be compensated or measured in money to Plaintiffs

1 unless further infringement by Defendants is enjoined and restrained by this Court.
2 Plaintiffs have no adequate remedy at law.

3 **COUNT IV**

4 **VIOLATION OF SECTION 553 OF THE COMMUNICATIONS ACT,**

5 **47 U.S.C. § 553**

6 40. Plaintiffs incorporate by reference each and every allegation set forth in
7 paragraphs 1 through 20 as though fully set forth herein.

8 41. The Communications Act makes it unlawful for any person to intercept or
9 receive or assist in intercepting or receiving any communications service offered over a
10 cable system, unless specifically authorized to do so by a cable operator or as specifically
11 authorized by law. 47 U.S.C. § 553. The prohibited conduct includes the manufacture or
12 distribution of equipment intended by the manufacturer or distributor for unauthorized
13 reception of any communications service offered over a cable system.

14 42. Defendants' conduct violates Section 553. Among other things, Defendants
15 are selling equipment -- the ReplayTV 4000 unit -- with a distribution feature that
16 Defendants intend to be used to enable persons without authorization to receive
17 communication services offered over a cable system, including but not limited to cable-
18 delivered programming of over-the-air television stations, basic nonbroadcast services,
19 premium services, and pay-per-view services.

20 43. Injury to Plaintiffs is continuing and will continue unless Defendants'
21 actions are restrained by the Court. Unless Defendants are enjoined from engaging in
22 their wrongful conduct, Plaintiffs will suffer further irreparable injury and harm, for which
23 Plaintiffs have no adequate remedy at law.

24 44. Plaintiffs are entitled to a preliminary and permanent injunction enjoining
25 and restraining Defendants from the acts violative of Section 553 of the Communications
26 Act set forth above.

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COUNT V

VIOLATION OF SECTION 605 OF THE COMMUNICATIONS ACT,

47 U.S.C. § 605

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4 45. Plaintiffs incorporate by reference each and every allegation set forth in
5 paragraphs 1 through 20 as though fully set forth herein.

6 46. The Communications Act, with certain exceptions not relevant here, forbids
7 any person receiving, assisting in receiving, transmitting, or assisting in transmitting, any
8 interstate communication by wire or radio from divulging or publishing the contents
9 thereof except through authorized channels. 47 U.S.C. § 605. The Act also forbids any
10 unauthorized person from receiving or assisting in receiving any interstate communication
11 by radio and using such communication (or any information therein contained) for his
12 own benefit or for the benefit of another unauthorized person. *Id.*

13 47. Defendants' conduct violates Section 605. Defendants are selling (and
14 facilitating the use of) a device -- the ReplayTV 4000 -- which (a) assists in the receipt of
15 interstate communications by wire or radio and the use of such communications for the
16 benefit of unauthorized persons and/or (b) is designed and intended to be used to divulge
17 or publish the contents of such communications through the feature allowing distribution
18 to unauthorized persons.

19 48. Injury to Plaintiffs is continuing and will continue unless Defendants'
20 actions are restrained by the Court. Unless Defendants are enjoined from engaging in
21 their wrongful conduct, Plaintiffs will suffer further irreparable injury and harm, for which
22 Plaintiffs have no adequate remedy at law.

23 49. Plaintiffs are entitled to a preliminary and permanent injunction enjoining
24 and restraining Defendants from the acts violative of Section 605 of the Communications
25 Act set forth above.

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COUNT VI

UNFAIR BUSINESS PRACTICE UNDER CAL. BUS. & PROF.

CODE §§ 17200, ET SEQ.

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4 50. Plaintiffs incorporate by reference each and every allegation set forth in
5 paragraphs 1 through 20, inclusive, as though fully set forth herein.

6 51. California Business and Professions Code § 17200 provides for injunctive
7 and other relief against "any unlawful, unfair or fraudulent business act or practice." As
8 set forth above, Defendants are engaged in, or propose to engage in, conduct unlawful
9 under Sections 553 and 605 of the Federal Communications Act.

10 52. A significant portion of Plaintiffs' licensing revenue comes from license fees
11 paid by networks, individual stations, and cable/satellite networks and services for
12 programming. These license fees, in turn, depend upon revenues from a wide variety of
13 commercial advertising arrangements, including payments from advertisers for the
14 inclusion of commercials during designated breaks within and between programs. In
15 addition, Plaintiffs derive a substantial portion of their licensing revenue from so-called
16 "barter" arrangements whereby, in exchange (in whole or in part) for the licensing of
17 Plaintiffs' content, Plaintiffs receive commercial advertising time, which Plaintiffs then
18 resell. By enabling the instant and complete eradication of an essential revenue-producing
19 aspect of Plaintiffs' businesses, Defendants are engaged in, or propose to engage in, one or
20 more unfair business acts or practices causing particular harm to the market for the
21 licensing of Plaintiffs' content.

22 53. Plaintiffs have created, developed, invested in, marketed, and branded with
23 a unique and recognizable identity, various motion picture and television programs. The
24 public has come to recognize these products and services as inherently distinctive and
25 unique. By recording and organizing recordings of programs from these disparate
26 channels and services into coherent collections, including for delivery to others over the
27 Internet, and by packaging and branding those recordings and collections in such a
28 manner as to cause confusion as to the source or sponsorship of those recordings and

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1 collections and by materially contributing to the formation of these unlicensed channels,
2 Defendants are engaged in, or propose to engage in, one or more unfair business acts or
3 practices causing particular harm to the market for the licensing of Plaintiffs' content.

4 54. Each of the aforementioned business acts and/or practices is oppressive
5 and/or substantially injurious to Plaintiffs and/or the general public. With respect to each
6 of the aforementioned business acts and/or practices, the gravity of the harm to Plaintiffs
7 and the general public outweighs the utility, if any, of Defendants' conduct.

8 55. Defendants' conduct, as alleged above, was malicious, fraudulent,
9 deliberate, willful, intentional, or oppressive.

10 56. Injury to Plaintiffs is continuing and will continue unless Defendants'
11 actions are restrained by the Court. Unless Defendants are enjoined from engaging in
12 their wrongful conduct, Plaintiffs will suffer further irreparable injury and harm, for which
13 Plaintiffs have no adequate remedy at law.

14 57. Plaintiffs are entitled to a preliminary and permanent injunction enjoining
15 and restraining Defendants from the acts of unfair business practice set forth above, and to
16 reasonable attorneys' fees and costs of suit.

17 **PRAYER FOR RELIEF**

18 **WHEREFORE**, Plaintiffs pray that this Court enter judgment in their favor and
19 against Defendants, and each of them, as follows:

20 (a) adjudge and declare that Defendants' activities constitute direct,
21 contributory, and vicarious copyright infringement, violate Sections 553 and 605 of the
22 Communications Act, and constitute an unlawful, unfair, or fraudulent business act or
23 practice under Section 17200 of the California Business & Professions Code;

24 (b) preliminarily and permanently enjoin, pursuant to 17 U.S.C. § 502,
25 Defendants, their officers, agents, servants, employees, and those persons in active concert
26 or participation with them, from directly, contributorily, and/or vicariously infringing by
27 any means Plaintiffs' exclusive rights under the Copyright Act, including, but not limited
28 to any of Plaintiffs' rights in any of the works listed on Exhibit A, and from licensing any

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other person to do the same;

(c) preliminarily and permanently enjoin Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with them, from violating Sections 553 and 605 of the Communications Act, including but not limited to by engaging in any activity that enables persons to transmit copies of cable television programming to other persons, or enables persons without authorization to receive such programming;

(d) preliminarily and permanently enjoin, pursuant to California Business & Professions Code § 17200, Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with them, from engaging in one or more unfair and/or unlawful business acts or practices, including, but not limited to any activity that encourages or enables viewers to block access to commercial content transmitted during television programming owned by Plaintiffs or offered on a television network owned and/or operated by Plaintiffs, or that encourages or permits customers to transmit copies of such programming to other persons;

(e) award Plaintiffs costs and reasonable attorneys' fees in accordance with 17 U.S.C. § 505, 47 U.S.C. §§ 553 and 605, and other applicable law; and

(f) award Plaintiffs such further and additional relief as the Court may deem just and proper.

Dated: November 28, 2001

McDERMOTT, WILL & EMERY
ROBERT H. ROTSTEIN
LISA E. STONE

By 
ROBERT H. ROTSTEIN
Attorneys for Plaintiffs

Exhibit A

EXHIBIT A

Illustrative Copyright Registrations

<u>Rights Holder</u>	<u>Title</u>	<u>Copyright No.</u>
Columbia Pictures Industries, Inc.	Big Daddy	PA 944-737
Columbia Pictures Industries, Inc.	First Knight	PA 722-727
Columbia Pictures Industries, Inc.	28 Days	PA 986-137
Columbia Pictures Industries, Inc.	The End Of The Affair	PA 975-167
Columbia Pictures Industries, Inc.	Charlie's Angels	PA 1-002-272
Columbia Pictures Television, Inc.	Strong Medicine (Fix)	Application Pending
Columbia Pictures Television, Inc.	Strong Medicine (Maternity)	Application Pending
Columbia Pictures Television, Inc.	Strong Medicine (Complications)	Application Pending
Columbia Pictures Television, Inc.	Ripley's Believe It Or Not (Episode #205)	Application Pending
Columbia Pictures Television, Inc.	Ripley's Believe It Or Not (Episode #206)	Application Pending
Columbia Pictures Television, Inc.	Ripley's Believe It Or Not (Episode #207)	Application Pending
Columbia Pictures Television, Inc.	Ripley's Believe It Or Not (Episode #208)	Application Pending
Columbia Pictures Television, Inc.	V.I.P. (Val In Space)	PA 1-036-767
Columbia Pictures Television, Inc.	V.I.P. (It's Val's Wonderful Life)	PA 1-036-762
Columbia Pictures Television, Inc.	V.I.P. (Molar Ice Cap)	PA 1-036-757
Columbia Pictures Television, Inc.	V.I.P. (Val's Big Bang)	PA 1-036-758

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LOS ANGELES

1	<u>Rights Holder</u>	<u>Title</u>	<u>Copyright No.</u>
2	Columbia Pictures Television, Inc.	The Ricki Lake Show (Episode #8191)	Application Pending
3	Columbia TriStar Television, Inc.	Dawson's Creek (Self-Reliance)	PA 1-037-003
4	Columbia TriStar Television, Inc.	Dawson's Creek (Self-Reliance)	PA 1-037-003
5	Columbia TriStar Television, Inc.	Dawson's Creek (Self-Reliance)	PA 1-037-003
6	Columbia TriStar Television, Inc.	Dawson's Creek (Promicide)	PA 1-036-995
7	Columbia TriStar Television, Inc.	Dawson's Creek (Separation Anxiety)	PA 1-036-990
8	Columbia TriStar Television, Inc.	Dawson's Creek (Separation Anxiety)	PA 1-036-990
9	Columbia TriStar Television, Inc.	Dawson's Creek (The Graduate)	PA 1-036-996
10	Columbia TriStar Television, Inc.	Dawson's Creek (The Graduate)	PA 1-036-996
11	Columbia TriStar Television, Inc.	Dawson's Creek (Coda)	PA 1-036-993
12	Columbia TriStar Television, Inc.	Family Law (Recovery)	PA 1-036-928
13	Columbia TriStar Television, Inc.	Family Law (Recovery)	PA 1-036-928
14	Columbia TriStar Television, Inc.	Family Law (Clemency)	PA 1-036-929
15	Columbia TriStar Television, Inc.	Family Law (Clemency)	PA 1-036-929
16	Columbia TriStar Television, Inc.	Family Law (Planting Seeds)	PA 1-036-930
17	Columbia TriStar Television, Inc.	King of Queens (Paint Misbehavin')	Application Pending
18	Columbia TriStar Television, Inc.	King of Queens (Paint Misbehavin')	Application Pending
19	Columbia TriStar Television, Inc.	King of Queens (Swim Neighbors)	Application Pending
20	Columbia TriStar Television, Inc.	King of Queens (Swim Neighbors)	Application Pending
21	Columbia TriStar Television, Inc.	King of Queens (S'no Job)	Application Pending
22	Columbia TriStar Television, Inc.	King of Queens (S'no Job)	Application Pending
23	Columbia TriStar Television, Inc.	King of Queens (Pregnant Pause-Part 1)	Application Pending
24	Columbia TriStar Television, Inc.	King of Queens (Pregnant Pause-Part 1)	Application Pending
25	TriStar Television, Inc.	Mad About You (Dry Run)	PA 838-680
26	TriStar Television, Inc.	Mad About You (Guardianhood)	PA 838-681
27	TriStar Television, Inc.	Mad About You (Guardianhood)	PA 838-681
28	TriStar Television, Inc.	Mad About You (Birth - Part II)	PA 838-685

1	TriStar Television, Inc.	Mad About You (Coming Home)	PA 887-101
2	TriStar Television, Inc.	The Nanny (The Two Mrs. Sheffields)	PA 817-912
3	TriStar Television, Inc.	The Nanny (Having His Baby)	PA 817-913
4	TriStar Television, Inc.	The Nanny (The Unkindest Cut)	PA 817-915
5	TriStar Television, Inc.	The Nanny (Where's Fran)	PA 817-666
6	TriStar Television, Inc.	The Nanny (Your Feet Too Big)	PA 817-823
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