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 COMEDYMX LLC
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

15 COMEDYMX LLC, a Delaware)
 16 limited liability company,)

17 Plaintiff,)

18 v.)

19)
 20 BROADBANDTV CORP., a)
 21 Canadian corporation; and)
 22 CINEDIGM DIGITAL CINEMA)
 23 CORP., a Delaware corporation,)

24 Defendants.)
 25)

Civil Case No. 2:20-cv-00260

**COMPLAINT FOR VIOLATION
 OF THE DIGITAL MILLENNIUM
 COPYRIGHT ACT – 17 U.S.C.
 § 512(f)**

DEMAND FOR JURY TRIAL

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1 Plaintiff ComedyMX LLC, by and through its counsel, alleges for its
2 complaint against defendants BROADBANDTV CORP. and CINEDIGM
3 DIGITAL CINEMA CORP. (collectively, “Defendants”) as follows:

4 **NATURE OF THE ACTION**

5 1. This is an action for violation of Section 512(f) of the Digital
6 Millennium Copyright Act (“DMCA”), 17 U.S.C. § 101, *et seq.*

7 **THE PARTIES**

8 2. Plaintiff ComedyMX LLC is a Delaware limited liability company
9 with offices in Pinewood, New Jersey.

10 3. On information and belief, defendant BROADBANDTV CORP.
11 (“BBTV”) is a Canadian corporation doing business as “BBTV” with an address
12 at 520 Broadway, Santa Monica, California 90401.

13 4. On information and belief, defendant CINEDIGM DIGITAL
14 CINEMA CORP. is a Delaware corporation (“Cinedigm”) with an address at
15 15301 Ventura Boulevard, Bldg. B, Suite 420, Sherman Oaks, California 91403.
16 Cinedigm is further registered as a foreign corporation with the California
17 Secretary of State as Entity No. C2748811.

18
19 **JURISDICTION AND VENUE**

20 5. This Court has subject matter jurisdiction over this lawsuit under 28
21 U.S.C. § 1338 because the action arises under the copyright laws of the United
22 States and pendant jurisdiction over any and all state causes of action under 28
23 U.S.C. § 1367.

24 6. This Court has personal jurisdiction over Defendants because
25 Defendants maintain offices in the state and thus reside in California.

26 7. Venue is proper and reasonable in this district under 28 U.S.C. §
27 1391(b)(1) because Defendants reside and maintain offices in the Central District
28 of California. Also, venue is proper in this district under 28 U.S.C. § 1391(b)(2)

1 because a substantial part of the events or omissions giving rise to this claim for
2 violation of the DMCA occurred in this district and Defendants have significant
3 contacts with the district.

4
5 **FACTS**

6 **Plaintiff's Business**

7 8. Plaintiff is engaged in the business of providing entertainment
8 services including, without limitation, the production and distribution of comedy
9 videos and videos featuring classic movies. In many cases, plaintiff creates
10 copyrightable derivative works using content in the public domain.

11 9. YouTube, L.L.C. ("YouTube") is a company that hosts and makes
12 accessible videos via the website YouTube.com.

13 10. Content providers, such as plaintiff, upload videos to YouTube and
14 are able to collect ad revenue generated by YouTube's viewers watching ads in
15 conjunction with the videos via YouTube's service platform. YouTube allows
16 content providers to create "channels" to consolidate their videos. In the present
17 case, plaintiff's 8THMANDVD.COM® YouTube channel is at issue.

18 11. In or around December 2013, plaintiff uploaded two videos to
19 YouTube entitled *Dick Tracy's Dilemma* and *Dick Tracy Meets Gruesome*.

20 12. Both videos were versions of films created in 1947 that had been
21 creatively edited and remastered by plaintiff. As such, plaintiff holds copyrights
22 with respect to these remastered versions.

23 13. The authors/rights holders of the 1947 films did not renew their
24 copyright in 1975. Thus, under applicable law, this failure to renew the
25 copyrights resulted in the films falling into the public domain. As such, no entity,
26 including Defendants, can claim copyright rights to the original versions of the
27 films.

1 **Defendants’ Wrongful Conduct**

2 14. On or around December 24, 2019, plaintiff received notices from the
3 claimant “BBTV_Cinedigm” via YouTube’s online platform falsely alleging
4 plaintiff’s videos infringed Defendants’ purported copyright rights (the “DMCA
5 Takedown Notices”). Attached hereto as Exhibit A is a true and correct
6 screenshot of a summary of the DMCA Takedown Notices from YouTube’s
7 website.

8 15. On information or belief, the claimant “BBTV_Cinedigm” account is
9 owned and/or controlled by Defendants. On information or belief, defendant
10 BBTV was granted access to YouTube’s “Take Down Tool.” This access is not
11 typically available to the public. Due to this access, Defendants were able to
12 secure a DMCA takedown without typical review or process by YouTube.

13 16. As a result of the DMCA Takedown Notices, plaintiff was forced to
14 remove the videos – resulting in lost ad revenue from viewers who would have
15 watched the uploaded films.

16 17. Defendants’ wrongful DMCA Takedown Notices further resulted in
17 harm by causing a “strike” against plaintiff’s channel. YouTube continuously
18 monitors the number of strikes received by content providers. If a content
19 provider’s YouTube channel receives three “strikes,” YouTube can suspend or
20 permanently remove the channel. Attached hereto as Exhibit B are true and
21 correct copies of screenshots showing that the videos were taken down and strikes
22 issued by YouTube on plaintiff’s channel. Thus, plaintiff, as a prophylactic
23 measure against Defendants’ unlawful actions, removed two other *Dick Tracy*
24 videos from its channel to prevent further “strikes” from being issued against
25 plaintiff’s channel resulting in a suspension or removal of the channel.

26 18. On December 24, 2019, plaintiff by and through counsel provided a
27 “counter-notice” to YouTube and Defendants demanding they retract the invalid
28 DMCA Takedown Notices.

1 19. Defendants subsequently retracted the notices on December 25, 2019
2 conceding that plaintiff had not infringed any copyright of Defendants.

3 20. On information and belief, Defendants, either directly or through
4 agents within their custody and control, have submitted other false DMCA
5 takedown notices against plaintiff in the past.

6 21. On information and belief, Defendants did not conduct any diligent
7 investigation with respect to their purported copyright rights, the fact that the
8 subject films were copyrighted derivatives based on content in the public domain,
9 the fact that plaintiff's content is non-infringing or the fact that plaintiff holds
10 valid copyrights in the subject material.

11 22. On information and belief, Defendants willfully and knowingly
12 submitted the DMCA Takedown Notices against plaintiff in serial fashion (as
13 opposed to a single complaint regarding all of the Dick Tracy videos that would
14 have resulted in only a single "strike") knowing the notices were and are invalid.
15 Instead, Defendants intended to interfere with plaintiff's business, attempted to
16 cause a shutdown of plaintiff's channel, and block plaintiff from receiving ad
17 revenue.

18
19 **CLAIM FOR RELIEF**
20 **(Violation of 17 U.S.C. § 512(f))**
21 **(Against All Defendants)**

22 23. Plaintiff re-alleges each and every allegation set forth in paragraphs 1
23 through 22, inclusive, and incorporates them by reference herein.

24 24. On at least two occasions, Defendants sent YouTube notices of
25 alleged copyright infringement pursuant to the DMCA that contained knowing
26 and material misrepresentations that videos posted by plaintiff to the YouTube
27 service infringed Defendants' alleged copyrights.

28 25. YouTube, the service provider that received Defendants' knowingly

1 false notifications of alleged infringement, relied upon Defendants’
2 misrepresentations and removed or disabled access to the material Defendants
3 falsely claimed to be infringing.

4 26. Defendants’ abusive behavior has caused plaintiff to expend
5 substantial sums, including costs and attorneys’ fees, on its investigation in an
6 effort to respond to the Defendants’ false claims and prevent shutdown of
7 plaintiff’s YouTube channel.

8 27. Defendants’ abusive behavior has caused plaintiff to lose revenue and
9 profits by causing the wrongful removal of non-infringing content.

10 28. Defendants’ abusive behavior caused harm to plaintiff’s reputation
11 and standing with YouTube by causing improper “strikes” against plaintiff’s
12 account.

13 29. Defendants’ acts, as set forth above, constitute violation of the
14 DMCA, all to the damage of plaintiff as previously alleged.

15
16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff asks that this Court grant judgment against
18 defendants for the following:

19 A. Defendants, their officers, agents, servants, employees, and attorneys,
20 and all persons in active concert or participation with any of them, be
21 enjoined from:

- 22 i. Falsely submitting DMCA takedown notices regarding plaintiff’s
23 content;
24 ii. conspiring, encouraging, inducing, allowing, abetting, or assisting
25 others in performing any of the activities referred to in
26 subparagraphs (i) above.

27 B. Defendants shall file with the Court and serve on plaintiff, within 30
28 days after the entry and service on defendants of an injunction, a report in

1 writing and attested to under penalty of perjury setting forth in detail the
2 manner and form in which defendants have complied with the provisions of
3 subparagraph (A) above.

4 C. Plaintiff recovers all damages it has sustained as a result of
5 Defendants' violation of 17 U.S.C. § 512(f).

6 D. Plaintiff be awarded its reasonable attorneys' fees for prosecuting this
7 action.

8 E. Plaintiff recover its costs of this action and pre-judgment and post-
9 judgment interest, to the full extent allowed by law.

10 F. Plaintiff receive all other relief the Court deems appropriate.

11
12 Respectfully submitted,

13 MANDOUR & ASSOCIATES, APC

14 Dated: January 9, 2020

15
16 /s/ Ben T. Lila

17 Ben T. Lila (SBN 246808)

18 Email: blila@mandourlaw.com

19 Attorneys for plaintiff,

20 COMEDYMX LLC
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by the jury on its claims herein and all issues and claims so triable in this action.

Respectfully submitted,
MANDOUR & ASSOCIATES, APC

Dated: January 9, 2020

/s/ Ben T. Lila
Ben T. Lila (SBN 246808)
Email: blila@mandourlaw.com
Attorneys for plaintiff,
COMEDYMX LLC

EXHIBIT A

EXHIBIT A


s?ar=1577220029033&o=U

Copyright Notices -... TubeAssist - Autom... YouTube Marketing... ApkCreator - Creat... KeepVid DL How to Start a YouT... YouTube Statistics... YouTube Stats, You... Using Convertible P... You

CREATOR STUDIO

- BACK TO YOUTUBE STUDIO
- DASHBOARD
- VIDEO MANAGER
- LIVE STREAMING
- COMMUNITY
- CHANNEL
- Status and features**
 - Monetization
 - Upload defaults
 - Branding
 - Advanced
- ANALYTICS
- TRANSLATIONS & TRANSCRIPTIONS
- CREATE
- Help and feedback

Status and Features

 **8thManDVD.com™ Cartoon Channel**
 ✓ Partner Verified
 AuxiliaryMode can access your account and manages your payments
 Authorized Jan 13, 2017 (2 years ago)

Copyright Status

Careful! You have 2 copyright strikes. One more and we may have to disable your account! See details

Type	Event	Content
Video	© STRIKE 1	DICK TRACY'S DILEMMA (Full Movie) (1947) (Remastered) (HD 1080p) Reason: Copyright takedown request Removed by BBTV_Cinedigm on Dec 24, 2019 Expires on Mar 23, 2020
	© STRIKE 2	DICK TRACY MEETS GRUESOME (Full Movie) (1947) (Remastered) (HD 1080p) Reason: Copyright takedown request Removed by BBTV_Cinedigm on Dec 24, 2019 Expires on Mar 23, 2020

We may have to disable your account if you have 3 or more strikes within a 3 month period. [Learn more](#)

Community Guidelines Status

You have 0 Community Guidelines strikes.

EXHIBIT B

EXHIBIT B

notice?v=Zc-hpXkcBQ4&ar=1577281043062

Copyright Notices - ... TubeAssist - Autom... YouTube Marketing... ApkCreator - Creat... KeepVid DL How to Start a YouT... YouTube Statistics... YouTube Stats, You... U

CREATOR STUDIO

- BACK TO YOUTUBE STUDIO
- DASHBOARD
- VIDEO MANAGER
 - Videos
 - Playlists
 - Copyright Notices
 - Submit Retraction
- LIVE STREAMING
- COMMUNITY
- CHANNEL
- ANALYTICS
- TRANSLATIONS & TRANSCRIPTIONS
- CREATE


Help and feedback

Copyright

DICK TRACY'S DILEMMA (Full Movie) (1947) (Remastered) (HD 1080p)

This video is no longer available due to a copyright claim by BBTV_Cinedigm.

Sorry about that.



Your video has been taken down.

A claimant sent us a legal notice about their copyrighted content in your video. As a result, your video has been removed from YouTube.

VIEWING RESTRICTIONS Video taken down ⓘ

ACCOUNT STANDING Copyright strike received ⓘ

[Learn more about ways to resolve copyright strikes.](#)

Details

CONTENT	CLAIMANT	POLICY	
Dick Tracy's Dilemma Manually detected	BBTV_Cinedigm nialonde@bbtv.com	Video taken down ⓘ	Request retraction Strike expires: Mar 23, 2020 Counter notification forwarded ⓘ

ppynotice?v=59I-cBZW6SM&ar=1577219025033

Copyright Notices -... TubeAssist - Autom... YouTube Marketing... ApkCreator - Creat... KeepVid DL How to Start a YouT... YouTube Statistics... YouTube Stats, You...

CREATOR STUDIO


- BACK TO YOUTUBE STUDIO
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© Copyright

DICK TRACY MEETS GRUESOME (Full Movie) (1947) (Remastered) (HD 1080p)

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[Learn more about ways to resolve copyright strikes.](#)

Details

CONTENT	CLAIMANT	POLICY	
Dick Tracy Meets Gruesome Manually detected	BBTV_Cinedigm nialonde@bbtv.com	Video taken down ⓘ	Request retraction Strike expires: Mar 23, 2020 Counter notification awaiting review ⓘ