

NOV 03 2008

JOHN CLARKE, CLERK
BY MARY GARCIA, DEPUTY

*D-64
Kenneth R. Freerick*

1 **HOFFMAN LAW FIRM**
2 Nathan B. Hoffman (Bar No. 090492)
3 22373 Cass Avenue, Suite 100
4 Woodland Hills, California 91364
5 (818) 710-6099 - Telephone
6 (818) 710-1789 - Facsimile
7 NathanBHoffman@theHoffmanLawFirm.us [E-Mail]
8 Attorneys for BATTLE ONE PRODUCTIONS, INC.,

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

<p>BATTLE ONE PRODUCTIONS, INC., a Florida corporation,</p> <p>PLAINTIFF</p> <p>vs.</p> <p>TIMOTHY A. DICK a/k/a Tim Allen, an individual; BOXING CAT PRODUCTIONS, INC. a foreign Corporation; TOLLIN/ROBBINS PRODUCTIONS, LLC, a limited liability company d/b/a "Tollin/Robbins Productions;" WALT DISNEY PICTURES. d/b/a "Touchstone Pictures," a CA corporation and DOES 1-100</p> <p>DEFENDANTS</p>		<p>Case No.: BC401136</p> <p>COMPLAINT FOR:</p> <p>1) MISAPPROPRIATION OF TRADE SECRETS;</p> <p>2) ACCOUNTING AND CONSTRUCTIVE TRUST</p>
--	--	--

COMES NOW PLAINTIFF BATTLE ONE PRODUCTIONS, INC.,
a Florida corporation ["BATTLE ONE"] and who complains and alleges as follows:

PRELIMINARY ALLEGATIONS

COMPLAINT OF BATTLE ONE PRODUCTIONS, INC., v DICK ET AL

CIT/CASE: BC401136 LEB/DEF#
RECEIPT #: CONTRIBUTORS
DATE PAID: 11/03/08 11:11:29 AM
AMOUNT: \$320.00
RECEIVED: 0310

CHECK:
DASH:
DRAWING:
CARD:
320.00

1 Plaintiff BATTLE ONE is now, and at all times mentioned in this Complaint was
2 and is, a Florida corporation in good standing and its principal place of business is located in
3 Broward County, Florida.

4 2. Plaintiff is informed and believes, and on that basis alleges, that at all times
5 mentioned in this Complaint, named Defendants, and DOES 1-100 ("Defendants"), are
6 individuals or businesses of unknown type, who now, and at all times mentioned in this
7 Complaint, were agents, employees or associates of one and another.

8
9 3. Plaintiff does not know the true names of Defendants DOES 1 through 30, and
10 therefore sues them by those fictitious names. Plaintiff is informed and believes, and on the basis
11 of that information and belief alleges, that each of those Defendants was in some manner legally
12 responsible for the events and happenings alleged in this Complaint and for Plaintiff's injuries
13 and damages. The names, capacities and relationships of DOES 1 through 30 will be alleged by
14 amendment to this Complaint when they are known.

15 4. Plaintiff is informed and believes, and on that basis alleges, that at all times
16 mentioned in this Complaint, all named and unnamed Defendants were the agents and employees
17 of their co-defendants, and doing the things alleged in this Complaint were acting within the
18 course and scope of that agency and employment.

19 5. This is an action for damages that is in excess of the jurisdictional amount of
20 \$25,000.00, exclusive of interest, reasonable attorneys' fees and taxable costs.

21
22 6. BATTLE ONE is informed and believes and thereon alleges that at all times
23 material hereto, the Defendant, TIMOTHY A. DICK a/k/a "Tim Allen" (hereinafter referred to
24 as "Allen") has been an adult individual that is residing in the State of California, County of Los
25 Angeles.

26 7. BATTLE ONE is informed and believes and thereon alleges that at all times
27 material hereto, the Defendant, BOXING CAT PRODUCTION, INC. (hereinafter referred to as
28

11/03/08

1 "BCPI") has been a foreign corporation, that is not registered to conduct business in the State of
2 CA, but is, for the reasons set forth below, subject to the jurisdiction of this Court.

3 8. BATTLE ONE is informed and believes and thereon alleges that at all times
4 material hereto, the Defendant, TOLLIN/ROBBINS PRODUCTIONS, LLC (hereinafter referred
5 to as the "Producer") has been a limited Liability company d/b/a "Tollin/Robbins Productions,"
6 registered in CA with its principal place of business in Los Angeles County, CA.
7

8 9. BATTLE ONE is informed and believes and thereon alleges that at all times
9 material hereto, the Defendant, WALT DISNEY PICTURES d/b/a "Touchstone Pictures"
10 (hereinafter referred to as "Touchstone") has been a CA corporation with its principal place of
11 business in Los Angeles County CA.
12

13 10. At all times material hereto STACY MORRIS (hereinafter referred to as
14 "Morris") is an adult individual residing in Broward County, Florida.
15

16 11. In or about the year 2000, and then again in 2002, a predecessor-in-interest of
17 Plaintiff, BATTLE ONE PRODUCTIONS, INC. (hereinafter referred to as "Battle One"),
18 Steven Battaglia, disclosed a script for a film project known as "The Harvey Davidson Gang"
19 under conditions of confidentiality to Defendants and/or their agents in the State of Florida on
20 the set of two films entitled "The Crew" and "Big Trouble."
21

22 12. At all times material hereto, the individuals, Steven Battaglia (hereinafter referred
23 to as "Battaglia") and Paul Danner (hereinafter referred to as "Danner") (hereinafter collectively
24 known as the "Predecessor-In-Interest") are and were agents, apparent agents or employees of
25 Battle One.
26
27
28

11/15/2008

1 13. At all times material hereto, Defendant Morris is and was the agent, apparent agent,
2 or employee of Defendant Allen.

3 14. At all times material hereto, Defendants Morris and Allen are and were agents,
4 apparent agents, or employees of Boxing Cat, Producer and Touchstone.

5 15. At all times material hereto, but more specifically on or about May 1, 1999,
6 Battaglia and Danner created and authored a written treatment (hereinafter referred to as the
7 "Treatment") for a film project known as "The Harvey Davidson Gang" (hereinafter referred to
8 as the "Project") which is and was a comedic treatment of a man in the midst of a mid-life crisis,
9 who finds himself in "fish out of water" circumstances in a fake motorcycle gang, pitted against
10 antagonists from a real motorcycle gang, and finds redemption and his youth by facing down the
11 leader of the real motorcycle gang in a Western-style showdown.
12

13 16. At all times material hereto, but more specifically on or about July 27, 1999,
14 Battaglia and Danner completed the first draft of a script for the Project (hereinafter referred to
15 as the "Script").
16

17 17. At all times material hereto, but more specifically in or about 2000, Battaglia
18 confidentially disclosed the Treatment and Script to Defendant Morris, as the personal assistant
19 of Defendant Allen, while on the set for the movie, "The Crew," for consideration for a potential
20 project for Allen and/or his production company, and for the studio for "The Crew," Touchstone
21 Pictures.
22

23 18. At all times material hereto, but more specifically in or about 2002, Battaglia
24 confidentially disclosed the Treatment and Script to Defendant Morris, as the personal assistant
25 of Defendant Allen, while on the set for the movie, "Big Trouble," for consideration for a
26

1 potential project for Allen and/or his production company, and for the studio for "Big Trouble,"
2 Touchstone Pictures and for the Producer.

3 19. At all times material hereto, Defendant Morris, as the personal assistant of
4 Defendant Allen, agreed on behalf of herself and Defendants to accept the Treatment and Script
5 from Battaglia, under conditions of confidentiality, with the express promise that the Treatment
6 and Script will be presented to Defendant Allen for his consideration as a film project, whether
7 by his production company or the studio, would not be disclosed to other third parties, and would
8 not be used in any way, shape or form without the consent of, and payment of consideration to,
9 Battaglia.
10

11 20. This week, Defendant Allen, as the top billed star, his production company, Boxing
12 Cat, Producer and Touchstone will release for general viewing a film about the comedic
13 treatment of a man in the midst of a mid-life crisis, who finds himself in "fish out of water"
14 circumstances in a fake motorcycle gang, pitted against antagonists from a real motorcycle gang,
15 and finds redemption and his youth by facing down the leader of the real motorcycle gang in a
16 Western-style showdown.
17

18 21. On this past Saturday, February 24, 2007, Defendants released the film for a limited
19 "sneak preview" in select theaters throughout the United States and upon information and belief,
20 in other locations.
21

22 22. At all times material hereto, all prerequisites to the filing of this complaint have
23 been performed or otherwise fulfilled by the Plaintiff.
24

25 23. At all times material hereto, the Plaintiff has retained the undersigned counsel to
26 prosecute this claim, as more fully set forth below, and has agreed to compensate the law firm
27
28

1 through the payment of reasonable attorney's fees, and the reimbursement of out of pocket
2 expenses incurred therein.

3
4 **FIRST CAUSE OF ACTION**
5 **BY BATTLE ONE**
6 **MISAPPROPRIATION OF TRADE SECRETS**
7 **(All Defendants)**
8

9 24. Plaintiff incorporates by reference Paragraphs I through 23 of the Preliminary
10 Allegations.

11
12 25. This is an action for damages for misappropriation of trade secrets that arises under
13 Florida Statutes §688.004 and *CALIFORNIA CIVIL CODE SECTIONS 3426-3426.11*.

14
15 26. At all times material hereto, the plot, characters, characterizations, settings,
16 circumstances, conflicts, resolutions, and dialogue that are captured and set forth within the
17 Treatment and Script from the Project, either in individual isolation or combination of the
18 individual components, represent a trade secret or trade secrets in the film industry (hereinafter
19 referred to as the "Trade Secret.")
20

21
22 27. At all times material hereto, the Trade Secret had special value in the film industry,
23 in consideration of the recent trend of many middle-aged Americans purchasing motorcycles,
24 and specifically Harley Davidson motorcycles, and associating with clubs that emulate biker
25 gangs and associations. There have been no films that have been released for general viewing
26 depicting this recent trend or the comedic possibilities of this recent trend. The Project sought to
27 capitalize on this fact, and sought to have Allen as the primary actor or star in the Project.
28

11/03/08

1 28. At all times material hereto, the Defendants breached the express conditions of
2 confidentiality that were established during the disclosure of the Project to Defendant Morris, as
3 the agent of Defendant Allen, and either disclosed the trade secrets that were contained in the
4 Treatment and Script to third parties, or otherwise used all or parts of the trade secrets contained
5 within the project, specifically, the plot, characters, characterizations, settings, circumstances,
6 conflicts, resolutions, and dialogue in the film "Wild Hogs" which is to be released to the general
7 public on or about March 2, 2007.

9 29. At all times material hereto, after receiving notice of Plaintiff's claim herein, the
10 Defendants have intentionally and knowingly elected to proceed with the production and release
11 of the film "Wild Hogs," despite knowledge of the original source of the plot, characters,
12 characterizations, settings, circumstances, conflicts, resolutions, and dialogue from the Plaintiff's
13 Project.
14

15 30. At all times material hereto, and pursuant to Florida Statutes §688.002, the breach
16 of the conditions of confidentiality and the actions of the Defendants in using the plot,
17 characters, characterizations, settings, circumstances, conflicts, resolutions, and dialogue of the
18 Project within the film "Wild Hogs" represents a misappropriation by improper means of the
19 trade secrets of Battle One.
20

21
22 31. As a direct and proximate result of the misappropriation by improper means of their
23 trade secrets that comprise the Project, the Plaintiff, Battle One, has sustained significant
24 economic damages in the form of lost business income and lost profits that would have been
25 generated by the proper sale, license and/or production of the Project by a production company
26 and film company, and the Defendants have been unjustly enriched thereby.
27
28

005/005/101

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

SECOND CAUSE OF ACTION

BY BATTLE ONE

ACCOUNTING AND CONSTRUCTIVE TRUST
(All Defendants)

32. Plaintiff incorporates by reference Paragraphs 1 through 23 of the Preliminary Allegations and Paragraphs 25 through 32 of the First Cause of Action.

33. At all times material hereto, but before the commencement of this action, the Plaintiff, Battle One, was the owner of certain intellectual property that was contained within the Treatment and Script of the Project.

34. At all times material hereto, but more specifically in or about 2000, and then again in 2002 the Defendants, through their agents orally agreed with Battle One's predecessor-in-interest Battaglia that the Defendants would not use the intellectual property contained within the Project to create, market or sell a similar film project.

35. At all times material hereto, and based upon the express representations of Defendant's agents, the Battaglia, as the predecessor-in-interest of Plaintiff agreed to disclose the intellectual property to the Defendants, and convey the Plaintiff's Treatment and Script to the safekeeping of the Defendants.

36. At all times material hereto, the Defendants produced, licensed, distributed and sold a film project entitled "Wild Hogs" based upon the intellectual property of Battle One that was contained within the Treatment and Script, without paying any consideration to the Plaintiff in breach of its oral agreement. Defendants have publicized, and discussed publicly, their plans to further license, distribute and sell the "Wild Hogs" film throughout the world on or about the general opening date for the film this week, and thereafter on television shows such as "The Oprah Winfrey Show" and in various other media.

10/11/03 / WIG / 111

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

6. For an order requiring each Defendant to pay the amount found to be due in the accounting for unjust enrichment due to use of the Plaintiff's Intellectual Property.

ON ALL CAUSES OF ACTION

7. Attorney fees and costs in accord with any/all codes, statutes, written agreements or as may be permitted by law and/or equity.

8. Any other and further relief as the Court may deem just and proper.

Dated: October 31, 2008

HOFFMAN LAW FIRM

By: 

NATHAN B. HOFFMAN
Attorneys for PLAINTIFF BATTLE ONE
PRODUCTIONS, INC.,

0030 / 10/30/08 / 10/30/08

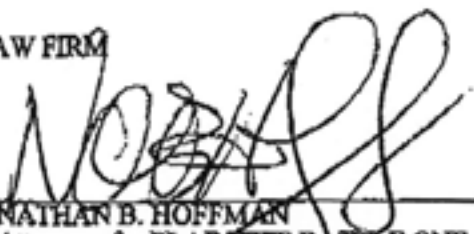
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
11/03/08

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that PLAINTIFF hereby demands trial by jury of the above-entitled action.

Dated: October 31, 2008

HOFFMAN LAW FIRM

By: 
NATHAN B. HOFFMAN
Attorneys for PLAINTIFF BATTLE ONE
PRODUCTIONS, INC.

