

CV 10 - 5358

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U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

★ NOV 18 2010 ★

BROOKLYN OFFICE

TWENTIETH CENTURY FOX FILM CORPORATION,

Plaintiff,

vs.

PATRICIA MCILVAINE, also known as P.J. MCILVAINE, an individual, and DOES 1-10,

Defendants.

Case No.

COMPLAINT FOR:

(1) COPYRIGHT INFRINGEMENT

(2) CONTRIBUTORY COPYRIGHT INFRINGEMENT

WEXLER, J

JURISDICTION AND VENUE TOMLINSON, M.J.

1. This is a civil action seeking damages and injunctive relief for copyright infringement and contributory copyright infringement under the copyright laws of the United States (17 U.S.C. §101 *et seq.*).

2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. §1338(a) (copyright).

3. This Court has personal jurisdiction over Defendant Patricia McIlvaine ("McIlvaine") because she resides in this District. This Court has personal jurisdiction over Doe Defendants 1 through 10 because, upon information and belief, they made unauthorized transmissions of copyrighted property in and into this District, and they contributed to McIlvaine's infringements, which took place in this District. Venue in this District is proper under 28 U.S.C. § 1391(b) and/or 28 U.S.C. §1400(a), because a substantial part of the acts of infringement complained of herein occurred in this District.

## THE PARTIES

4. Plaintiff Twentieth Century Fox Film Corporation (“Fox” or “Plaintiff”) is a Delaware corporation with its principal place of business in Los Angeles, California. Fox is one of the world’s leading entertainment companies, and is best known for its creation, production, distribution and marketing of motion pictures and television shows. Fox owns certain motion picture and television show manuscripts (“scripts”). Many of these scripts were the bases of motion pictures and television shows that have been publicly released. Other scripts relate to motion pictures and television shows in the production or pre-distribution stage.

5. Defendant Patricia McIlvaine (“McIlvaine”), who often goes by the name P.J. McIlvaine, is an individual residing in Suffolk County, New York. Upon information and belief, McIlvaine is a writer of motion picture and television show scripts.

6. Fox does not know the true names and capacities of Defendants sued herein as Does 1 through 10, and therefore sues those Defendants by such fictitious names. Fox will seek leave to amend this Complaint to set forth those Defendants’ true names and capacities when they have been ascertained. Fox is informed and believes and, on that basis, alleges that each of the fictitiously named Defendants is responsible for the acts and omissions alleged in this Complaint. Doe Defendants 1 through 10 are individuals whom Fox believes joined McIlvaine in engaging in wrongful conduct described herein by, among other things, distributing and displaying scripts owned by Fox, and contributing to these infringements of the copyright laws.

## FACTUAL ALLEGATIONS

7. Fox is the owner of certain television show and movie scripts. At all relevant times Fox has been the holder of the pertinent exclusive rights infringed by Defendants.

8. Defendant Patricia "P.J." McIlvaine ("McIlvaine") has uploaded and made available to others via the internet a script of *Deadpool*, the copyright to which is owned by Fox, and which is a script for a project still in development. Additionally, McIlvaine has uploaded and made available roughly 100 other movie and television scripts for which Fox is the copyright holder. All of these other scripts had been registered by Fox with the Copyright Office prior to the acts of infringement by McIlvaine. The illegal uploads all occurred in 2009 and 2010. Some of these illegally uploaded scripts relate to works that Fox has not released, while others relate to well-known and released works, such as the movie *Aliens*, the movie *Edward Scissorhands*, the movie *Wall Street*, and the television show *Glee*. The Copyright Registration number for each of these works is included in a list attached as an Appendix to this Complaint.

9. Upon information and belief, after Fox successfully caused the *Deadpool* script to be removed from certain third-party internet sites in mid-October 2010, McIlvaine illegally uploaded the *Deadpool* script a second time.

10. McIlvaine received these scripts from Doe Defendants 1 through 10.

11. At no time has Fox authorized McIlvaine and/or any Defendant to reproduce, distribute or display its copyrighted scripts over or on the internet, or otherwise exploit any of the exclusive rights it owns in its copyrighted scripts.

12. Defendants' infringements allow others to obtain and unlawfully distribute for free unauthorized copyrighted works that Fox spends millions of dollars to create. Of particular damage to Fox is Defendants' distribution and posting on the internet of scripts for motion pictures and television shows that are still in the development stage. Defendants' actions interfere and trade off of the costly and carefully designed creative processes that produce finished works ready for public consumption. They harm the fans who do not want their

enjoyment of a movie or television show to be spoiled by knowing the story ahead of actually being able to watch it. They further interfere with the marketing plans of Fox with respect to the yet to be distributed films/shows, which causes economic injury to Fox.

## **COUNT I**

### **INFRINGEMENT OF COPYRIGHTS**

13. Plaintiff incorporates by reference each and every allegation contained in paragraphs 1 through 12 as if set forth fully herein.

14. Plaintiff is the owner of the copyrights to the scripts here at issue.

15. Defendants have violated Plaintiff's exclusive rights to the scripts by illegally distributing, displaying, reproducing and/or otherwise using these scripts.

16. All of Defendants' acts of infringement have been willful, intentional, and in disregard of and with indifference to Plaintiff's rights.

## **COUNT II**

### **CONTRIBUTORY INFRINGEMENT OF COPYRIGHTS**

17. Plaintiff incorporates by reference each and every allegation contained in paragraphs 1 through 12 as if set forth fully herein.

18. Plaintiff is the owner of the copyrights to the scripts here at issue.

19. Doe Defendants 1 through 10 have violated Plaintiff's exclusive rights to the scripts by inducing, causing and/or materially contributing to Defendant McIlvaine's illegal postings of the scripts to internet sites, from which the copyrighted scripts are publicly accessible. Doe Defendants 1 through 10 acted in concert with Defendant McIlvaine by

improperly furnishing her with copyrighted scripts, thus contributing to the unauthorized display of Plaintiff-owned scripts on public internet sites, in violation of the copyright laws.

20. Defendants' acts of contributory infringement have been committed willfully and with the knowledge that their conduct aided and abetted violations of Plaintiff's exclusive rights over the scripts.

### **PRAYER FOR RELIEF**

21. As a result of Defendants' infringement of Plaintiff's exclusive rights under copyright, Plaintiff is entitled to actual and/or statutory damages at its election, pursuant to 17 U.S.C. § 504(b) and (c), for each of Defendants' infringements and contributory infringements of copyrighted works. Because Defendants' infringements were willful, at its election, Plaintiff is entitled to statutory damages in an amount up to \$150,000 per infringement.

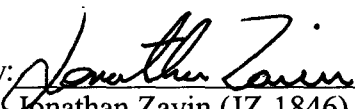
22. Defendants' conduct is causing, and unless enjoined and restrained by this Court will continue to cause, Plaintiff great irreparable injury that cannot fully be compensated or measured in money. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiff is entitled to preliminary and permanent injunctive relief prohibiting Defendants, and all persons acting in concert or participating with Defendants, from further infringing Plaintiff's exclusive rights, and ordering that Defendants remove all of their unauthorized postings from internet sites and destroy any and all electronic or physical copies of unauthorized, Fox-owned scripts they may have in their possession.

23. Plaintiff is also entitled to reasonable attorneys' fees and costs, pursuant to 17 U.S.C. § 505.

24. Plaintiff also requests any such other and further relief that the Court deems proper.

Dated: New York, New York  
November 19, 2010

LOEB & LOEB LLP

By:   
Jonathan Zavin (JZ-1846)  
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(212) 407-4000

Attorneys for Plaintiff  
Twentieth Century Fox Film Corporation

# **APPENDIX**

Title of Script	Upload Date(s)	Copyright Registration Number	Effective Date of Copyright	U.S. Claimants	Other Claimants
27 DRESSES	3/28/2010	PAU 3-139-303	5/11/2007	Spyglass Development, LLC	Spyglass Development, LLC and Twentieth Century Fox Film Corporation
29TH STREET	3/28/2010	PAU 1-450-350	12/14/1990	Twentieth Century Fox Film Corporation	
A GOOD YEAR	7/20/2009	PAU 3-013-589	2/8/2006	Twentieth Century Fox Film Corporation	
THE A-TEAM	12/20/2009	PAU 3-430-922	6/18/2009	Twentieth Century Fox Film Corporation	
ALIEN RESURRECTION	5/14/2010	PAU 2-162-862	1/13/1997	Twentieth Century Fox Film Corporation	
ALIENS	12/16/2009, 12/16/2009	PAU 769-410	10/1/1985	Twentieth Century Fox Film Corporation	
THEY CAME FROM UPSTAIRS	3/28/2010, 3/28/2010	PAU 3-446-335	3/5/2008	Twentieth Century Fox Film Corporation and Regency Entertainment (USA), Inc.	Twentieth Century Fox Film Corporation and Monarchy Enterprises S.a.r.l.
ALL ABOUT STEVE	03/28/2010, 02/16/2010	PAU 3-137-738	7/17/2007	Twentieth Century Fox Film Corporation and Radar Film Fund I, LLC	
AMELIA	3/15/2010	PAU 3-377-443	2/11/2009	Twentieth Century Fox Film Corporation and Avalon Pictures, LLC	
AUSTRALIA	12/14/2009	PAU 3-366-904	11/1/2007	Twentieth Century Fox Film Corporation	
PROJECT 880	10/08/2010, 02/18/2010, 07/09/2009	PAU 3-144-657	3/26/2008	Twentieth Century Fox Film Corporation	
BEHIND ENEMY LINES	3/28/2010	PAU 2-544-303	10/26/2000	Twentieth Century Fox Film Corporation	
BLACK WIDOW	2/19/2010	PAU 879-448	9/9/1986	Twentieth Century Fox Film Corporation	
BRIDE WARS	2/18/2010	PAU 3-3747-174	4/17/2008	Twentieth Century Fox Film Corporation and Regency Entertainment (USA), Inc.	Twentieth Century Fox Film Corporation and Monarchy Enterprises S.a.r.l.



Title of Script	Upload Date(s)	Copyright Registration Number	Effective Date of Copyright	U.S. Claimants	Other Claimants
JAMES L. BROOKS UNTITLED	2/16/2010	PAU 970-618	6/25/1987	Twentieth Century Fox Film Corporation	
BUFFY THE VAMPIRE SLAYER - THE ZEPO	3/29/2009	PAU 2-361-141	12/10/1998	Twentieth Century Fox Film Corporation	
BUFFY THE VAMPIRE SLAYER - DOPPLEGANGLAND	3/29/2009	PAU 2-378-666	2/22/1999	Twentieth Century Fox Film Corporation	
BUFFY THE VAMPIRE SLAYER - THE FRESHMAN	7/12/2009	PAU 2-418-584	7/30/1999	Twentieth Century Fox Film Corporation	
BUFFY THE VAMPIRE SLAYER - HUSH	3/29/2009	PAU 2-433-346	11/18/1999	Twentieth Century Fox Film Corporation	
BUFFY THE VAMPIRE SLAYER - THE BODY	3/29/2009	PAU 2-570-406	2/9/2001	Twentieth Century Fox Film Corporation	
BUFFY THE VAMPIRE SLAYER - NORMAL AGAIN	3/29/2009	PAU 2-635-395	1/31/2002	Twentieth Century Fox Film Corporation	
BULWORTH	3/28/2010	PAU 2-162-863	1/13/1997	Twentieth Century Fox Film Corporation	
COURTROOM K - PILOT	4/12/2009	PAU 3-349-733	4/24/2008	Twentieth Century Fox Film Corporation	
DAREDEVIL	12/20/2009, 12/14/2009	PAU 2-646-132	4/19/2002	Twentieth Century Fox Film Corporation and Regency Entertainment (USA), Inc.	Twentieth Century Fox Film Corporation and Monarchy Enterprises S.a.r.l.
DEADPOOL	No later than 10/12/2010; 10/22/2010	PAU 3-491-592	10/26/2010	Twentieth Century Fox Film Corporation	
DIE HARD	12/16/2009	PAU 1-100-912	3/31/1988	Twentieth Century Fox Film Corporation	
DOWN PERISCOPE	12/15/2009	PAU 1-968-612	5/4/1995	Twentieth Century Fox Film Corporation	
DUTCH	7/2/2010	PAU 1-436-550	11/1/1990	Twentieth Century Fox Film Corporation	

<b>Title of Script</b>	<b>Upload Date(s)</b>	<b>Copyright Registration Number</b>	<b>Effective Date of Copyright</b>	<b>U.S. Claimants</b>	<b>Other Claimants</b>
EDWARD SCISSORHANDS	1/23/2010	PAU 1-422-013	11/2/1990	Twentieth Century Fox Film Corporation	
ENEMY MINE	3/29/2010, 4/30/2009	PAU 747-236	5/6/1985	Twentieth Century Fox Film Corporation	
ENTRAPMENT	3/26/2010	PAU 2-290-665	5/29/1998	Twentieth Century Fox Film Corporation	
FIGHT CLUB	3/29/2010, 3/29/2010, 3/29/2010, 3/29/2010, 2/19/2010	PAU 2-315-871	6/12/1998	Twentieth Century Fox Film Corporation	
FIREFLY - SERENITY	3/29/2010	PAU 2-639-794	3/13/2002	Twentieth Century Fox Film Corporation	
FIREFLY - THE TRAIN JOB	3/29/2010	PAU 2-681-455	7/26/2002	Twentieth Century Fox Film Corporation	
FIREFLY - BUSHWHACKED	3/29/2010	PAU 2-681-457	7/26/2002	Twentieth Century Fox Film Corporation	
FIREFLY - OUR MRS. REYNOLDS	3/29/2010	PAU 2-695-004	9/24/2002	Twentieth Century Fox Film Corporation	
FIREFLY - OUT OF GAS	3/29/2010	PAU 2-695-653	10/10/2002	Twentieth Century Fox Film Corporation	
FIREFLY - ARIEL	3/29/2010	PAU 2-695-652	10/10/2002	Twentieth Century Fox Film Corporation	
FIREFLY - OBJECTS IN SPACE	3/29/2010	PAU 2-761-435	11/25/2002	Twentieth Century Fox Film Corporation	
GLEE - PILOT	3/28/2009	PAU 3-407-820	3/13/2009	Twentieth Century Fox Film Corporation	
GULLIVER'S TRAVELS	3/29/2010	PAU 3-429-762	6/2/2009	Twentieth Century Fox Film Corporation	
UNTITLED HEMINGSON LEGAL DRAMEDY	4/12/2009	PAU 3-360-999	8/22/2008	Twentieth Century Fox Film Corporation	
HOME ALONE	2/24/2010	PAU 1-344-702	3/28/1990	Twentieth Century Fox Film Corporation	
JEWEL OF THE NILE	3/3/2010	PAU 748-160	8/2/1985	Twentieth Century Fox Film Corporation	

Title of Script	Upload Date(s)	Copyright		Effective Date of Copyright	U.S. Claimants	Other Claimants
		Registration Number	Number			

JUMPER	4/12/2009	PAU 3-060-173		8/11/2006	Twentieth Century Fox Film Corporation and Monarchy Enterprises S.a.r.l.	Twentieth Century Fox Film Corporation and Monarchy Enterprises S.a.r.l.
LOVE AND OTHER DRUGS	7/7/2010, 7/7/2010	PAU 3-454-144		10/29/2009	Twentieth Century Fox Film Corporation and Regency Entertainment (USA), Inc.	Twentieth Century Fox Film Corporation and Monarchy Enterprises S.a.r.l.
MAN ON FIRE	2/16/2010, 5/3/2009	PAU 2-828-752		4/11/2003	Twentieth Century Fox Film Corporation and Regency Entertainment (USA), Inc.	Twentieth Century Fox Film Corporation and Monarchy Enterprises S.a.r.l.
MARGARET	7/10/2010	PAU 3-010-335		12/15/2005	Twentieth Century Fox Film Corporation and Camelot Pictures, LLC	Twentieth Century Fox Film Corporation and Monarchy Enterprises S.a.r.l.
MIDLAND - PILOT	3/20/2010, 5/8/2010	PAU 3-458-313		3/2/2010	Twentieth Century Fox Film Corporation	
MY COUSIN VINNY	3/29/2010, 3/18/2009, 12/26/2009	PAU 1-466/651		1/31/1991	Twentieth Century Fox Film Corporation	
NEVER LET ME GO	3/20/2010	PAU 3-411-392		4/9/2009	Twentieth Century Fox Film Corporation	
NIGHT AT THE MUSEUM: BATTLE OF THE SMITHSONIAN	9/28/2009, 6/5/2009	PAU 3-361-125		8/22/2008	Twentieth Century Fox Film Corporation	
THE SIN EATER	2/26/2010	PAU 2-634-722		1/4/2002	Twentieth Century Fox Film Corporation	
PERCY JACKSON	2/11/2010	PAU 3-418-297		5/12/2009	Twentieth Century Fox Film Corporation	
PERSONS UNKNOWN - PILOT	7/2/2010	PAU 3-365-459		10/31/2008	Twentieth Century Fox Film Corporation	
PREDATORS	7/10/2010	PAU 3-458-311		3/2/2010	Twentieth Century Fox Film Corporation	
RAMONA AND BEEZUS	8/1/2010	PAU 3-432-516		6/18/2009	Twentieth Century Fox Film Corporation and Walden Media, LLC	
REVENGE OF THE NERDS 2	3/29/2010, 3/29/2010	PAU 964-991		5/12/1987	Twentieth Century Fox Film Corporation	

Title of Script	Upload Date(s)	Copyright Registration Number	Effective Date of Copyright	U.S. Claimants	Other Claimants
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RIDE-ALONG - PILOT	5/8/2010	PAU 3-475-778	4/12/2010	Twentieth Century Fox Film Corporation	
ROMANCING THE STONE	3/3/2010	PAU 625-679	3/5/1984	Twentieth Century Fox Film Corporation	
SAY ANYTHING	3/29/2010	PAU 1-095-037	5/26/1988	Twentieth Century Fox Film Corporation	
SIDEWAYS	3/19/2009	PAU 2-815-105	10/28/2003	Twentieth Century Fox Film Corporation	
SUNSHINE	2/14/2010	PAU 3-013-588	2/8/2006	Twentieth Century Fox Film Corporation	
TERRA NOVA - PILOT	4/29/2010	PAU 3-465-301	2/10/2010	Twentieth Century Fox Film Corporation	
FANTASTIC MR. FOX	5/15/2009	PAU 3-388-487	12/10/2007	Twentieth Century Fox Film Corporation and Indian Paintbrush Productions, LLC	
THE HAPPENING	3/30/2009	PAU 2-921-790	8/21/2007	Twentieth Century Fox Film Corporation	
THE OAKS - PILOT	4/13/2009	PAU 3-359-348	10/24/2007	Twentieth Century Fox Film Corporation	
UNSTOPPABLE	9/25/2010	PAU 3-458-304	3/2/2010	Twentieth Century Fox Film Corporation	
UNTITLED IAN BIDERMAN - PILOT	3/28/2009	PAU 3-47-780	3/13/2009	Twentieth Century Fox Film Corporation	
WALK THE LINE	3/19/2009	PAU 2-881-478	8/19/2004	Twentieth Century Fox Film Corporation and Mars Media Beteiligungs GmbH & Co. Filmproduktions KG	
WALL STREET	3/30/2010	PAU 988-219	7/27/1987	Twentieth Century Fox Film Corporation	

Title of Script	Upload Date(s)	Copyright Registration Number	Effective Date of Copyright	U.S. Claimants	Other Claimants
WALL STREET 2: MONEY NEVER SLEEPS	3/30/2010	PAU 3-454-413	10/1/2009	Twentieth Century Fox Film Corporation	
WOLVERINE	6/8/2009	PAU 3-062-282	7/28/2006	Twentieth Century Fox Film Corporation	
WRONG TURN 2	3/27/2010	PAU 3-040-593	6/8/2006	Twentieth Century Fox Film Corporation	
DATE NIGHT	2/8/2010	PAU 3-429-760	6/2/2009	Twentieth Century Fox Film Corporation	
DOLLOUSE - GETTING CLOSER	1/16/2010	PAU 3-455-765	11/19/2009	Twentieth Century Fox Film Corporation	
DRAGONBALL	4/12/2009	PAU 3-341-955	3/10/2008	Twentieth Century Fox Film Corporation	
LABOR OF LOVE	9/25/2010, 10/25/2009	PAU 3-351-128	7/24/2008	Twentieth Century Fox Film Corporation	
SHINING THROUGH	3/29/2010	PAU 1-412-906	9/17/1990	Twentieth Century Fox Film Corporation	