

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

David Berke (SBN #123007)
BERKESLAW
7162 Beverly Boulevard, Suite #324
Los Angeles, California 90036
Telephone:(310) 251-0700
Email: david@berkeslaw.net
Attorneys for Plaintiff
Morgan Creek Productions, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA; WESTERN DIVISION

MORGAN CREEK PRODUCTIONS,
INC., a California corporation,

Plaintiff,

v.

GOODE FILMS, LLC, a New York
limited liability company, and NETFLIX,
INC., a Delaware company,

Defendants.

CASE NO. :

**COMPLAINT OF MORGAN CREEK
PRODUCTIONS, INC. FOR COPYRIGHT
INFRINGEMENT (17 U.S.C. § 501) AGAINST
GOODE FILMS, LLC and NETFLIX, INC.**

DEMAND FOR JURY TRIAL

Plaintiff, Morgan Creek Productions, Inc., (hereinafter known as "MCP") complains
against Defendant Goode Films, LLC (hereinafter known as "GF") and Netflix, Inc. ("Netflix")
(sometimes hereinafter collectively referred to as "Defendants") as follows:

JURISDICTION AND VENUE

1
2 1. This is a civil action against Defendants for acts of copyright
3 infringement under the Copyright Act, 17 U.S.C. §§ 101 *et seq.* This Court has
4 subject matter jurisdiction under 28 U.S.C. § 1331, 17 U.S.C. § 501(a), and 28 U.S.C. § 1338 (a)
5 and (b).

6 2. Venue is proper in this district under 28 U.S.C §§1391(b) and (c) and 28 U.S.C. §§
7 1400(a) in that claim arises in this judicial district and, on information and belief, one or more of
8 the Defendants and their agents reside and may be found in this judicial district, and/or maintain
9 its principal place of business in this judicial district, and the injury suffered by Plaintiff took
10 place in this judicial district. Defendants are subject to the general and specific personal
11 jurisdiction of this Court because of their contacts with the State of California.

PARTIES

12 3. Plaintiff, Morgan Creek Productions, Inc. (“MCP”) is a California corporation
13 existing under the laws of California with its principal place of business located in Los Angeles,
14 California. MCP is a producer and distributor of motion picture and television entertainment.
15 Specific to this lawsuit, MCP is the producer of the successful motion picture entitled *Ace*
16 *Ventura 2, When Nature Calls* (“*Ace Ventura 2*”), which grossed over \$108 million against a \$30
17 million budget. *Ace Ventura 2* followed up on the success of the original *Ace Ventura*, grossing
18 \$107 million worldwide, and launching the film career of comedian Jim Carrey. Both films still
19 retain a large and loyal cult-like following, especially among male adolescents.

20 4. On information and belief, Defendant Goode Films (“GF”) is a limited liability
21 corporation organized under the laws of the State of New York, with its principal place of
22 business found in New York City, New York State. Plaintiff is informed and believes, and
23 thereupon alleges, the RGP is primarily engaged in the production of documentary films, and is
24 the producer of the “docuseries” which is the subject of this action, *Tiger King*.

25 5. On information and belief, Defendant Netflix, Inc. (“Netflix”) is a corporation
26 organized under the laws of the State of Delaware, with its headquarters located Los Gatos,
27 California, and its principal place of business situated on Sunset Boulevard in Hollywood,
28

1 California. Netflix is an exhibitor of existing entertainment product, and the producer of original
2 entertainment content (from motion pictures, to television, to documentaries), and a prolific
3 exhibitor of documentary films produced by third parties. Relevant to the present action, the
4 seven-episode “docuseries,” *Tiger King* aired on Netflix, beginning in March 2020.

5 **FACTS COMMON TO ALL COUNTS**

6 6. *Tiger King* chronicles the exploits of an individual who styled himself as
7 “Joe Exotic” (real name, Joseph Maldonado Passage), a flamboyant and publicity seeking owner
8 of a private big-cat zoo located in Oklahoma. The series was filled with sordid tales of animal
9 abuse, voluminous guns, and a quixotic bid for the U.S. Presidency. Most significantly, the
10 program followed a murder-for-hire plot aimed at a competing animal sanctuary owner, hated by
11 Joe Exotic, and seen as a threat to his “big cat” zoo empire. The *Tiger King* series culminates in
12 the conviction of Joe Exotic to a 22-year sentence under Federal murder-for-hire statutes and the
13 Endangered Species Act, and he is currently incarcerated.

14 7. The *Tiger King* docuseries was extremely successful for Netflix, with a second
15 season slated airing in mid-November 2021. For a time after release it was Netflix’s #1 hit, and
16 still today remains one of a dozen of Netflix’s top documentary releases.

17 8. Not coincidentally, both *Ace Ventura* movies feature Jim Carey as a “pet
18 detective,” specializing in the recovery of stolen wild and exotic animals. In the two clips from
19 *Ace Ventura 2*, used by Defendants without permission or license, Mr. Carey appears first with a
20 monkey wrapped around his neck and shoulder, and then in an unrelated clip, triumphantly riding
21 an elephant. Together, they comprise approximately 5 seconds of screen time.

22 9. The sequence in which these clips (the “Infringing Clips”) appear in *Tiger King*
23 features movies where various wild animals such as tigers, panthers, monkeys, and great apes
24 appear. Leaving no room for doubt as to the source, a dubbed-over voice identifies one such
25 movie as “Ace Ventura,” at the precise time when the Infringing Clips appear on screen. Plaintiff
26 is informed and believes, and thereupon alleges, that *Ace Ventura* is the only film used in *Tiger*
27 *King* where more than one clip appears.

28 ///

1 **FIRST CLAIM FOR RELIEF**

2 **(Copyright Infringement, 17 U.S.C. § 501)**

3 15. MCP incorporates hereby by this reference the allegations set forth in Paragraphs 1
4 through 14, above, as though fully set forth herein.

5 16. MCP is the owner of all rights, title, and interest in the copyrights of the *Ace*
6 *Ventura* films and, specifically, the Infringing Clips from *Ace Ventura 2* which frame this dispute,
7 which substantially consist of materials wholly original and which are copyrightable subject
8 matter under the laws of the United States.

9 17. MCP filed for copyright registration of *Ace Ventura 2* (and the Infringing Clips
10 contained therein) within 90 days of its first publication with the United States Copyright Office.
11 See Exhibit A hereto.

12 18. Defendants have directly, vicariously, contributory and/or by inducement willfully
13 infringed MCP's copyrights by reproducing, displaying, distributing, and utilizing the Infringing
14 Clips for purposes of trade in violation of 17 U.S.C. § 501 et seq.

15 19. All of the Defendants' acts are and were performed without permission, license, or
16 consent of MCP.

17 20. MCP has identified at least two instances of infringement by way of unlawful
18 reproduction and display of the Infringing Clips.

19 21. As a result of the acts of Defendants alleged herein, MCP has suffered substantial
20 economic damage.

21 22. Defendants have willfully infringed, and unless enjoined, will continue to infringe
22 MCP's copyrights by knowingly reproducing, displaying, distributing and utilizing the Infringing
23 Clips while the *Tiger King* docuseries is streamed, and continues to be streamed in future reruns.

24 23. The wrongful acts of Defendants have caused, and are causing, injury to MCP,
25 which cannot be accurately computed, and unless this Court restrains Defendants from further
26 commission of said acts, MCP will suffer irreparable injury, for all of which it is without an
27 adequate remedy at law. Accordingly, MCP seeks a declaration that Defendants are infringing
28

1 MCP's copyrights and an order under 17 U.S.C. § 502 enjoining Defendant from any further
2 infringement.

3 24. The above-documented infringements alone would entitle MCP to a potential
4 award of up to and no less than \$300,000 in statutory damages for the two Infringing Clips, in
5 addition to attorney's fees.

6 25. MCP is entitled to recover costs and attorneys' fees from Defendants pursuant to
7 17 U.S.C. § 1203 (b)(4) and (5).

8 26. Defendants' violation of 17 U.S.C. § 1202(b) has caused, and, unless restrained by
9 this Court, will continue to cause, irreparable injury to MCP not fully compensable in monetary
10 damages. Pursuant to 17 U.S.C. § 1203(b). MCP is entitled to a preliminary and permanent
11 injunction enjoining Defendants from further such violations.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

14 1. That the Defendants, and their officers, agents, servants, employees, and
15 representatives, and all persons in active concert or participation with them, be permanently
16 enjoined from copying, reproducing, displaying, promoting, advertising, distributing, or selling,
17 or any other form of dealing or transaction in, any and all motion picture clips belonging to MCP;

18 2. That an accounting be made for all profits, income, receipts or other benefit
19 derived by Defendants from the unlawful reproduction, copying, display, promotion, distribution,
20 or sale of products and services, or other media, either now known or hereafter devised, that
21 improperly or unlawfully infringes upon Plaintiff's copyrights pursuant to 17 U.S.C. § 504(a)(1)
22 and (b);

23 3. For actual damages and disgorgement of all profits derived by Defendants from
24 their acts of copyright infringement and for all damages suffered by it by reasons of Defendants'
25 acts, under 17 U.S.C. § 504 (a)(1) and (b);

26 4. For statutory damages for copyright infringement, including willful infringement,
27 in accordance with 17 U.S.C. § 504 (a)(2) and (c);

28 ///

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

- 5. For reasonable attorneys' fees incurred herein pursuant to 17 U.S.C. § 505;
- 6. For costs and interest pursuant to 17 U.S.C. § 504(a)(1) and (b) and 17 U.S.C. § 505; and
- 7. For any such other and further relief as the Court may deem just and appropriate.

Date: December 24, 2021

LAW OFFICES OF DAVID BERKE

By:



Attorneys for Plaintiff
Morgan Creek Productions, Inc.

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

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues to triable under the law.

Date: December 27, 2021

LAW OFFICES OF DAVID BERKE

By:


Attorneys for Plaintiff
Morgan Creek Productions, Inc.