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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

-----X	:	
FONT DINER, INC.,	:	
	:	CV _____ 2008
Plaintiff,	:	
-against-	:	
	:	COMPLAINT
TURNER ENTERTAINMENT GROUP, INC.,	:	(Jury Trial Demanded)
and	:	
CARTOON NETWORK,	:	
Defendants.	:	
-----X	:	

**BLOCK, J.
MATSUMOTO, M.J.**

Plaintiff, FONT DINER, INC. ("Font Diner"), by and through its attorneys, Smith Valliere & Martinez PLLC, for its Complaint against Defendants, Turner Entertainment Group, Inc., and Cartoon Network (collectively, "Turner"), hereby alleges as follows:

NATURE AND SUBSTANCE OF THE ACTION

1. Plaintiff files this action against Defendant for Copyright infringement under 17 U.S.C. § 101, et seq., and Unfair Competition under the Lanham Act, 15 U.S.C. § 1125(a) and applicable State laws.
2. This action is brought in response to a classic case of copyright infringement, specifically the unauthorized copying, commercial, and for-profit use and distribution of four fonts in three of Plaintiff's type face font software products and the type face fonts embodied thereon entitled

HOLIDAY RANCH and MISTER TELEVISION Type Face Fonts in the CASINO BUFFET FONT SET, the CHICKEN BASKET Type Face Font in the COUNTY FAIR PICNIC FONT SET, and the FONTDINERDOTCOM Type Face Font Software (collectively "FONTS" or "TYPE FONTS" or "FONT SOFTWARE" or "SOFTWARE"). Title 17 of the United States Code (Copyright Act) was enacted to provide remedies to copyright owners who are the victims of such actions.

JURISDICTION AND VENUE

3. This is an action for Copyright infringement arising under the Copyright Act of 1976, 17 U.S.C. § 101 et seq., and for the related claims of Unfair Competition under 15 U.S.C. § 1125(a) and applicable State laws, which seeks damages by reason of Defendants' ongoing infringement of Font Diner's valid and subsisting Copyright. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331, 1332, 1338(a) and 1338(b), its supplemental jurisdiction, and under Rule 4 of the Federal Rules of Civil Procedure.

4. Venue is proper in this district under 28 U.S.C. §1391 and §1400 in that Defendant or Defendant's agents may be found in this District and Defendants transact business in this District.

PARTIES

5. Plaintiff Font Diner ("Font Diner") is a Minnesota corporation with its principal place of business located at 3224 Anric Drive, Eau Claire, Wisconsin.

6. Plaintiff Font Diner conducts business throughout the United States via its Internet website located at: <http://www.fontdiner.com>

7. Defendant, Turner is a Delaware Corporation with its principal place of business at One CNN Center, Atlanta, Georgia 30303.

7. Defendant conducts business throughout the United States, *inter alia*, via its cable network television stations and associated Internet websites on the Internet at <http://www.turner.com>.

8. Defendant conducts business within the State of New York, in the County of Kings, within the Eastern District.

FACTS COMMON TO ALL CLAIMS

9. Font Diner is engaged in the business of designing, creating, producing, marketing and licensing the use of Computer Software in the nature of, *inter alia*, Type Face Fonts and art design works in digital form for use with personal computers, commercial typesetting devices as for use by professional and individual consumers.

10. Font Diner is the creator and owner of the computer software for HOLIDAY RANCH and MISTER TELEVISION Type Face Fonts in the CASINO BUFFET FONT SET, the CHICKEN BASKET Type Face Font in the COUNTY FAIR PICNIC FONT SET, and the FONTDINERDOTCOM Type Face Font Software.

11. Font Diner's Font Sets, including the CASINO BUFFET and COUNTY FAIR PICNIC Font Sets, must be downloaded as a complete set, such that, *e.g.*, a user who desires to use the HOLIDAY RANCH type face font must download the CASINO BUFFET Font Set.

12. Font Diner is the exclusive owner of Copyright Registration Numbers TX 6-061-499 for the copyright in and to the Computer Software for the CASINO BUFFET Font Set, TXu1-326-997 for the copyright in and to the Computer Software for the COUNTY FAIR PICNIC Font Set, TXu-1-326-996 for the copyright in and to the Computer Software for the FONTDINERDOTCOM font software, copies of which are annexed hereto as Exhibit A.

13. By reason thereof, Font Diner is the owner of the exclusive rights in and to the artwork for the above-referenced type face font collections as well as the FONTDINERDOTCOM font software.

14. Font Diner's Copyrights are valid and subsisting.

15. Font Diner sells licenses to third parties to use the Fonts, the terms of which are defined under the Font Diner's End User License Agreement ("EULA"), which clearly identifies Font Diner's rights to and the limitations Font Diner imposes on the use of the Font Software and the type face font embodied therein by each and every Font Diner licensee. A copy of the Font Diner EULA is annexed hereto as Exhibit B.

16. Font Diner is and has been at all times alleged herein, the sole owner of all right, title and interest in and to the HOLIDAY RANCH and MISTER TELEVISION Type Face Fonts in the CASINO BUFFET FONT SET, the CHICKEN BASKET Type Face Font in the COUNTY FAIR PICNIC FONT SET, and the FONTDINERDOTCOM Type Face Font Software together with the individual artworks and designs embodied therein, showings of which are annexed hereto as Exhibit C.

17. The use of any Font Diner type face font software or artwork in any broadcast mediums is governed by the Font Diner End User License Agreement which specifically prohibits the use of any Font Diner works in broadcast mediums without the purchase of a special license.

18. Upon information and belief, Defendant Turner has purchased no license to use any Font Diner type face font software for use in broadcasts on television, cable or on the Internet.

DEFENDANT'S ACTIONS

19. Turner has copied and used, and caused others to copy and use fonts comprising the CASINO BUFFET and COUNTY FAIR PICNIC type font sets, as well as the

FONTDINERDOTCOM font for the purposes of creating titles broadcast on television on the Cartoon Network in its *Camp Lazlo* and *Squirrel Boy* series and on the Internet on <http://www.cartoonnetwork.com> as titles in flash movies and video games, showings of which are annexed hereto as Exhibit D.

20. Turner and its authorized representatives have each knowingly and willfully copied the fonts comprising the CASINO BUFFET and COUNTY FAIR PICNIC type font sets, and the FONTDINERDOTCOM font in their entirety, and incorporated the fonts into software files used and distributed for the purposes of creating the various titles used and displayed by Turner on the cable television network, Cartoon Network and on the Internet at <http://www.cartoonnetwork.com>.

21. Upon information and belief, unauthorized and infringing copies of the CASINO BUFFET and COUNTY FAIR PICNIC type font sets, and the FONTDINERDOTCOM Software continue to exist on the various computers of Turner and by reason thereof, continue to be copied, used and displayed by Turner on its Cartoon Network cable television network, on the Internet at <http://www.cartoonnetwork.com> in Flash type movies and computer video games.

22. The natural, probable and foreseeable result of Defendant's wrongful conduct has, and continues to be, to deprive Font Diner of the benefits and revenue from the sale of appropriate licenses to use Font Diner Font Software and injury to Font Diner's relationships with present and prospective customers who rely on the cachet that exclusive licensing creates in the various Font Diner Works.

23. Font Diner has lost, and will continue to lose, substantial revenue from Defendant's wrongful use, copying, and distribution of copies of the Font Diner type face font software.

24. Defendant's wrongful conduct has deprived and will continue to deprive Font Diner of opportunities for expanding the goodwill associated with the Font Diner font software.

25. Defendant has refused to cease and desist from infringing upon Font Diner's valuable Copyrights, despite several demands for such action.

**FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
17 U.S.C. § 101**

26. Font Diner repeats and realleges each and every allegation of the Complaint as set forth in Paragraphs 1 through 25, inclusive, and incorporates them herein by this reference.

27. Defendant Turner has infringed and will continue to infringe Font Diner's valuable Copyrights in and to the HOLIDAY RANCH and MISTER TELEVISION Type Face Fonts in the CASINO BUFFET FONT SET, the CHICKEN BASKET Type Face Font in the COUNTY FAIR PICNIC FONT SET, and the FONTDINERDOTCOM Type Face Font Software together with the individual artworks and designs embodied therein.

28. Font Diner is further entitled to recover damages it has sustained and will continue to sustain, together with any gains, profits, and advantages obtained by Defendant as a result of the acts of infringement alleged herein, as well as attorneys' fees.

29. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by Font Diner.

30. Font Diner has no adequate remedy at law.

**SECOND CAUSE OF ACTION
UNFAIR COMPETITION
15 U.S.C. §1125(a)**

31. Font Diner repeats and realleges each and every allegation of the Complaint as set forth in Paragraphs 1 through 30, inclusive, and incorporates them herein by this reference.

32. Defendant's unauthorized copying and use of the indistinguishable copies of the HOLIDAY RANCH and MISTER TELEVISION Type Face Fonts in the CASINO BUFFET FONT SET, the CHICKEN BASKET Type Face Font in the COUNTY FAIR PICNIC FONT SET, and the FONTDINERDOTCOM Type Face Font Software together with the individual artworks and designs embodied therein in connection with broadcasts on the Cartoon Network cable television network and the cartoonnetwork.com website constitutes false advertising, false designation of origin, and false descriptions and representations that falsely describe and represent Defendant's goods and/or services as being connected, endorsed or otherwise associated with Font Diner, and amounts to using a false description or representation in interstate commerce in violation of 15 U.S.C. §1125(a) and by reason of Defendant's actions, Font Diner will continue to be so damaged.

33. Font Diner is entitled to recover damages it has sustained and will continue to sustain, together with any gains, profits, and advantages obtained by Defendant as a result of the acts of infringement alleged herein, as well as attorneys' fees.

34. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by Font Diner.

35. Font Diner has no adequate remedy at law.

**THIRD CAUSE OF ACTION
DILUTION IN VIOLATION OF NEW YORK
STATE GENERAL BUSINESS LAW §360-1**

36. Font Diner repeats and realleges each and every allegation of the Complaint as set forth in Paragraphs 1 through 35, inclusive, and incorporates them herein by this reference.

37. Defendant has been and continues to be, engaged in unfair and deceptive practices in violation of Section 360-1 of New York State General Business Law.

38. By reason of Defendant's acts, Font Diner has been seriously and irreparably injured, and unless Defendant is restrained, Font Diner will continue to be so damaged.

39. Font Diner is further entitled to recover damages it has sustained and will continue to sustain, together with any gains, profits, and advantages obtained by Defendant as a result of the acts of infringement alleged herein, as well as attorneys' fees.

40. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by Font Diner.

41. Font Diner has no adequate remedy at law.

WHEREFORE, Plaintiff respectfully requests and prays that this Court will:

1. Preliminarily and permanently enjoin and restrain Defendant, its officers, directors, principals, agents, servants, employees, successors and assigns, and all those in active concert or participation with it from:

(a) imitating, copying, distributing, or making unauthorized use of Font Diner's Registered Copyrights including the infringing use of the HOLIDAY RANCH and MISTER TELEVISION Type Face Fonts in the CASINO BUFFET FONT SET, the CHICKEN BASKET Type Face Font in the COUNTY FAIR PICNIC FONT SET, and the FONTDINERDOTCOM Type Face Font Software together with the individual artworks and designs embodied therein;

(b) manufacturing, creating, producing, advertising, promoting, or displaying any product bearing any simulation, reproduction, counterfeit, copy, derivative version, or colorable imitation of Font Diners Copyrighted Works, including the HOLIDAY RANCH and MISTER

TELEVISION Type Face Fonts in the CASINO BUFFET FONT SET, the CHICKEN BASKET Type Face Font in the COUNTY FAIR PICNIC FONT SET, and the FONTDINERDOTCOM Type Face Font Software together with the individual artworks and designs embodied therein;

2. Direct that Defendant deliver for destruction at Defendant's expense, *inter alia*, all computer files, disks, CD-Rom's, DVD's, videotapes, and all other recorded media together with all other items in its possession or under their control, bearing or using any images derived from Font Diner's Copyrighted materials, including, but not limited to, the HOLIDAY RANCH and MISTER TELEVISION Type Face Fonts in the CASINO BUFFET FONT SET, the CHICKEN BASKET Type Face Font in the COUNTY FAIR PICNIC FONT SET, and the FONTDINERDOTCOM Type Face Font Software together with the individual artworks and designs embodied therein;

3. Direct that Defendant be required to pay Font Diner actual damages in the amount of \$300,000 Dollars for all gains, profits and advantages derived by Defendant through their infringement of Font Diner's Copyrights;

4. Direct that Defendant be required to pay to Font Diner such other damages that it has sustained as a consequence of Defendant's unauthorized use, copying and distribution of Font Diner's Copyrighted works;

5. Direct that Defendant be ordered to make a written report within a reasonable period of time to be filed with the Court detailing the manner of compliance with the requested injunctive and mandatory relief above;

6. Award Font Diner the costs of this action together with reasonable attorneys' fees; and

7. Award Font diner such other and further relief as the Court may deem just and proper.

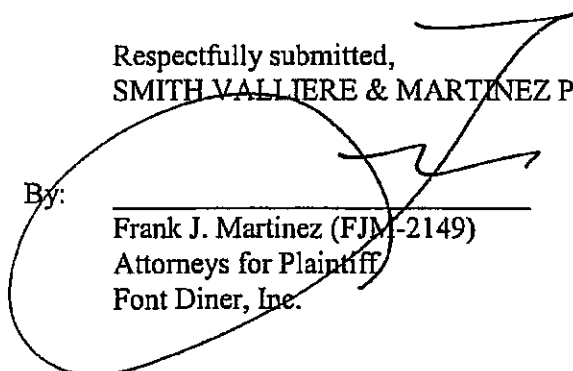
JURY DEMAND

Font Diner hereby demands a trial by jury.

Dated: July 1, 2008

Respectfully submitted,
SMITH VALLIERE & MARTINEZ PLLC

By:



Frank J. Martinez (FJM-2149)
Attorneys for Plaintiff
Font Diner, Inc.

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