

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

VIACOM INTERNATIONAL INC. and SPIN MASTER LTD.,)	
)	
Plaintiffs,)	No. 18-cv-02181
)	
v.)	Judge
)	
)	
HEARRT EVENTS and MEGAN WENTZ,)	
)	
Defendants.)	

COMPLAINT

Plaintiffs Viacom International Inc. (“Viacom”) and Spin Master Ltd. (“Spin Master”) (together, “Plaintiffs”) file this Complaint against Defendants Hearrt Events (“Hearrt”) and Megan Wentz (“Wentz”) (together, “Defendants”), as follows:

SUMMARY OF THE CASE

1. This is an action for violations of the Lanham Act, the Copyright Act, the Illinois Trademark Registration and Protection Act, and the Illinois Consumer Fraud and Deceptive Trade Practices Act. Specifically, Defendants have directly infringed and are infringing Plaintiffs’ trademarks and copyrights in the popular children’s television series “Paw Patrol” (the “Show”).

2. The Show is an animated series produced by Spin Master in association with Nickelodeon, a network owned and operated by Viacom.

3. Spin Master is the owner of all trademarks and copyrights related to the Show and related merchandise and has granted certain exclusive rights to Viacom, including the rights to enforce the trademarks and copyrights related to the Show and to distribute Paw Patrol content in the United States.

4. The Show first aired in the United States on August 12, 2013.
5. The Show has developed into a media franchise, and there is a line of consumer products based on the characters and the Show which have generated millions of dollars in revenue.
6. The Show and the related products have received a variety of awards, including SOCAN Awards, Joey Awards, Young Artist Awards, Young Entertainer Awards, Parents Choice Foundation Awards, and TOTY (Toy of the Year) Awards.
7. The Show has ranked as one of the highest-rated preschool TV programs in the United States every year since 2013.
8. Plaintiffs have authorized, both domestically and internationally, a live ticketed “Paw Patrol” show, as well as promotional “meet-and-greets” and free live performances featuring the “Paw Patrol” characters in shopping malls.



9. Formed in 2016, Defendant Heartt Events is a mascot character event hosting business.

10. Defendant Hearrt Events recently began hosting events featuring characters from the Paw Patrol series (the “Infringing Show”). A photo of the costumed characters from the Infringing Show is immediately below.



11. Defendants’ characters are identical to the Paw Patrol characters.
12. Defendants distribute and sell unauthorized Paw Patrol merchandise at their events.
13. Defendants have and are deliberately infringing Plaintiff Spin Master’s trademarks and copyrights, and have profited by passing off their services as being associated with Plaintiffs.
14. On several occasions, Plaintiffs have demanded that Defendants immediately cease and desist their infringing conduct and cancel all upcoming Infringing Shows, but Defendants have ignored all of Plaintiffs’ demands.

PARTIES

15. Plaintiff Viacom International Inc. is a corporation organized and doing business under the laws of the State of Delaware. Viacom's principal place of business is 1515 Broadway, New York, New York, 10036.

16. Plaintiff Spin Master Ltd. is a corporation organized and doing business under the laws of Canada. Spin Master's principal place of business is 450 Front Street West, Toronto, Ontario CANADA M5V1B6.

17. Upon information and belief, Defendant Hearrt Events is an unincorporated corporation, having a principal place of business at 3231 Montrose Avenue, Rockford, Illinois 61101.

18. Upon information and belief, Defendant Wentz is the principal officer of Hearrt Events.

JURISDICTION AND VENUE

19. The causes of action alleged herein arise under federal statutes protecting trademarks and copyrights, i.e., 15 U.S.C. §§ 1051 *et seq.* (the Lanham Act) and 17 U.S.C. §§ 101 *et seq.* (the Copyright Act), so this case presents questions of federal law over which this Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1338. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367(a).

20. Venue and personal jurisdiction are appropriate in this Court under 28 U.S.C. § 1391(b) because a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred in this District.

21. Defendants' illegal conduct intentionally targets and causes injury to Plaintiffs in the Northern District of Illinois by infringing upon Plaintiffs' intellectual property rights in this District.

22. Defendant Hearrt Events is located in this District, and Defendants do business in this District.

FACTUAL BACKGROUND

Viacom and Spin Master

23. Viacom is home to premier global media brands that create compelling entertainment content—including television programs, motion pictures, short-form content, games, consumer products, podcasts, live events, and social media experiences—for audiences in more than 180 countries on various platforms and devices. Viacom has invested and continues to invest millions of dollars annually to create and disseminate these works, knowing that the Copyright Act and Lanham Act protect its economic incentive to do so, and that millions of consumers desire to experience their creative work.

24. Viacom's program services reach approximately 4.3 billion cumulative television subscribers in 183 countries and 43 languages, via 300 locally programmed and operated television channels, including Nickelodeon[®], Nick Jr.[®], MTV[®], BET[®], Comedy Central[®], Paramount Network[™], VH1[®], TV Land[®], CMT[®], Logo[®], and program services created specifically for international audiences, such as British public service broadcaster ("PSB") Channel 5[®] (in the United Kingdom ("UK")), Telefe[®] (in Argentina), Colors[®] (in India), and Paramount Channel[™] (in a variety of territories).

25. Spin Master is a leading global children's entertainment company that creates, designs, manufactures, licenses, and markets a diversified portfolio of innovative toys, games, products, and entertainment properties.

26. In 2012, Spin Master Ltd. and Nickelodeon, a channel owned and operated by Viacom International Inc., entered into an agreement (the "Agreement"), in which the parties agreed to production, distribution, and exploitation of rights in the property now known as "Paw Patrol" ("Paw Patrol").

27. Pursuant to the Agreement and its amendments, Spin Master retained ownership rights in all copyrights and trademarks relating to the Show but granted certain exclusive rights to Viacom, including the right to enforce Spin Master's copyrights and trademarks related to the Show, and the exclusive right to distribute content featuring the Paw Patrol characters in the United States. Viacom derives significant revenue each year from airing the Show and through the sale of Paw Patrol consumer products.

The Paw Patrol Trademarks and Copyrights

28. Spin Master owns a family of marks relating to the Paw Patrol franchise, including the word mark PAW PATROL, the PAW PATROL logo, as well as other marks for the names of the characters of the Paw Patrol series (the "Paw Patrol Trademarks"). (True and accurate copies of Spin Master's Certificates of U.S. Trademark and Service Mark Registration are attached hereto as **Exhibit A.**)

29. Spin Master's priority of rights via use and / or filing date back to July 2012.

30. Plaintiffs have devoted tremendous resources to the creation, development, and marketing of the Show and the Paw Patrol Trademarks.

31. As a result of these efforts, the Paw Patrol Trademarks have acquired substantial recognition and goodwill in the United States.

32. Plaintiffs license for manufacture and sale various Paw Patrol consumer products, including action figures and plush toys, craft sets, electronics, games, playsets, motorized toy vehicles, children's costumes, bedding, sporting goods, and school supplies ("Paw Patrol Merchandise").

33. Plaintiffs have spent significant resources promoting the Paw Patrol series and Paw Patrol Merchandise.

34. Spin Master also has secured copyright registrations relating to the Paw Patrol franchise, including for artwork related to the characters and packaging for Paw Patrol merchandise (the "Paw Patrol Copyrights"). (True and accurate copies of examples of Spin Master's Certificates of U.S. Copyright Registration are attached hereto as **Exhibit B.**)

Defendants' Infringing Activities

35. Upon information and belief, Defendants host and sell tickets to "meet and greet" events featuring costumed characters from the Paw Patrol Show. (A true and accurate copy of the Home page on Hearrt Event's Facebook page, <https://www.facebook.com/Hearrt.events/>, is attached hereto as **Exhibit C.**)

36. Upon information and belief, Defendants utilize the Paw Patrol Trademarks to market and to conduct the Infringing Show.

37. Each child attending the Infringing Show gets to meet and take pictures with the characters and receives an autographed paw print.

38. Defendants' characters are identical to the Paw Patrol characters.

39. Defendants sell unauthorized Paw Patrol branded merchandise at such events.

40. Tickets to Defendants' events cost approximately \$20 per child.

Plaintiffs Have Demanded That Defendants Stop Their Infringing Activities On Several Occasions

41. Upon information and belief, Defendants are very well aware of the goodwill and market value of Plaintiffs' intellectual property rights.

42. Viacom and/or its attorneys have corresponded with Defendants on many occasions in an attempt to resolve this matter without the need for litigation.

43. Defendants, however, continue to infringe on Plaintiffs' intellectual property rights by hosting "meet and greet" events featuring Paw Patrol characters, using Paw Patrol intellectual property and improperly capitalizing upon the goodwill in the Paw Patrol intellectual property, and selling unauthorized Paw Patrol Merchandise. (True and accurate copies of cease and desist letters sent to Defendants, dated January 4, 2017, March 8, 2017, and February 2, 2018 are attached hereto as **Exhibit D.**)

CAUSES OF ACTION


COUNT I
TRADEMARK INFRINGEMENT
(15 U.S.C. § 1114)

44. Plaintiffs repeat and reallege herein each of the foregoing paragraphs.

45. As described above, Plaintiff Spin Master's trademark rights arose at least as early as March 2012.

46. Spin Master is the owner of U.S. Trademark Registrations for the mark PAW PATROL, U.S. Reg. No. 4,614,743 in Classes 28 and 41; PAW PATROL, U.S. Reg. No. 4,675,681 in Class 16; PAW PATROL, U.S. Reg. No. 4,848,752 in Classes 9, 18, and 25; and



for the stylized mark , U.S. Reg. No. 5,218,798 in Classes 9, 16, 18, 25, 28, and 41.

47. Pursuant to the Agreement, Plaintiff Viacom has the exclusive right to enforce the Paw Patrol Trademarks.

48. Defendants' use of the Paw Patrol Trademarks to market and to conduct Defendants' "meet and greet" events is likely to cause confusion or mistake, or to deceive consumers that Defendants are affiliated, connected, or associated with Plaintiffs, or as to the origin, sponsorship, or approval of Defendants' services.

49. Defendants' marketing and sale of unauthorized Paw Patrol Merchandise at their events is further likely to cause confusion or mistake, and to deceive consumers into believing that Defendants are affiliated, connected, or associated with Plaintiffs, or as to the origin, sponsorship, or approval of Defendants' services.

50. Defendants' use of the Paw Patrol Trademarks constitutes trademark infringement under 15 U.S.C. § 1114.

51. The actions, conduct, and practices of Defendants described above have been willful, in bad faith and/or knowing.

52. As a direct and proximate result of Defendants' violations of 15 U.S.C. § 1114, Plaintiffs have been and will continue to be damaged.

53. Defendants' actions, unless enjoined and restrained by the Court, will cause irreparable harm to Plaintiffs.

COUNT II
UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN
(15 U.S.C. § 1125)

54. Plaintiffs repeat and reallege herein each of the foregoing paragraphs.

55. Defendants' use in commerce of the Paw Patrol Trademarks, as described above, constitutes false designation of origin in violation of 15 U.S.C. § 1125(a)(1)(A) in that it is likely to cause confusion as to the affiliation, connection, or association of Defendants with Plaintiffs and to cause confusion as to the origin, sponsorship, or approval by Plaintiffs of Defendants' Infringing Show.

56. Defendants' actions, unless enjoined and restrained by the Court, will cause irreparable harm to Plaintiffs.

COUNT III
TRADEMARK DILUTION UNDER 15 U.S.C. § 1125(c)
AND COMMON LAW TRADEMARK DILUTION

56. Plaintiffs repeat and reallege herein each of the foregoing paragraphs.

57. The Paw Patrol Trademarks have become famous and distinctive in the United States through the extensive, continuous, and exclusive use of them in connection with the Show and consumer products. The Paw Patrol Trademarks were distinctive prior to any use of them, or confusingly similar marks, by Defendants.

58. Defendants' use as described herein has caused and continues to cause irreparable injury to, and a likelihood of dilution of, the distinctive quality of the Paw Patrol Trademarks in violation of 15 U.S.C. § 1125(c) and common law. Defendants' wrongful use of the Paw Patrol Trademarks is likely to dilute the distinctive nature of those marks.

59. Defendants used and continue to use in commerce the Paw Patrol Trademarks with the intent to dilute the Paw Patrol Trademarks, and with the intent to trade on the reputation

and goodwill of Plaintiffs and the Paw Patrol Trademarks. Accordingly, this is an exceptional case within the meaning of 15 U.S.C. § 1117(a).

60. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered irreparable harm to the valuable Paw Patrol Trademarks, and other damages in an amount to be determined at trial. Unless Defendants are enjoined, the famous and valuable Paw Patrol Trademarks will continue to be irreparably harmed and diluted.

61. Plaintiffs have no adequate remedy at law that will compensate for the continued and irreparable harm it will suffer if Defendants' actions are allowed to continue.

COUNT IV
COPYRIGHT INFRINGEMENT
(17 U.S.C. §§ 101 *et seq.*)

62. Plaintiffs repeat and reallege herein each of the foregoing paragraphs.

63. Under the Copyright Act, as the copyright owner, Spin Master has the exclusive rights to reproduce its copyrighted works, including the Paw Patrol series, the characters, and other works of authorship; to prepare derivative works based upon those works; and to distribute copies of those works to the public, for the duration of the copyright.

64. Viacom, as the exclusive licensee of the Paw Patrol Copyrights in the United States and the party with exclusive rights to enforce the Paw Patrol Copyrights, has standing to enforce the Paw Patrol Copyrights in this action.

65. Defendants are marketing and conducting events featuring costumed Paw Patrol characters, and are marketing, selling, distributing, and displaying unauthorized Paw Patrol Merchandise.

66. Defendants' actions as described herein constitute reproduction, distribution, display, and/or performance of the Paw Patrol Copyrights without license or authorization, and therefore constitute copyright infringement in violation of 17 U.S.C. § 501.

67. Defendants' copyright infringement has caused, and will continue to cause, Plaintiffs to suffer substantial injuries, loss, and damage to its proprietary and exclusive rights to the Paw Patrol Copyrights, and caused loss of profits, in an amount to be determined at trial.

68. Defendants' conduct has caused and, unless permanently enjoined, will continue to cause, irreparable harm to Plaintiffs.

69. Plaintiffs are entitled to an injunction, actual damages or statutory damages, and trebled damages to compensate them for the injuries willfully caused by Defendants, together with attorneys' fees and costs.

COUNT V
ILLINOIS TRADEMARK REGISTRATION AND PROTECTION ACT
(765 ILCS 1036/1 et seq.)

70. Plaintiffs repeat and reallege herein each of the foregoing paragraphs.

71. Defendants' conduct, as described herein, constitutes injury to business reputation and dilution under the Illinois Trademark Registration and Protection Act, 765 ILCS 1036/1 *et seq.*

72. Defendants have willfully intended to trade and actually traded on Plaintiffs' reputation and caused dilution of the famous Paw Patrol Trademarks.

73. Plaintiffs have been, and will continue to be, irreparably injured by Defendants' violation of this statute. Unless Defendants are enjoined, Plaintiffs will suffer further irreparable injury for which they have no adequate remedy at law.

COUNT VI
ILLINOIS CONSUMER FRAUD AND DECEPTIVE TRADE PRACTICES ACT
(815 ILCS 505/1 et seq.)

74. Plaintiffs repeat and reallege herein each of the foregoing paragraphs.

75. Defendants' conduct, as described herein, constitutes unfair methods of competition and unfair and deceptive practices by employing confusing, deceptive, and false designations of origin, source, affiliation, and/or sponsorship in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*

76. Defendants' acts have been willful and deliberate.

77. Plaintiffs have been, and will continue to be, irreparably injured by Defendants' violation of this statute. Unless Defendants are enjoined, Plaintiffs will suffer further irreparable injury for which they have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

A. That this Court enter judgment in favor of Plaintiffs on all Counts of the Complaint;

B. That this Court enjoin permanently Defendants, their employees, agents, servants, and all in privity with any of them, from using the Paw Patrol Trademarks or any trademark, service mark, trade name, or designation similar thereto, in connection with Defendants' services; from unfairly competing with Plaintiffs; from engaging in unfair and deceptive trade practices; and from injuring Plaintiffs' business reputation;

C. That this Court enjoin permanently Defendants, their employees, agents, servants, and all in privity with any of them, from infringing the Paw Patrol Copyrights;

D. That this Court award Plaintiffs compensatory damages in an amount to be determined at trial;

E. That this Court award Plaintiffs treble damages and attorneys' fees pursuant to 15 U.S.C. § 1117, 17 U.S.C. § 504, 765 ILCS 1036/1, 815 ILCS 505/1, and other applicable laws; and

F. That this Court award Plaintiffs their costs and such other and further relief that this Court deems just and proper.

Dated: March 26, 2018

Respectfully submitted,

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