

**UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF NEW YORK**

<p>GOLDEN RING INTERNATIONAL, INC., a New York corporation, LIVING THE DREAM FILMS, INC., a New York corporation, and TRADEMIT LIMITED, a Cyprus company formerly known as BLAZEPOINT LIMITED,</p> <p>Plaintiffs,</p> <p>-against-</p> <p>MATTHEW CULLEN, an individual, and MOTION THEORY, INC., a California corporation,</p> <p>Defendants.</p>	<p>Civil Action No.</p> <p>ECF Case</p>
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**COMPLAINT FOR DECLARATORY RELIEF; TRADE LIBEL; INTERFERENCE
WITH CONTRACT AND REASONABLE ECONOMIC EXPECTANCY**

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Plaintiffs Golden Ring International, Inc. (“GRI”), Living The Dream Films, Inc. (“LTD”), and Trademit Limited (“TML”) allege:

NATURE OF ACTION AND RELIEF SOUGHT

1. This action seeks declaratory relief and damages against Defendants Matthew Cullen (“Cullen”) and his “loan out” company, Motion Theory, Inc. (“MTI”), as follows:

A. Declaratory judgment that:

(i) TML owns all worldwide distribution rights under copyright in and to the motion picture entitled “London Fields” directed by Cullen based on a screenplay by Roberta Hanley and Martin Amis and on a published novel of that title written by Mr. Amis (“Picture”);

(ii) Defendants and either of them have no right, title or interest in the copyright or distribution rights under copyright to the Picture or any physical materials in which it is embodied; and

(iii) Defendants have no right to enjoin, prevent or interfere in any manner in the distribution or exploitation of the Picture.

B. Damages from Defendants’ for each of their torts:

(i) Slander of TML’s title to the distribution rights of the Picture;

(ii) Interference with the following contracts (“Relevant Contracts”):

(a) The Distribution Agreement dated September 3, 2018 between TML and Nicola Six Limited (“NSL”), the owner of the copyright to the Picture (“TML Distribution Agreement”);

(b) The Investment Agreement dated August 26, 2018 between TML and LTD for investment of theatrical print and advertising costs for the theatrical release of the Picture in the United States (“Investment Agreement”); and

(c) The Agency Agreement between inter alia, TML and Gap Financing LLC (“GFL”) (“Agency Agreement”) with respect to the licensing of the worldwide rights to the Picture contained in Exhibit C to the Assignment of Charge among inter alia NSL and TML dated July 2017 (“Assignment of Charge”);

(d) The Assignment Agreement between GFL and GRI dated January 1, 2018 (“GRI Assignment”), and

(iii) Interference with the reasonable economic expectancy of Plaintiffs and each of them arising by reason of a prospective distribution license (“Prospective BVI License”) of the Picture between TML and Buena Vista International, a division of the Walt Disney Company (“BVI”), for the territories of Scandinavia, CIS, Eastern Europe, Greece, Latin America, Korea and certain Chinese language television (“BVI Territory”).

PARTIES

2. GRI is a corporation organized under the laws of the State of New York with its principal place of business in the County of Oneida, State of New York.

3. LTD is a corporation organized under the laws of the State of New York with its principal place of business in the County of New York, State of New York.

4. TML is a company organized under the laws of Cyprus with its principal place of business in Nicosia, Cyprus. TML has done no business in New York and continues to do no business in New York.

5. Matthew Cullen is an individual citizen of the State of California, resident in the County of Los Angeles, State of California.

6. Motion Theory, Inc. is a corporation organized under the laws of the State of California with its principal place of business in the County of Los Angeles, State of California.

JURISDICTION AND VENUE

7. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. §1331 because this action arises under the Copyright Act of 1976 as amended, 17 U.S.C. §101 et. seq. (“Copyright Act”) and seeks declaratory relief pursuant to 28 U.S.C. §2201.

8. This Court also has diversity jurisdiction over this action pursuant to 28 U.S.C. §1332(a)(2) because there is complete diversity of citizenship among all plaintiffs and all defendants and the amount in controversy for each Plaintiff exceeds \$75,000.

9. This Court has specific personal jurisdiction over Cullen and MTI pursuant to CPLR §302(a)(3) because each of Cullen and MTI committed a tortious act without the State of New York which caused injury to persons or property within the State of New York, which Cullen and MTI expected or reasonably should have expected to have consequences within the State of New York and when Cullen and MTI derive substantial revenues from interstate commerce.

10. Venue is proper under 28 U.S.C. §1391(b)(2) and (3).

GENERAL ALLEGATIONS

11. NSL engaged MTI to provide the service of Cullen as the director of the Picture pursuant to a Certificate of Engagement dated November 25, 2013, a true and correct copy being attached hereto as Exhibit “A” (“Director Agreement”). Pursuant to the Director Agreement, MTI and Cullen agreed that NSL “shall be the sole owner of the copyright and all other rights in the Picture throughout the universe and of all rights in the products of [Cullen’s] services in connection with the Picture,” with all such products expressly “being created as a ‘work made for hire’ specifically commissioned” for NSL, within the intendment of the Copyright Act.

12. Pursuant to the Director's Agreement, MTI and Cullen agreed that NSL had the right to use Cullen's name and likeness in connection with the distribution and advertising of the Picture.

13. Pursuant to the Director's Agreement, MTI and Cullen agreed not to file any "application to enjoin or restrain the production, distribution, exhibition, advertising or exploitation of the Picture" and that "recovery of damages in an action at law will provide a full and appropriate remedy for any loss or damage incurred by [Cullen] as a result of any breach of the Agreement. . . ."

14. Pursuant to the terms of the Director Agreement, Cullen entered into an Inducement Letter dated as of September 9, 2013, a true and correct copy being attached hereto as Exhibit B ("Inducement Letter"). Pursuant to Paragraph 10 of the Inducement Letter, Cullen "unconditionally guarantees all" of MTI's "obligations" to Cullen under the Director Agreement.

15. Cullen completed his services as director of the Picture during principal photography, over schedule and over budget, but failed and refused and continues to fail and refuse to complete and deliver the Picture to NSL pursuant to the terms of the Director Agreement.

16. Pursuant to their obligations to do so in the Assignment of Charge and Agency Agreement, TML, GFL and GRI completed and delivered the Picture to NSL and have arranged for its theatrical distribution in the United States on October 26, 2016 in at least 600 theaters. Despite TML's repeated requests to Cullen to do so, Cullen failed and refused and continues to fail and refuse to consult with, and to provide his services as a director to TML to complete and deliver the Picture to NSL.

17. LTD agreed to provide and has provided material funds to pay the print and advertising costs incurred and to be incurred in connection with the United States theatrical distribution of the Picture.

18. GFL arranged (i) for TML to enter into the Assignment of Charge, including the Agency Agreement appointing GFL as agent to license distribution rights to the Picture, and (ii) GFL and GRI arranged for LTD to enter into the Investment Agreement. Pursuant to the Agency Agreement, GFL, and GRI through the GRI Assignment, have substantial economic participation in the gross revenues of the Picture to be earned from distribution of the Picture in the United States and around the world.

19. The Prospective BVI License was a material inducement to each Plaintiff to enter into and perform, respectively, their obligations under the Assignment of Charge, the Agency Agreement, the GRI Assignment, the Distribution Agreement and the Investment Agreement.

20. On behalf of NSL, TML has filed for United States copyright in and to the Picture with the certificate of registration to be issued to NSL but for TML's benefit as the owner in perpetuity of all distribution rights under copyright to the Picture. By reason of such filing and by reason of TML's inclusion of a copyright notice on the Picture, NSL's copyright to the Picture is protected through the world pursuant to the Universal Copyright Convention.

21. Despite Cullen and MTI's covenants as hereinabove alleged and in material breach thereof, Cullen ("Cullen Wrongful Means"):

A. Filed on September 15, 2015 a complaint in Los Angeles Superior Court against NSL and certain of its principals to restrain NSL from using Cullen's name and likeness in connection with the Picture, to wit. Cullen et al. v. Hanley et al., No. BC 594640 ("Cullen Action"), a true and correct copy being attached as Exhibit "C";

B. Interfered with NSL's efforts to complete and release the Picture as more particularly alleged in the Cross Complaint filed in the Cullen Action by NSL on November 17, 2015 ("Cross Complaint"), a true and correct copy being attached hereto as Exhibit "D";

C. Falsely claimed and threatened to enjoin or interfere with distribution of the Picture in numerous telephone and other communications between January 1, 2018 and the filing of this Complaint including a telephone conversation with representatives of NSL, its insurers, TML, GFL and GRI on September 21, 2018; and

D. Demanded ("Cullen Demands") in repeated and numerous communications with representatives of NSL and TML that (i) NSL accord Cullen "final cut" of the Picture without any consultation or cooperation with NSL or TML and (ii) NSL and TML complete the costs of clearance of, and commercially release at TML's and LTD's expense, that "final cut" of the Picture completed by Cullen, despite the fact that Cullen had no right to "final cut" of the Picture pursuant to the Director Agreement or otherwise.

22. The Director Agreement and Cullen's engagement as director of the Picture were subject in all respects to the 2014 Basic Agreement among the Director's Guild of America and the AMPTP ("DGA Agreement"). Under the terms of the DGA Agreement, the decisions of the employer are final and binding on the director and no director has any "final cut" rights or ownership rights in any motion picture except to the extent specifically included in a director contract.

23. The sole remedy for Cullen under Paragraph 2-601 of the DGA Agreement for any claim for breach of the Director Agreement other than a claim for compensation is a petition for arbitration filed by the DGA pursuant to Paragraph 2-101 of the DGA Agreement. No arbitral award pursuant to the DGA Agreement can include any injunction.

24. The Cullen Wrongful Means are and were in violation of the DGA Agreement.

25. TML through its agents has entered into and can complete the Prospective BVI License with BVI for the BVI Territory which would result in gross receipts net to TML in excess of \$3,500,000. BVI will not complete and enter into the BVI License by reason of the Cullen Wrongful Means.

26. The Cullen Wrongful Means will interfere with the realization of gross receipts from distribution of the Picture in the State of New York, the United States and throughout the world.

FIRST CLAIM

(Declaratory Relief)

27. A case of actual controversy has arisen and now exists among Plaintiffs, on the other hand, and Defendants and each of them, on the other hand. Plaintiffs contend (“Plaintiffs’ Contentions”) that:

(i) TML owns all worldwide distribution rights under copyright in and to the Picture;

(ii) Defendants and either of them have no right, title or interest in the copyright or distribution rights under copyright to the Picture or any physical materials in which it is embodied; and

(iii) Defendants have no right to enjoin, prevent or interfere in any manner in the distribution or exploitation of the Picture.

28. Defendants and each of them contest and deny Plaintiffs’ Contentions.

29. Plaintiffs are entitled to a declaratory judgment from this Court that:

(i) TML owns all worldwide distribution rights under copyright in and to the Picture;

(ii) Defendants and either of them have no right, title or interest in the copyright or distribution rights under copyright to the Picture or any physical materials in which it is embodied; and

(iii) Defendants have no right to enjoin, prevent or interfere in any manner in the distribution or exploitation of the Picture.

SECOND CLAIM

(Trade Libel)

30. Cullen's Wrongful Means are a false publication which cast doubt on TML's title to the distribution rights under copyright to the Picture.

31. Cullen's Wrongful Means were reasonably calculated by Defendants and each of them to cause harm to Plaintiffs and each of them, by and from loss of the Prospective BVI License and other revenues from distribution of the Picture in the State of New York, the United States and throughout the world.

32. As a proximate and foreseeable result of Cullen's Wrongful Means, Plaintiffs and each of them have suffered and sustained and are entitled to recover from Defendants and each of them actual, special and consequential damages in an amount to be proven at trial but no less than \$3,500,000.

THIRD CLAIM

(Tortious Interference With Contract)

33. Each of the Relevant Contracts are valid and subsisting contracts fully enforceable under the laws of the jurisdiction in which each was executed and to be performed.

34. Defendants and each of them had knowledge of the Relevant Contracts and each of them.

35. Defendants and each of them through the Cullen Wrongful Means interfered with the performance of the obligations of Plaintiffs and each of them under the Relevant Contracts to NSL and LTD. As a result, TML and GP were and are unable to keep and perform their obligations to NSL, GRI and LTD to obtain the maximum distribution revenues from distribution of the Picture.

36. As a proximate and foreseeable result of Cullen's Wrongful Means, Plaintiffs and each of them have suffered and sustained and are entitled to recover from Defendants and each of them actual, special and consequential damages to be proven at trial but no less than \$3,500,000.

FOURTH CLAIM

(Interference With Reasonable Economic Expectancy)

37. TML, GFL and GRI have an actual economic relationship with BVI under which BVI had agreed to enter into the Prospective BVI License if Cullen withdrew and ceased the Cullen Wrongful Means.

38. Cullen knew of the Prospective BVI License and knew that if he continued to pursue the Cullen Demands against NSL by the Cullen Wrongful Means, BVI would not enter into the Prospective BVI License.

39. Cullen failed and refused to cease the Cullen Wrongful Means with an intention to harm Plaintiffs and each of them, by preventing execution and performance of the Prospective BVI License.

40. Cullen's Wrongful Means were and are extreme and unfair economic pressure to force Plaintiffs and each of them to accede to Cullen's Demands made in violation of the Director Agreement and the DGA Agreement

41. As a proximate and foreseeable result of Cullen's Wrongful Means, Plaintiffs and each of them have suffered and sustained and are entitled to recover from Defendants and each of them actual, special and consequential damages to be proven at trial but no less than \$3,500,000.

PRAYER

WHEREFORE, Plaintiffs and each of them pray for the following from Defendants and each of them:

A. Declaratory judgment that:

(i) TML owns all worldwide distribution rights under copyright in and to the Picture;

(ii) Defendants and either of them have no right, title or interest in the copyright or distribution rights under copyright to the Picture or any physical materials in which it is embodied; and

(iii) Defendants have no right to enjoin, prevent or interfere in any manner in the distribution or exploitation of the Picture.

B. Damages to be proven at trial but no less than \$3,500,000

C. Attorney fees and court costs pursuant to Section 505 of the Copyright Act.

Such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury.

October 19, 2018

Respectfully submitted,

/s/ Raymond J. Markovich
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Attorney for Plaintiffs