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10 SUSAN NICHOLSON HOFHEINZ

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 SUSAN NICHOLSON HOFHEINZ, an
14 Individual,

15 Plaintiff,

16 v.

17
18 A.V.E.L.A., INC., a Nevada Corporation;
19 ARTNOSTALGIA.COM, INC., a
20 Delaware Corporation; X ONE X MOVIE
21 ARCHIVE, INC., a Delaware
22 Corporation; LEO VALENCIA, an
23 Individual; FUNKO, LLC, a Washington
24 Corporation; TOYS "R" US, INC., a
25 Delaware Corporation individually and
26 doing business as "TOYS "R" US";
27 GEOFFREY, LLC, a Delaware
28 Corporation individually and doing
business as "TOYS "R" US";
ENTERTAINMENT EARTH, INC., a
California Corporation; SMERALDI

Case No.

CV 12-06546 SJD (RZx)

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT;
3. VIOLATIONS OF LANHAM ACT (15 U.S.C. 1125)
4. STATE TRADE DRESS INFRINGEMENT
5. STATE TRADEMARK INFRINGEMENT
6. STATE UNFAIR COMPETITION

Jury Trial Demanded

FILED
12 JUL 30 PM 2:58
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

1 ENTERPRISES, a Business Entity of
2 Form Unknown, individually and doing
3 business as
4 “WWW.MYMOVIEMONSTERS.COM”;
5 AMAZON.COM, INC., a Washington
6 Limited Liability Company; and DOES 1-
7 10,
8
9 Defendants.

10 Plaintiff SUSAN NICHOLSON HOFHEINZ (hereinafter “SUSAN”), by and
11 through her undersigned attorneys, hereby prays to this honorable Court for relief
12 based on the following:

13 INTRODUCTION

14 Plaintiff SUSAN is, amongst other things, the exclusive owner of the rights in
15 and to a group of creepy horror films from the 1950s. One of these films is
16 INVASION OF THE SAUCER-MEN (hereinafter “Film”), a cult classic that
17 revolves around a fatal (or is it?) accident in which an alien falls prey to the fender of
18 an automobile piloted by a pair of amorous teenagers. A beer-drinking bull, an
19 eccentric farmer, and a detached, yet animated, limb all contribute to the unique
20 appeal of this film; but, one of the – if not the – most important elements of the film
21 are the titular Saucer-Men themselves. Indeed, filmgoers young and old have thrilled
22 to and been kept up at night by the specter of the diabolical Saucer-Men and their
23 extravagant weaponry, and the stylized and frightening appearance of the Saucer-
24 Men is wildly unique, providing many hair-raising and spooktacular moments
25 throughout the film.

26 Defendant A.V.E.L.A., Inc. (along with its affiliated entities) is a serial litigant,
27 alleged to have ripped off numerous entertainment properties, that also markets and
28

1 sells novelty items and other merchandise. In the case at bar it has marketed,
2 distributed, and sold merchandise that exploits without authorization content from
3 and related to the Film, including without limitation novelty items that depict the
4 Saucer-Men. This action is brought to remedy this out-of-this-world misconduct.

5 JURISDICTION AND VENUE

6 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
7 *et seq.* and the Lanham Act.

8 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
9 1338 (a) and (b), and ancillary jurisdiction, to the extent necessary, over the
10 remaining claims.

11 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
12 1400(a) in that this is the judicial district in which a substantial part of the acts and
13 omissions giving rise to the claims occurred.

14 PARTIES

15 4. Plaintiff SUSAN is an individual residing in Southern California.

16 5. Plaintiff is informed and believes and thereon alleges that Defendant
17 AVELA is a corporation organized and existing under the laws of the Nevada and is
18 doing business in and with the State of California.

19 6. Plaintiff is informed and believes and thereon alleges that Defendant
20 ArtNostalgia.com, Inc. is a corporation organized and existing under the laws of the
21 Nevada and is doing business in and with the State of California.

22 7. Plaintiff is informed and believes and thereon alleges that Defendant X One
23 X Movie Archive, Inc. is a corporation organized and existing under the laws of the
24 Nevada and is doing business in and with the State of California.

25 8. Plaintiff is informed and believes that ArtNostalgia.com, Inc., X One X
26 Movie Archive, Inc. and A.V.E.L.A., Inc. share common ownership and/or interest,
27 are alter egos, affiliates, and/or relations of one another, and conspired to engage in
28