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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

GLOBAL RESEARCH AND RESCUE,
a Washington State Non-Profit Corporation,

Plaintiff,

v.

SIX FLAGS, INC.,

Defendant.

Cause No.

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff Global Research and Rescue (“GRR”) complains of Defendant Six Flags, Inc., as follows:

NATURE OF LAWSUIT

1. This is a claim for patent infringement arising under the copyright laws of the United States, Title 17 of the United States Code.

THE PARTIES

2. Global Research and Rescue (“GRR”) is a Washington State non-profit corporation with its principal place of business at 1802 1st Ave. W., Seattle, WA 98119. GRR is engaged in the activity of benefiting whales and other marine mammals by promoting public awareness of the existence of these animals, particularly in the Puget Sound region, and the environmental and other threats to their continued presence.

1 3. Upon information and belief, Six Flags Inc. is a New York corporation having
2 a principal place of business at 1540 Broadway, 15th Floor, New York, NY 10036.

3 4. Upon information and belief, Six Flags, Inc. owns and operates the Six Flags
4 Discovery Kingdom located at 1001 Fairgrounds Drive, Vallejo CA 94585. Upon
5 information and belief, Six Flags Discovery Kingdom is engaged in the business of providing
6 entertainment services to the public that include, in part, live exhibitions of a Killer Whale in
7 a marine environment before a viewing audience that comprises members of the public who
8 have paid a fee for admission.

9
10 **JURISDICTION AND VENUE**

11 5. This is an action arising out of the Copyright Laws of the United States, 17
12 U.S.C. § 501, *et seq.*

13 6. The Court has subject matter jurisdiction under 17 U.S.C. § 501(a) as well as
14 under 28 U.S.C. § 1331, 1338(a) and 1338(b).

15 7. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c), and
16 1400(a) because the defendants conducted business in this judicial district. Acts giving rise to
17 this Complaint occurred in this district.

18 **FACTS**

19 8. GRR is the owner by assignment of copyrights in three works of film footage
20 depicting, in part, Killer Whales in their natural habitat. These films were created by Robert
21 W. Wood and Robert E. McLaughlin who have licensed and contributed their rights in the
22 works to GRR.

23 9. The first of the works of film footage, entitled “Village I/Underwater/K W
24 North/Luna/Nollman” was created in 2006 and depicts various Killer Whales in different
25 environments. This work is the subject of pending copyright registration application filed
26 April 29, 2008, a true and correct copy of which is attached as Exhibit A.
27

1 10. The second of the works of film footage, entitled “Orca Whale Videos- Vancouver
2 Island” was created in 1999 and depicts various Killer Whales in different environments.
3 This work is the subject of pending copyright registration application filed April 29, 2008, a
4 true and correct copy of which is attached as Exhibit B.

5 11. The third of the works of film footage, entitled “Johnstone Alert Bay Orca 3
6 Males” was created in 1999 and depicts a pod of Killer Whales wherein music is used to
7 encourage vocalization among whales. This work is the subject of pending copyright
8 registration application filed April 29, 2008, a true and correct copy of which is attached as
9 Exhibit C.

10 13. In 2004, GRR provided complete copies of the above-identified film footage to
11 Six Flags Discovery Kingdom (“Six Flags”) for purposes of demonstrating GRR’s capabilities
12 to Six Flags. In so doing, GRR did not provide to Six Flags any form of license, grant,
13 permission, etc., for Six Flags to make any use of the film footage beyond evaluating GRR’s
14 capabilities. At no time did GRR convey any interest in its copyrights in the film footage to
15 Six Flags. At all relevant times, Six Flags was aware of the need to obtain a license or other
16 permission from GRR before making any use of the subject film footage.

17 14. During the entire 2006 tourist season and continuing through at least the 2007
18 tourist season, Six Flags, without the permission or authorization of GRR, made use of GRR’s
19 copyrighted film footage by, among other things, reproducing and displaying at least some of
20 GRR’s copyrighted film footage in the “Six Flags Shouka” video show presented to paying
21 customers at the Six Flags Discovery Kingdom Park in Vallejo California.

22 15. Such use of GRR’s copyrighted film footage by Six Flags was without the
23 permission or other authorization of GRR.
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CAUSES OF ACTION

COUNT I

COPYRIGHT INFRINGEMENT

16. GRR incorporates the allegations made in paragraphs 1-15 as if fully set forth herein.

17. Defendant Six Flags has willfully committed copyright infringement under 17 U.S.C. §501 *et seq.* by the unauthorized practice or execution of one or more exclusive rights owned by GRR set forth in 17 U.S.C. §106.

COUNT II

UNJUST ENFRICHMENT

18. GRR incorporates the allegations made in paragraphs 1-15 as if fully set forth herein.

19. Defendant Six Flags has received benefit through the use of GRR's copyrighted film footage including, but not limited to, the "Six Flags Shouka" video show presented to paying customers at the Six Flags Discovery Kingdom Park in Vallejo California.

20. Defendant Six Flags has not provided compensation to GRR for the use of the copyrighted film footage at the Six Flags Discovery Kingdom Park in Vallejo California.

PRAYER FOR RELIEF

WHEREFORE, GRR asks this Court to enter judgment against defendant and against its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

A. An award of damages adequate to compensate GRR for the infringement of the Subject film footage that has occurred from the date infringement through the date of judgment;

B. An order entering judgment in favor of GRR and awarding damages in an amount sufficient to compensate GRR for defendant Six Flags willful acts of copyright

1 infringement as alleged herein pursuant to and consistent with all relevant federal laws,
2 including but not limited to, Title 17 U.S.C. §§ 502, 503 and 504;

3 C. An order entering judgment in favor of GRR and granting GRR its attorneys'
4 fees and costs in connection with all applicable laws including 17 U.S.C. §§ 505:

5 D. A permanent injunction prohibiting further act of infringement of GRR's
6 copyrights in its film footage;

7 E. Such other and further relief as this Court or a jury may deem proper and just.

8 **JURY DEMAND**

9 GRR demands a trial by jury on all issues presented in this Complaint.

10
11 Dated this 29th day of May, 2009.

12 Respectfully submitted,

13
14
15 */Philip P. Mann/*

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