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7 ALCON ENTERTAINMENT, LLC

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
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11 ALCON ENTERTAINMENT, LLC,
12 a Delaware Limited Liability
Company,

13 Plaintiff,

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15 v.
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18 TESLA, INC., a Texas Corporation;
19 ELON MUSK, an individual;
20 WARNER BROS. DISCOVERY,
INC., a Delaware Corporation;

21 Defendants.
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CASE NO.

COMPLAINT FOR:

**1) DIRECT COPYRIGHT
INFRINGEMENT;**

**2) VICARIOUS COPYRIGHT
INFRINGEMENT;**

**3) CONTRIBUTORY
COPYRIGHT
INFRINGEMENT;**

AND

**4) FALSE ENDORSEMENT IN
VIOLATION OF 15 U.S.C. §
1125(a)(1)(A)**

DEMAND FOR JURY TRIAL

1 Plaintiff Alcon Entertainment, LLC (“Plaintiff” or “Alcon”), through its
2 attorneys, hereby alleges its Complaint against defendants Tesla, Inc. (“Tesla”),
3 Elon Musk (“Musk”), and Warner Bros. Discovery, Inc. (“WBDI”) (collectively,
4 “Defendants” and each separately a “Defendant”):

5 **SUBJECT MATTER JURISDICTION**

6 1. The Court has federal question subject matter jurisdiction per 15
7 U.S.C. § 1121(a), 28 U.S.C. §§ 1331 and 1338(a) and (b), and on the grounds that
8 this is a civil action arising under the laws of the United States. Plaintiff seeks
9 relief under the Copyright Act of 1976, as amended, 17 U.S.C. §§ 101, *et al.*, and
10 the Lanham Act, 15 U.S.C. §§ 1125(a)(1)(A), in interstate commerce.

11 **SUMMARY OF DISPUTE**

12 2. Defendants requested permission to use an iconic still image (Exhibit
13 A) from Alcon’s “Blade Runner 2049” motion picture (“BR2049” or the “Picture”)
14 to promote Tesla’s new fully autonomous cybercab in an October 10, 2024 event
15 that was livestreamed worldwide from WBDI’s Burbank, California studio lot.
16 Alcon refused all permissions and adamantly objected to Defendants suggesting
17 any affiliation between BR2049 and Tesla, Musk or any Musk-owned company.
18 Defendants then used an apparently AI-generated faked image to do it all anyway.

19 3. Defendants apparently fed the Exhibit A Image, and similarly iconic
20 images from the same visual sequence at BR2049’s dramatic core (Exhibit B), into
21 an AI-driven image generator, and then directed the AI to make a lightly stylized
22 fake screen still from BR2049 (Exhibit C). Defendants then made this faked image
23 the second presentation slide of the event, displaying it full screen on the
24 livestream feed for 11 seconds (a marketing and advertising eternity) at the opening
25 of Musk’s cybercab sales pitch remarks.

26 4. During those 11 seconds, Musk tried awkwardly to explain why he
27 was showing the audience a picture of BR2049 when he was supposed to be talking
28 about his new product. He really had no credible reason. Musk ostensibly invited

1 the global audience to think about the cybercab’s possibilities in juxtaposition to
2 BR2049’s fictional future. But it all exuded an odor of thinly contrived excuse to
3 link Tesla’s cybercab to strong Hollywood brands at a time when Tesla and Musk
4 are on the outs with Hollywood.¹ Which of course is exactly what it was.

5 5. It was hardly coincidental that the only specific Hollywood film which
6 Musk actually discussed to pitch his new, fully autonomous, AI-driven cybercab
7 was BR2049 – a film which just happens to feature a strikingly-designed,
8 artificially intelligent, fully autonomous car throughout the story. Especially where
9 Defendants had asked Alcon’s permission to use BR2049 and been so firmly
10 refused, this was clearly all a bad faith and intentionally malicious gambit by
11 Defendants to make the otherwise stilted and stiff content of the joint WBDI-Tesla
12 event more attractive to the global audience and to misappropriate BR2049’s brand
13 to help sell Teslas.

14 6. The financial magnitude of the misappropriation here was substantial.
15 Alcon has spent decades and hundreds of millions of dollars building the BR2049
16 brand into the famous mark that it now is. Prior actual BR2049 contracts linking
17 automotive brands to the Picture have had dollar price tags in the eight figures.
18 The financial stakes and complexity of BR2049 automotive brand affiliations are
19 especially high at the immediate moment. Alcon is in talks with other automotive
20 brands for partnerships on Alcon’s BR2049-based *Blade Runner 2099* television
21 series currently in production, and Defendants’ conduct is likely to cause confusion
22 among Alcon’s potential brand partner customers.

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26 ¹ See, e.g., Brett Berk, “Hollywood Can’t Ditch Its Tesla’s Fast Enough: ‘They’re
27 Destroying Their Leases and Walking Away,’” *The Hollywood Reporter*, September
28 20, 2024, <https://www.hollywoodreporter.com/lifestyle/lifestyle-news/tesla-robotaxi-warner-bros-reveal-hollywood-rejection-elon-musk-1236007945/>.

1 7. Beyond these more ordinary commercial issues, there is the
2 problematic Musk himself. Any prudent brand considering any Tesla partnership
3 has to take Musk’s massively amplified, highly politicized, capricious and arbitrary
4 behavior, which sometimes veers into hate speech, into account. If, as here, a
5 company or its principals do not actually agree with Musk’s extreme political and
6 social views, then a potential brand affiliation with Tesla is even more issue-
7 fraught. Alcon did not want BR2049 to be affiliated with Musk, Tesla, or any
8 Musk company, for all of these reasons.

9 8. Now BR2049 unfortunately and falsely is so affiliated, and far beyond
10 the 11 seconds of presentation time at the cybercab live event. The event’s
11 worldwide livestream X feed, including Musk’s forced BR2049-laced opening, was
12 re-tweeted or re-posted by Tesla, Musk, X and others thousands of times, with
13 millions of total views. The false affiliation between BR2049 and Tesla is
14 irreparably entangled in the global media tapestry, all as Defendants knew would
15 inevitably happen, and amplifying the damage and confusion risks.

16 9. This was and is all highly offensive to Alcon’s right to commercial
17 and cultural self-determination. It was also a massive economic theft. Based on
18 prior BR2049 automotive brand affiliation contracts and the nature and scope of
19 the use here, the fair market value of the brand affiliation goodwill that Defendants
20 stole is at least in the six figures and possibly much higher. Beyond Alcon’s lost
21 fees for the unauthorized association, Defendants muddied the waters for Alcon’s
22 in-progress exploration of automotive brand partnerships for the upcoming
23 BR2049-based *Blade Runner 2099* television series.

24 10. Alcon now seeks relief under the United States Copyright Act and the
25 Lanham Act, for damages and to pry Musk and his co-Defendants away from
26 Alcon’s BR2049 brand and goodwill.

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1 **PERSONAL JURISDICTION OVER DEFENDANTS**

2 11. Per Rule 4(k)(1)(A) of the Federal Rules of Civil Procedure, this Court
3 has personal jurisdiction over any defendant who is subject to the jurisdiction of
4 any California court of general jurisdiction. California’s long arm statute, *Cal.*
5 *Code Civ. Pro.* § 410.10, allows courts in the state to exercise personal jurisdiction
6 over parties to the full extent permissible under the United States Constitution.
7 Personal jurisdiction over the Defendants here is thus proper if it comports with
8 due process. It does, including for the following reasons.

9 ***Personal Jurisdiction Over Tesla***

10 12. General Personal Jurisdiction: The Court has general or unlimited
11 personal jurisdiction over Tesla. Tesla is currently incorporated under the laws of
12 the State of Texas and its principal corporate office or headquarters is in Austin,
13 Texas and has been since about December 2021. However, California was Tesla’s
14 original principal corporate office home state, from Tesla’s inception in about 2003
15 until the December 2021 move to Texas. Tesla still maintains continuous and
16 systematic contacts with California, including continuing to operate at least two
17 major manufacturing plants in the state.

18 13. Specific Personal Jurisdiction: Additionally and/or in the alternative,
19 the Court has specific or limited personal jurisdiction over Tesla. Alcon’s claims
20 arise out of Tesla’s purposeful availment of the rights, privileges, and protections
21 of doing business in California, and also arise out of Tesla’s commission of tortious
22 activity in California and purposeful direction of tortious conduct toward the forum
23 state. Tesla committed the acts of infringement alleged herein, or substantial
24 portions of them, in preparation for and during the course of the October 10, 2024
25 cybercab product reveal event at WBDI’s Burbank, California studio lot. The
26 event was personally conducted by Musk who is Tesla’s founder, principal and
27 Chief Executive Officer. Tesla’s acts of copyright infringement and violations of
28 the Lanham Act all constituted torts directed toward Alcon, a forum resident, and

1 relate to the motion picture industry, which is of compelling interest to the forum
2 state. Exercise of personal jurisdiction over Tesla also is reasonable and fair.

3 ***Personal Jurisdiction Over Musk***

4 14. The Court has at least specific or limited personal jurisdiction over
5 Musk as an individual. Plaintiff's claims against him arise out of his acts of
6 purposeful availment of the benefits and privileges of conducting activities in
7 California, including where he personally conducted the event from the WBDI lot
8 in Burbank, California. Plaintiff's claims also arise out of Musk's commission of
9 tortious acts while physically present in the forum state. His acts also constituted
10 purposeful direction of tortious conduct to the forum, all for the same specific facts
11 and reasons as described above regarding Tesla personal jurisdiction. Exercise of
12 personal jurisdiction over Musk as an individual also is reasonable and fair. At any
13 given time depending on stock market fluctuations, Musk is reportedly the richest
14 man in the world and has ample resources to defend himself in California court.

15 ***Personal Jurisdiction Over WBDI***

16 15. The Court has general or unlimited personal jurisdiction over WBDI.
17 WBDI is incorporated under the laws of the State of Delaware and its principal
18 corporate office or headquarters is in New York. However, WBDI has continuous
19 and systematic contacts with California, including owning and operating one of
20 Hollywood's oldest major motion picture and television studios including the
21 Warner Bros. Studios lot in Burbank, California.

22 16. Additionally and/or in the alternative, the Court has specific or limited
23 personal jurisdiction over WBDI. Alcon's claims arise out of WBDI's purposeful
24 availment of the rights, privileges, and protections of doing business in California.
25 They also arise out of WBDI's commission of tortious activity in California and
26 purposeful direction of tortious conduct toward the forum state. WBDI's
27 involvement in acts of copyright infringement and violations of the Lanham Act all
28 constituted torts directed toward Alcon, a forum resident. They all relate to the

1 motion picture industry, an industry in which the forum state has a compelling
2 interest. Exercise of personal jurisdiction over WBDI also is reasonable and fair.

3 **VENUE**

4 ***28 U.S.C. § 1391(b)(2) Venue as to all Defendants***

5 17. Venue is proper as to all Defendants pursuant to 28 U.S.C. §
6 1391(b)(2), because a substantial part of the events or omissions giving rise to
7 Alcon’s claims occurred, or a substantial part of the property that is the subject of
8 the action is situated, within this judicial district. The infringed property in
9 question includes Alcon’s copyright in BR2049 and ownership of BR2049 marks
10 and goodwill, which property is all located within this district for venue purposes,
11 where Alcon has its corporate headquarters in Los Angeles, California.

12 ***Additional Venue Bases***

13 18. Venue also is proper as to WBDI and Tesla pursuant to 28 U.S.C. §§
14 1400(a) and 1391(d). For venue purposes, Tesla and WBDI each reside in or may
15 be found within this district. Tesla and WBDI each have continuous and
16 systematic contacts with the forum state and this district specifically, including
17 sufficient contacts with this district to establish personal jurisdiction in this district,
18 if this district were treated as a separate state.

19 **PARTIES**

20 ***Plaintiff***

21 19. Alcon is an independent motion picture and television studio whose
22 products are distributed worldwide. Alcon is a limited liability company organized
23 under the laws of the State of Delaware, with its principal place of business at
24 10390 Santa Monica Blvd., #250, Los Angeles, California 90025.

25 20. Alcon produced BR2049 and owns the BR2049 copyright and the
26 BR2049 marks and brand at issue in this action. Alcon has produced more than
27 thirty other major motion pictures, including “The Blind Side” (which won the
28 2009 Academy Award for Best Actress), the “Dolphin Tale” series, the “Sisterhood

1 of the Traveling Pants” series, “Book of Eli,” “P.S. I Love You,” “My Dog Skip,”
2 “Prisoners,” and “The Garfield Movie.” Alcon also produces television, including
3 the critically acclaimed television series *The Expanse*. Alcon is currently in
4 production on a “Blade Runner 2049” sequel or spinoff television series entitled
5 *Blade Runner 2099*.

6 ***Defendants***

7 21. Tesla: Tesla is a well-known developer and manufacturer of electric
8 automobiles. Some of Tesla’s automobile products are marketed as partially or
9 fully autonomous. The idea of AI-controlled or otherwise autonomous automobiles
10 is a Tesla brand focus.

11 22. Musk: Musk is Tesla’s founder, largest shareholder and Chief
12 Executive Officer. In addition to owning and operating Tesla, he also owns and
13 operates the social media platform X (formerly Twitter) and the rocket and satellite
14 company SpaceX, among other ventures. Musk has become an increasingly vocal,
15 overtly political, highly polarizing figure globally, and especially in Hollywood.

16 23. WBDI: WBDI is one of the largest entertainment conglomerates in the
17 world. It owns the Warner Bros. Studios lot in Burbank, California. WBDI is
18 currently run by its Chief Executive Officer, David Zaslav, a man who is both
19 friendly with Musk and controversial in Hollywood in his own right.

20 **FACTS COMMON TO ALL CAUSES OF ACTION**

21 **The Infringed Work And Brand**

22 24. Alcon is the owner and, as to all rights at issue herein, the exclusive
23 copyright holder, of the BR2049 motion picture. The Picture is registered with the
24 United States Copyright Office under registration number PA0002056792 and has
25 been since October 6, 2017. The images from BR2049 shown in Exhibits A and B
26 are from an iconic visual sequence at the dramatic core of the Picture. In the
27 copyright context, they are qualitatively significant to the Picture and they qualify

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1 as being at the “heart of the work.” They also have secondary meaning in the
2 Lanham Act context, all as discussed below.

3 25. The Picture tells the story of the main character “K” (played by Ryan
4 Gosling). K is an artificially intelligent android or replicant pursuing the possible
5 existence of a wholly or partially replicant child conceived by, and born to, a
6 replicant mother, a phenomenon which would re-order the entire societal
7 relationship between humans and their artificially intelligent replicant creations.
8 K’s trench coat or “duster” is the predominant feature of his wardrobe or costume.
9 Throughout the Picture, K travels in, and is assisted by, his artificially intelligent,
10 quasi-sentient flying car, or “spinner,” which is capable of autonomous action.

11 26. The Exhibit A and B images are from among the most memorable
12 sequences in the Picture: K’s arrival in, and exploration of, the orange-colored
13 ruins of the Picture’s abandoned Las Vegas, rendered uninhabitable by a dirty
14 nuclear device many years prior to the story’s timeframe. The sequence follows K
15 as he leaves the spinner and walks in his trench coat or “duster” toward and
16 through the misty orange urban desert ruins, often viewed by the camera from
17 behind or in silhouette. The sequence leads up to and forebodes the Picture’s
18 dramatic apogee: K’s encounter with his predecessor Deckard (Harrison Ford)
19 from the original 1982 “Blade Runner” motion picture (the “1982 Picture”).

20 27. The image attached hereto as Exhibit A and incorporated herein by
21 reference is a still image from the above sequence. It is an image positioned from
22 behind K, with his close-cropped hair, garbed in his distinctive trench coat or
23 “duster,” as he stands next to his spinner, facing away from the camera to survey
24 the devastated orange-light-bathed Las Vegas cityscape (“Exhibit A Image”). In
25 the Exhibit A Image, K is surveying the ruins as he prepares to set out on the walk
26 through them that will lead him to the long-lost and mysterious Deckard – the most
27 highly anticipated encounter in the Picture.

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1 28. The images attached hereto as Exhibit B and incorporated herein by
2 reference are still images from K’s walk through the ruins to encounter Deckard
3 (“Exhibit B Images”).

4 29. “Blade Runner 2049,” and the words “Blade Runner” in contexts that
5 refer to or include BR2049 (such as, for example, the words “Blade Runner” not
6 followed by the number “2049,” but alongside iconic images from BR2049, or
7 other callouts to specific scenes or elements of BR2049), the Exhibit A Image, and
8 the Exhibit B Images, all have secondary meaning within the meaning of the
9 Lanham Act, at the level of famous marks.

10 30. They have achieved that status not merely accidentally, but because of
11 Alcon’s extensive and expensive efforts. Beginning no later than 2011 and on a
12 continuing basis ever since, Alcon expended and continues to expend vast
13 resources, in excess of \$200 million to date, from original acquisition of relevant
14 underlying rights, to development, production, marketing, and distribution of
15 BR2049, to ongoing brand development and active policing of infringements, to
16 development, production and distribution of numerous derivative works, including
17 without limitation television series, comic books, and video games.

18 31. The Picture was theatrically released globally on a day-and-date basis
19 in October 2017. It received an 89% positive audience reaction on well-known
20 film review site Rotten Tomatoes. Among numerous other awards, BR2049 was
21 nominated for five Academy Awards, and it won two: Best Cinematography and
22 Best Visual Effects. IGN gaming website named BR2049 the Best Movie of the
23 Year for 2017, the Golden Tomato Awards named it the Best Sci-Fi/Fantasy Movie
24 of 2017, and the 2018 Saturn Awards named it the Best Science Fiction film.
25 BR2049 is regularly identified as one of the best science fiction movies of all time
26 on lists of such movies generated by journalists, critics, and consumers.

27 32. Alcon’s efforts thus have generated robust consumer goodwill and
28 brand recognition for BR2049 and its elements, specifically including the Exhibit

1 A Image and the Exhibit B Images in the Lanham Act context. Both the Exhibit A
2 Image and the Exhibit B Images have been, and still are, prominently used by
3 Alcon in the marketing, promotion and publicity of BR2049.

4 33. The Exhibit A Image was the image used as the lead photo for
5 numerous marketing, promotional and publicity press pieces about the Picture
6 preceding its October 2017 initial theatrical release. It is still to this day the image
7 that appears as the cover image to the official BR2049 marketing and promotional
8 trailer as that trailer appears on YouTube. It is the back cover image for *The Art*
9 *and Soul of Blade Runner 2049*, the coffee table book celebrating the Picture's
10 visual design elements. It thus is one of the most iconic images from the Picture,
11 and also one of the most commercially significant in a marketing sense. It
12 immediately evokes BR2049 and everything the Picture stands for, without any
13 words or other references. It is the image which Defendants specifically requested
14 to use (and were refused by Alcon), as discussed further, *infra*.

15 34. Images from BR2049's same Las Vegas sequence also have been, and
16 still are, used by Alcon for marketing, promotion and publicity for the Picture. As
17 just one example, the front cover of the same *The Art and Soul of Blade Runner*
18 *2049* coffee table book about the Picture is from Exhibit B Images set (K's duster-
19 garbed silhouette moving alone through misty orange-lit emptiness). Exhibit B
20 Images and similar images from the same sequence in the Picture consistently
21 appear at, or near, the top of search engine queries about the Picture. Exhibit B
22 Images and those like them from the Las Vegas sequence -- of a silhouetted trench
23 coat-wearing man moving through a misty orange-colored ruinous urban desert
24 landscape -- are immediately evocative of BR2049, without any other cues or
25 references required.

26 35. The Picture and its brand (including specifically the words "Blade
27 Runner" even without the year "2049," when used in contexts that evoke BR2049
28 distinct from the 1982 Picture, and specifically including the Exhibit A Image and

1 Exhibit B Images) all have especially high resonance as to artificial intelligence,
2 advanced automotive technology, and the combination of the two. K's spinner has
3 been recognized culturally as one of the most famous vehicles in motion picture
4 history. For example, the Petersen Automotive Museum in Los Angeles featured
5 one of the full-scale prop models of K's spinner prominently in the museum's
6 extended run of its "Hollywood Dream Machines: Vehicles of Science Fiction and
7 Fantasy" special exhibit which ran from 2019 to 2020. The BR2049 K spinner was
8 one of only three vehicles selected to be on the marketing one-sheet poster for the
9 Petersen exhibit, along with the time-traveling DeLorean from the "Back to the
10 Future" movies and a light cycle from "Tron: Legacy."

11 36. Numerous major automotive brands expressed substantial interest in a
12 co-promotion brand partnership with Alcon on BR2049 prior to the Picture's initial
13 theatrical release. K's spinner as it appears in BR2049 is in fact branded under a
14 major global automotive brand. The contract price for that theatrical release co-
15 promotion was well into the eight figures.

16 37. BR2049 is a commercially living property, with an ongoing active
17 market for automotive brand partnerships in particular. For instance, as already
18 mentioned, Alcon is currently in production on *Blade Runner 2099*, a BR2049-
19 derived sequel or spin-off television series and Alcon is currently actively in the
20 process of engaging with automotive brands for brand partnerships on that project.

21 ***The October 10, 2024 Tesla Marketing Event and Alcon's Express Denial of***
22 ***Defendants' License Requests and Clear Objections to Any Affiliation***

23 38. Some of what happened among the Defendants is not yet known to
24 Plaintiff, and likely will not be known until and unless Plaintiff is allowed
25 discovery. Based on news reports, the nature of the event, and industry custom and
26 practice with respect to studio lot events, and partial information provided by
27 WBDI agents or representatives, Plaintiff makes the allegations in this paragraph
28 38 on information and belief and subject to the need for discovery: At some point

1 prior to October 10, 2024, Tesla and WBDI entered into a contractual agreement,
2 the details of which are unknown to Alcon, but the essence of which necessarily
3 included that WBDI would lease or license or otherwise provide studio lot space,
4 lot access, infrastructure support and other resources to Tesla for the October 10,
5 2024 cybercab event and preparations leading up to it. The event involved
6 substantial WBDI resources and lot access. For example, pre-event preparations
7 were significant and started weeks or months prior, including Tesla vehicles
8 repeatedly driving the studio lot to map it beforehand, so that about fifty fully
9 autonomous Tesla cars could navigate the lot carrying Musk and event attendees on
10 fully driverless rides as part of the event. The contract necessarily would have
11 required substantial financial compensation to be paid by Tesla to WBDI, in at
12 least the high six figures and possibly in seven figures.

13 39. Based on what actually happened at the event and the communications
14 from WBDI agents and representatives to Alcon on the day of the event, as well as
15 the absence of any substantial brand affiliation negotiation communications to
16 Alcon at earlier dates or at all, Alcon is informed and believes and subject to the
17 need for discovery thereon makes the allegations in this paragraph 39: The Tesla-
18 WBDI event contract (or another associated contract) included a promotional
19 element or elements, whereby WBDI allowed or possibly even required Tesla
20 expressly to affiliate the cybercab with one or more motion pictures from WBDI's
21 motion picture library, or the motion picture library of WBDI's subsidiary Warner
22 Bros. Pictures, a division of WB Studio Enterprises Inc. ("Warner Bros. Pictures").

23 40. Warner Bros. Pictures was Alcon's domestic distributor for the 2017
24 theatrical release of BR2049 and still has some domestic distribution rights, but not
25 without limitations and restrictions. Warner Bros. Pictures has some limited and
26 ongoing "clip licensing" rights in the domestic market only, and not at all for a
27 livestream television feed. Moreover, neither Warner Bros. Pictures nor any other
28 WBDI entity owns the copyright in BR2049 or any of the Picture's marks or

1 goodwill. No WBDI entity has or ever had any non-domestic rights or permissions
2 for the Picture. Thus, neither Warner Bros. Pictures nor any other WBDI entity has
3 or ever had sufficient rights to allow Tesla to exploit BR2049 or any of its
4 elements, marks or goodwill in connection with the globally livestreamed cybercab
5 reveal event.

6 41. Warner Bros. Pictures has a longstanding course of dealing with
7 Alcon generally and on BR2049 specifically. Pursuant at least to that course of
8 dealing, and custom and practice in the industry, Warner Bros. Pictures is required
9 to, expected by Alcon to, and in fact actually does consult with Alcon and seek
10 Alcon's approval prior to brand affiliation licensing of any BR2049 elements for,
11 *inter alia*, a substantial, high-profile, and highly commercial brand affiliation,
12 especially if the affiliation is potentially controversial or politically charged, and
13 even if for only the domestic market.

14 42. Neither Warner Bros. Pictures nor any other WBDI entity or
15 representative ever communicated with Alcon at all about any potentially
16 contemplated BR2049 brand affiliation with the Tesla cybercab or the event.
17 (Even the communications that occurred from WBDI's representative to Alcon on
18 the day of the event were disingenuously in the context of a purported relatively
19 routine "clip license" request, never as the much more significant brand affiliation
20 really at issue.) That failure is inconsistent with the above long-standing course of
21 dealing, and with custom and practice in the industry.

22 43. Based on what actually happened at the event and the communications
23 to Alcon from WBDI representatives on the day of the event and since, as well as
24 the absence of certain communications to Alcon at earlier dates or at all, Alcon is
25 informed and believes and, subject to the need for discovery, makes the allegations
26 in this paragraph 43: Musk communicated to WBDI at some point in the event
27 planning process, that Musk specifically wanted to associate the cybercab and
28 Tesla with BR2049. Musk believed (incorrectly) that BR2049 was part of the

1 relevant WBDI motion picture library subject to the Tesla-WBDI event agreement,
2 or otherwise that WBDI could grant Tesla worldwide BR2049 exploitation rights
3 to affiliate BR2049 with the cybercab during the event. Among other BR2049
4 brand affiliation rights, Tesla and Musk asked WBDI for specific permission and
5 rights to use the Exhibit A Image. The specific Tesla employees, contractors or
6 agents tasked with executing on these issues included David Adametz (“Adametz”)
7 (a video production marketing executive at Tesla) and Shara Lili (“Lili”), a
8 Manager of Video Content for Tesla (also a video production marketing executive
9 at Tesla). One or both of Adametz and Lili were in direct contact with WBDI
10 executives about the BR2049 brand affiliation, and one or both of Adametz and
11 Lili were also in direct or indirect contact with Musk about it, too.

12 44. Based on similarly-founded information and belief, and subject to the
13 need for discovery, Alcon further makes the allegations in this paragraph 44: At the
14 request of one or all of the Defendants (possibly made by Adametz or Lili on
15 behalf of Tesla and Musk), WBDI’s shared services rights clearance department
16 commenced clearance checks on the planned BR2049 brand inclusion in the
17 October 10, 2024 cybercab event.² For reasons not yet fully known to Alcon,
18 WBDI’s shared services rights clearance department commenced (incorrectly) to
19 clear the use as only involving a need for a “clip license” (typically a relatively
20

21
22 ² Shared services departments at Hollywood studios and their affiliated larger
23 corporate conglomerates have personnel (often legal, financial, accounting, or
24 human resources professionals) who may be ostensibly employed by, receive their
25 paychecks from, and have titles only with, a single corporate entity in the larger
26 conglomerate, but who in fact render services upon request or direction to a range of
27 entities within the conglomerate. Here, Plaintiff is informed and believes and on
28 that basis alleges that the WBDI shared services licensing department personnel
involved in this matter included an individual executive who is based in Burbank,
California and ostensibly an employee of Warner Bros. Pictures, but who on request
or direction renders licensing and clearance services to WBDI or on its behalf.

1 small dollar value and innocuous type of rights license and distinct from a brand
2 partnership or brand affiliation license), and only to the Exhibit A Image.

3 45. Alcon does not yet know all of what actually happened internally at
4 WBDI, or in WBDI communications with Musk and Tesla, as to why none of them
5 ever contacted Alcon about the larger brand affiliation proposal that was really
6 effectively at issue. Alcon is unlikely to know without litigation discovery.
7 However, Alcon does know at least the following three things: a) the magnitude
8 and nature of the cybercab event and the contemplated BR2049 use in it, meant that
9 the issue was well beyond a mere “clip license,” but rather a more substantive
10 brand affiliation, requiring significant business discussions with Alcon to proceed;
11 b) none of the Defendants or anyone acting on their behalves ever made any
12 contact with any Alcon representative about the cybercab event prior to the actual
13 day of the event, not even for a “clip license”; and c) none of them ever made any
14 larger brand affiliation outreach to Alcon at all, even on the day of the event.
15 Instead, Alcon learned about Defendants’ interest in BR2049 on the day of the
16 event, a mere six hours prior to the event’s scheduled commencement, as follows:

17 46. At shortly after 12:00 p.m. PDT (noon) on October 10, 2024, the day
18 of the event, a WBDI shared services clip licensing executive based in Burbank
19 and engaged in the WBDI-Tesla-Musk BR2049 rights clearance process realized
20 that WBDI’s shared services licensing personnel could not ever clear the proposed
21 BR2049 cybercab event affiliation without reaching out to Alcon and/or Alcon’s
22 international distribution partner, including at a minimum because the cybercab
23 event required global rights, not only domestic, since the event would be
24 livestreamed globally. On information and belief, the WBDI shared services clip
25 licensing executive communicated the problem directly or indirectly to WBDI
26 executives and to Tesla’s Adametz or Lili, and informed them that either Alcon
27 and/or Alcon’s international distribution partner would have to grant permissions,
28 ///

1 or the BR2049 affiliation in the event could not occur, since international rights
2 were involved.

3 47. The WBDI shared services clip licensing executive then sent an email
4 “heads up” to their counterpart at Alcon’s international distribution partner that
5 they might be getting an emergency rush basis BR2049 rights permission request
6 for “a Tesla even[t] happening today on our lot (sorry).” The shared services
7 licensing executive at Alcon’s international distribution partner communicated that
8 they would be unable to help without Alcon’s direct involvement, resulting in
9 contact finally being made with Alcon for the first time (just several hours before
10 the event’s scheduled commencement), by looping in an Alcon legal and business
11 affairs executive into a portion of the clearance communication chain.

12 48. In a resulting combination of telephonic and email communications
13 among Alcon’s legal department and the above-referenced two shared services clip
14 licensing executives at WBDI and Alcon’s international distribution partner, Alcon
15 sought further information about the proposed BR2049 rights actually being
16 requested. Although the information given was sparse, Alcon learned enough
17 information for Alcon’s co-CEOs to consider the proposal and firmly reject it,
18 which they did. By no later than about 2:00 p.m. PDT on October 10, 2024, by a
19 combination of emails and telephone communications, Alcon’s legal and business
20 affairs executive communicated back to the WBDI shared services clip licensing
21 executive and the international distributor shared services clip licensing executive
22 that: a) Alcon refused all permissions for the October 10, 2024 WBDI-Tesla event;
23 b) Alcon was adamant that under no circumstances should there be any BR2049
24 affiliation, or any other Alcon affiliation, express or implied, with Tesla, X, Musk
25 or any Musk-owned company in the course of the October 10, 2024 event, or ever
26 (including a requirement to note Alcon’s position and directions in Warner Bros.
27 Pictures and WBDI databases); and c) the two shared services clip licensing
28 executives were to please relay both of these a) and b) messages back to WBDI,

1 Tesla and X, including so that there would be no mistakes in the conduct of the
2 event. Both of the shared services clip licensing executives reported back to
3 Alcon's legal and business affairs executive that they had communicated both
4 messages as requested. Alcon is informed and believes and thereon alleges that in
5 fact they did.

6 49. Alcon is thus informed and believes and thereon alleges that by no
7 later than about 2:00 p.m. PDT on October 10, 2024, WBDI, Tesla and X all knew
8 and understood that Alcon had not only refused any permissions to use any
9 BR2049 copyrighted elements in connection with the WBDI-Tesla event, but
10 Alcon had also expressly and clearly objected to any express or implied BR2049
11 affiliation with the event, or with Tesla, Tesla's cybercab, Musk, or X.

12 50. Musk was personally doing the event presentation and would have to
13 know what he was presenting and the parameters. Based on that reality and all the
14 circumstances known to Alcon so far, Alcon is informed and believes, and on that
15 basis and subject to the need for discovery, makes the allegations of this paragraph
16 50: At some point between about 2:00 p.m. PDT and the approximately 8:00 p.m.
17 PDT actual start time of the event on October 10, 2024, Musk personally became
18 aware of Alcon's permission denials and express objections (likely directly or
19 indirectly through Adametz or Lili). He thus personally knew and understood that
20 to incorporate BR2049 into the event presentation at all would be improper and an
21 unauthorized misappropriation of BR2049 goodwill. He did it anyway.

22 ***Defendants' October 10, 2024 Intentional Copyright Infringement***
23 ***and Brand Misappropriation***

24 51. The event was scheduled to begin at 7:00 p.m. PDT on October 10,
25 2024, but did not actually begin until about 8:00 p.m. PDT. In a brief introduction
26 of a minute or less, a Tesla representative named "Franz" took the stage. Franz's
27 only substantive remark was to note that the presentation was being made from the
28 Warner Bros. lot, the home of many science fiction films that show visions of the

1 future (a clumsily transparent excuse to attach Tesla and the cybercab to
2 Hollywood brands). Franz then quickly segued to saying that the event would
3 involve Tesla showing a vision of the future, and who better than Musk to do it.
4 The livestream then shifted to a combination of aerial shots and ground cameras
5 showing a cybercab arriving at an on-lot theater, some distance away from the
6 presentation stage building. Musk emerged from the theater and entered the
7 cybercab after silently waving to a small crowd.

8 52. The livestream tracked the Musk-bearing cybercab from various
9 camera vantage points as it autonomously slowly rolled him to the presentation
10 stage building at another part of the lot. Musk exited and took the event stage. He
11 spent about another minute on welcoming remarks and explaining that there were
12 20 cybercabs and another 30 fully autonomous and driverless Tesla Model Ys at
13 the event that attendees would be able to take a ride in.

14 53. Then to commence the actual presentation, Musk said: “So you see a
15 lot of sci-fi movies where the future is dark and dismal, where it’s not a future you
16 want to be in.” As he said this, the event’s global livestream feed changed to a full
17 screen display of a presentation slide with an image of the Earth from space at
18 sunrise, with the words “What Kind of World Do We Want to Live In?” This first
19 slide stayed on the full-screen livestream feed for less than two seconds.

20 54. Then, the livestream full screen display shifted to Musk’s second
21 slide, which the livestream displayed for about 11 seconds. The second slide is an
22 image that looks like a motion picture still photo (although it isn’t) of a male figure
23 seen from behind, with close-cropped hair, wearing a trench coat or duster,
24 standing in almost full silhouette as he surveys the abandoned ruins of a city, all
25 bathed in misty orange light. In the upper left corner the words “Not This” appear
26 superimposed on part of the orange sky. Exhibit C is a screenshot of this second
27 slide image from Musk’s presentation (“Presentation Slide 2 Image”).

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1 55. The Presentation Slide 2 Image was clearly intended to read visually
2 either as an actual still image from BR2049’s iconic sequence of K exploring the
3 ruined Las Vegas, or as a minimally stylized copy of one (and it does read like one
4 or both of these). From Alcon’s examination, it seems likely to have been
5 generated by copying the Exhibit A Image and the Exhibit B Images (or similar
6 images from the Picture’s Las Vegas sequence), and asking an AI image generation
7 engine to make “an image from the K surveying ruined Las Vegas sequence of
8 ‘Blade Runner 2049,’” or some closely equivalent input direction. On information
9 and belief, and subject to the need for discovery, Alcon alleges that in fact this is
10 how the Presentation Slide 2 Image was generated, and for the bad faith intentional
11 purpose of affiliating BR2049 and its goodwill with Tesla’s cybercab, over Alcon’s
12 denial of permission and express objections.

13 56. On information and belief, and subject to the need for discovery,
14 Alcon makes the allegations in this paragraph 56: The Presentation Slide 2 Image
15 was generated in the above way by an employee or agent of one or more of WBDI,
16 Tesla (possibly by Adametz or Lili), or even possibly by Musk himself, and this
17 was done with knowledge of the improper nature and purpose of the image
18 generation request. All of the Defendants participated in its creation, and in its
19 display in the presentation at the event, from a WBDI-owned building and studio
20 lot, on WBDI-owned video screens and otherwise using WBDI-owned technology
21 infrastructure, operated by or in conjunction with Tesla employees, all acting in
22 whole or in part subject to the direction and control of Musk, at least during the
23 time of the event. Defendants all acted with the knowledge and understanding that
24 the X livestream or other equivalent video record of the event would be retweeted,
25 reposted, or otherwise picked up and redistributed tens of thousands or even
26 millions of times across the United States and the world immediately and
27 continuing for days after the event. In any event, all three of WBDI, Tesla and
28 Musk knew and understood the unauthorized nature of the image and the improper

1 purpose behind it, and encouraged or otherwise lent their support to the improper
2 endeavor. In the alternative, as to any and all Defendants who did not so actively
3 participate, such Defendants ratified the conduct and knowingly accepted the
4 benefits of it.

5 57. If there were any doubt that Defendants intended to evoke BR2049
6 with the Presentation Slide 2 Image and Musk’s related remarks, Musk erased them
7 with his voiceover comments during the approximately 11 seconds that the
8 infringing Presentation 2 Image was completely filling the livestream screen. He
9 said: “You know, I love ‘Blade Runner,’ but I don’t know if we want that future. I
10 believe we want that duster he’s wearing, but not the, uh, not the bleak
11 apocalypse.” The Presentation Slide 2 Image then disappeared and Musk segued to
12 talking about how what we all should want is a happier looking future, and how
13 happy and joyful his vision of cities and highways filled with driverless robot cars
14 will be and why.

15 58. Although Musk said the words “Blade Runner” without the year
16 number (without “2049”), he clearly specifically meant to evoke BR2049 rather
17 than the original 1982 Picture, and he was motivated to do so. The two films are
18 clearly related, but BR2049 has its own distinct brand and secondary meaning, and
19 BR2049’s specific goodwill is far more relevant to Tesla’s and Musk’s cybercab
20 pitch and product.

21 59. Although the 1982 Picture does prominently feature flying car
22 “spinners,” the cars in the 1982 Picture are not shown to be wholly or even
23 partially autonomous, or even shown to employ artificial intelligence themselves in
24 any way. None of the cars in the 1982 Picture play any role as a quasi-sentient
25 companion to the Deckard lead character in the 1982 Picture, like K’s spinner does
26 for K in BR2049. Pointedly, then, if you are a company (or own one) specifically
27 trying to market artificially intelligent, wholly or partially autonomous self-driving
28 cars (as Tesla and Musk are), the 1982 Picture has little or no specifically relevant

1 context. In contrast, BR2049 has extremely relevant context and worldwide
2 goodwill in precisely the areas of artificial intelligence, self-driving capability, and
3 autonomous automotive capability that Tesla and Musk are trying to market.

4 60. Musk did successfully evoke BR2049 specifically, and that is true
5 even though Musk only said the words “Blade Runner” without adding the year
6 “2049. For the reasons detailed in the next paragraphs below, Musk’s act of
7 displaying the Exhibit C Image -- an image of a man in near-silhouette, with close-
8 cropped hair and wearing a duster, while he surveys an orange-light-bathed ruined
9 and abandoned cityscape -- and displaying it for 11 seconds while Musk talks
10 about “Blade Runner” and a specifically “apocalyptic” future – that is all
11 specifically evocative of BR2049, and not of the 1982 Picture.

12 61. While both the 1982 Picture and BR2049 show dystopian urban
13 futures, only BR2049 has a specifically apocalyptic setting. Only BR2049 has an
14 abandoned and ruined city (Las Vegas) that has suffered an event of extreme
15 destruction (the detonation by terrorists of a dirty nuclear device). The ruined Las
16 Vegas is where the most dramatically charged events of the BR2049 story take
17 place (K’s encounter with the long-lost Deckard). The setting has striking color
18 design, cinematography and other visual elements: it is distinctly bathed in
19 “apocalyptic” misty orange light, just like the Presentation Slide 2 Image and
20 which the 1982 Picture does not have in any comparable scene. Throughout
21 BR2049, there also are general references and story elements about civilization
22 having semi-recently suffered a broader, apocalyptic nuclear conflict in the mid-
23 range past, including electromagnetic pulse activity that destroyed many electronic
24 records, making investigation of the past difficult.

25 62. In contrast, the 1982 Picture is set in a dystopian urban landscape of a
26 then-futuristic 2019 Los Angeles, but the 1982 Picture’s setting is specifically not
27 apocalyptic. In the 1982 Picture, there has not been any dirty nuclear device, or
28 nuclear electromagnetic burst which destroyed electronic records, or other

1 apocalyptic destruction that has hit Los Angeles or Las Vegas or any other
2 location. If anything, the urban setting of the 1982 Picture is the opposite of
3 abandoned and ruined: it is overrun with too much ongoing industry and suffering
4 from overpopulation. It is not a stark, lonely, misty, orange, dry, radiated desert
5 ruin like BR2049's Las Vegas or the Presentation Slide 2 Image, but rather is an
6 overcrowded neon urban prison, where the citizens are trapped in constant night
7 plagued by perpetual rain and an ever-present bombardment of consumer
8 advertising. In the 1982 Picture, neither the main character nor anyone else ever
9 goes to any orange-colored post-apocalyptic ruined city or any other such location,
10 in a duster or otherwise.

11 63. Musk thus very clearly meant specifically to evoke not the 1982
12 Picture, but rather BR2049 and everything that goes with it -- including artificially
13 intelligent autonomous cars like the Tesla cybercab being pitched at the event. He
14 successfully did.

15 64. Any argument that Musk and his co-Defendants only meant to talk
16 broadly about the general idea of science fiction films and undesirable apocalyptic
17 futures and juxtaposing them with Musk's ostensibly happier robot car future
18 vision, and that they just used BR2049 by chance, without conscious awareness of
19 and intent to appropriate BR2049's special secondary meaning in the context of
20 trying to sell artificially autonomous cars, is not credible.

21 65. First, as detailed in foregoing paragraphs, there is a clear record that
22 WBDI and Tesla were specifically interested in BR2049, as late as mere hours
23 before the event, and not just any BR2049 Image, but the Exhibit A Image
24 prominently featuring K's artificially intelligent autonomously capable spinner.

25 66. Second, if Musk by his presentation was only trying to use an
26 exemplary science fiction movie to make a rhetorical point, there were much better
27 choices actually in the WBDI library for him to reference, given what his point
28 ostensibly was. Musk's ostensible point was "science fiction film futures look

1 bleak and not thinking enough about transportation technology risks that kind of
2 apocalyptic future; I can help us do better with my cybercabs.” If that was really
3 the point he was trying to make, there are better films actually in the WBDI library
4 to make it.

5 67. Every single one of the five “Mad Max” movies in WBDI’s motion
6 picture library (“Mad Max,” “The Road Warrior,” “Mad Max Beyond
7 Thunderdome,” “Fury Road,” and “Furiosa: A Mad Max Saga”) deals far more
8 specifically than BR2049 with that ostensible message. Every one of the Mad Max
9 movies is set in an apocalyptic future where gas-powered, non-autonomous
10 vehicles not only played a part in bringing about civilization’s end (wars over oil),
11 but where gasoline and gas-powered non-autonomous cars continue to be what the
12 remaining humans fight with and about in the post-apocalyptic wasteland. Any of
13 those “Mad Max” movies in the WBDI library thus would have made much more
14 sense to use, if the true purpose of referencing a specific film was to make a
15 rhetorical point.

16 68. The entire opening and its forced references to science fiction films
17 generally was never really for Musk to make a rhetorical point, though. Franz’s
18 and Musk’s Hollywood film rhetoric was just a contrivance for something else
19 more economically valuable to the Defendants. The WBDI lot location, and
20 especially the strained science fiction film references, were all clearly an
21 intentional effort to affiliate Tesla and its cybercab with Hollywood brands, and at
22 a time when Musk and Tesla are on the outs with Hollywood creatives and brands.
23 It was all about appropriating desirable Hollywood associations, and if possible,
24 Hollywood associations with special resonance to artificial intelligence and
25 strikingly-designed autonomous cars.

26 69. The “Mad Max” movies are great, and so are many other dystopian-
27 future or apocalyptic-future movies actually in WBDI’s library. But those movies
28 don’t have massive consumer goodwill specifically around really cool-looking

1 (Academy Award-winning) artificially intelligent, autonomous cars. BR2049 does.
2 It was the best and most specifically relevant film brand for Tesla to appropriate, or
3 one of the best. Musk and the other Defendants specifically wanted BR2049's
4 goodwill for the event, not that of any other science fiction movie, and when Alcon
5 did not give it to them, they stole it.

6 70. The theft infringed Alcon's copyright in the Picture, and created actual
7 confusion or a likelihood of it in the relevant marketplaces about BR2049 branding,
8 including Alcon's current marketing efforts with potential auto brand partners on
9 the *Blade Runner 2099* television series, among other marketplace confusion and
10 brand damage. Alcon needs relief.

11 **FIRST CLAIM FOR RELIEF**

12 ***Direct Copyright Infringement in Violation of 17 U.S.C. § 501, et seq.***

13 ***Against Defendants WBDI, Tesla and Musk***

14 71. Plaintiff repeats, re-alleges and incorporates herein by reference each
15 and every allegation set forth in all of the foregoing paragraphs, and in each
16 paragraph of this Complaint hereafter, as if set forth herein in full.

17 72. To the extent any of the allegations or theories in this First Claim for
18 Relief are inconsistent with other allegations or theories pled in this Complaint,
19 they are pled in the alternative.

20 73. Plaintiff is the author and copyright owner of the motion picture
21 "Blade Runner 2049," registered with the United States Copyright Office on
22 October 6, 2017, registration number PA0002056792.

23 74. The images from BR2049 appearing in Exhibits A and B attached
24 hereto, and similar images from the "K explores ruined Las Vegas" visual sequence
25 of the film, are protectible elements of the motion picture, and are at the creative
26 core or "heart of the work."

27 75. Defendant WBDI, Tesla and Musk are direct infringers, in that they
28 directly reproduced, created unauthorized derivative works of, displayed,

1 distributed, and publicly performed protectible elements of BR2049 without
2 Plaintiff's license, authorization, or permission. Specifically, Defendants WBDI,
3 Tesla (perhaps specifically by Adametz or Lili) and Musk generated or caused the
4 generation of the Presentation Slide 2 Image attached hereto as Exhibit C, in
5 connection with the October 10, 2024 Tesla cybercab product reveal event co-
6 conducted by WBDI, Tesla and Musk. Plaintiff is informed and believes and on that
7 basis, and subject to the need for discovery, alleges that to generate the Presentation
8 Slide 2 Image, Defendants WBDI, Tesla and Musk or the image generation tool that
9 they used engaged in unauthorized copying and/or distribution and/or display of
10 protectible elements of BR2049, specifically images of the type described in
11 paragraph 74 above.

12 76. The Presentation Slide 2 Image is in any event an unauthorized
13 derivative work of BR2049. Defendants WBDI, Tesla and Musk caused the
14 infringing Presentation Slide 2 image to be distributed, displayed and publicly
15 performed at the Tesla-WBDI event at the Burbank, California lot to an audience
16 large enough to constitute a public performance at that location, and also across the
17 United States and around the world, and by the thousands of retweets and repostings
18 of the event video feed that Defendants WBDI, Tesla and Musk knew would
19 inevitably happen.

20 77. The foregoing acts of Defendants WBDI, Tesla and Musk infringed
21 upon the exclusive rights granted to Alcon under 17 U.S.C. § 106 to reproduce,
22 create derivative works, display, distribute and publicly perform BR2049 and its
23 protectible elements. Such actions and conduct constitute copyright infringement in
24 violation of 17 U.S.C. § 501, *et seq.*

25 78. Plaintiff has complied with 17 U.S.C. §§ 101, *et seq.* and secured and
26 registered the exclusive rights and privileges in and to the copyrights of the above-
27 referenced work in accordance with 17 U.S.C. § 408.

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1 79. Plaintiff suffered damages as a result of Defendants' unauthorized use
2 of BR2049 and its protectible elements.

3 80. Plaintiff is entitled to temporary, preliminary and/or permanent
4 injunctive relief, pursuant to 17 U.S.C. § 502(a).

5 81. Pursuant to 17 U.S.C. § 503 and its subdivisions, Plaintiff is entitled to
6 impoundment of all materials used to achieve the infringement, and records
7 documenting Defendants' exploitation of their infringements, including without
8 limitation all materials used by Defendants or any image generation tool employed
9 by them to generate the Presentation Slide 2 Image.

10 82. Plaintiff is entitled to recover and seeks its actual damages and any
11 additional profits of Defendants WBDI, Tesla and Musk attributable to the
12 infringements, under 17 U.S.C. § 504(b).

13 83. Plaintiff also is entitled to elect to recover and seek statutory damages
14 under 17 U.S.C. §§ 512 and 504(c), in an amount of not less than \$750 or more than
15 \$30,000 per infringement of BR2049. Furthermore, Plaintiff is informed and
16 believes and on that basis alleges that Defendants' acts of copyright infringement, as
17 alleged above, were willful, intentional, and malicious. Such acts subject
18 Defendants to liability for statutory damages under Section 504(c)(2) of the
19 Copyright Act in the sum of up to \$150,000 per infringement.

20 84. Within the time permitted by law, Plaintiff will make its election
21 between actual damages and profit disgorgement, or statutory damages.

22 85. Plaintiff also is entitled to a discretionary award of attorney fees under
23 17 U.S.C. § 505.

24 86. Plaintiff seeks or reserves the right to seek any or all of the above forms
25 of relief, in addition to prejudgment interest to the extent legally available and
26 Plaintiff's costs.

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1 **SECOND CLAIM FOR RELIEF**

2 ***Vicarious Copyright Infringement in Violation of 17 U.S.C. § 501, et seq.***

3 ***Against Defendants WBDI, Tesla and Musk***

4 87. Plaintiff repeats, re-alleges and incorporates herein by reference each
5 and every allegation set forth in all of the foregoing paragraphs, and each
6 paragraph of this Complaint hereafter, as if set forth herein in full.

7 88. To the extent any of the allegations or theories in this Second Claim
8 for Relief are inconsistent with other allegations or theories pled in this Complaint,
9 they are pled in the alternative.

10 89. If Defendants WBDI, Tesla and Musk are not each liable as direct
11 infringers of BR2049, they are secondarily liable for the infringements directly
12 committed by individual agents, contractors, or other infringers presently unknown
13 (the “Direct Infringers”) under the vicarious infringement doctrine.

14 90. Defendants WBDI, Tesla and Musk had the right and ability to
15 supervise the infringing activity that all the Direct Infringers committed. The facts
16 and circumstances of the event make clear that at the very least Tesla and Musk
17 could have refrained from including the Presentation Slide 2 Image in the
18 presentation or told their agents, employees or contractors not to include it.
19 Defendant WBDI was using its shared services licensing department to perform
20 clearance work for the presentation at least related to film references. Plaintiff is
21 thus informed and believes and on that basis, and subject to the need for discovery,
22 alleges that WBDI had the right and ability to tell the Direct Infringers that their
23 infringing conduct was not acceptable and could not be part of the presentation. To
24 the extent that the Direct Infringers were individual agents, employees or
25 contractors of WBDI, then WBDI plainly had the right and ability to supervise the
26 Direct Infringers’ infringing conduct.

27 91. Defendants obtained some direct financial benefit from the
28 infringement of Plaintiff’s rights in BR2049 by the Direct Infringers. The

1 infringements of BR2049 in question are the Direct Infringers' generation of the
2 Presentation Slide 2 Image and the way that it was used during the event and
3 afterward in livestream exploitation, distribution and ongoing display and public
4 performance. The Presentation Slide 2 Image was and is pivotal to Defendants
5 WBDI, Tesla and Musk effectively misappropriating BR2049's goodwill to advance
6 both (a) the consumer appeal of the joint Tesla-WBDI cybercab presentation itself
7 (which presentation was essentially an infomercial), and (b) consumer and investor
8 interest in Tesla and the cybercab.

9 92. Based on past actual brand affiliation contracts for automotive partners
10 on BR2049, Tesla likely would have had to make significant expenditures – at least
11 in the mid-six-figures (at least \$500,000) and possibly into the eight figures (\$10
12 million or more) to obtain a BR2049 brand affiliation with Tesla and the cybercab at
13 market value, if Alcon had even been willing to do it at all. The copyright
14 infringements here facilitated allowing Tesla to save this expenditure.

15 93. With respect to Musk, Plaintiff is informed and believes and on that
16 basis, and subject to the need for discovery, alleges that Musk believed that the
17 affiliation of BR2049 with the Tesla cybercab during the product reveal increased
18 the likelihood that the product reveal event would have a positive response with
19 actual and potential investors in Tesla, such that Tesla's stock price would increase,
20 which was a significant purpose of the Tesla-WBDI event. On the same basis and
21 for the same reasons, Plaintiff further alleges that Musk similarly believed that the
22 BR2049 reference and affiliation would increase consumer interest in Tesla
23 cybercabs, and that Tesla would sell more of them or experience more pre-orders for
24 them. Musk is not only the largest shareholder in Tesla, but his compensation as
25 CEO is directly tied to the Tesla stock price, as a substantial portion of Musk's
26 compensation is grants of equity in Tesla. Musk thus believed he would directly
27 benefit financially from the infringement.

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1 94. With respect to WBDI, Plaintiff is informed and believes and on that
2 basis, and subject to the need for discovery, alleges that the event contract between
3 WBDI and Tesla included a co-promotional or brand affiliation element, and that
4 prior to October 10, 2024, Tesla and Musk believed and relied on (inaccurately) that
5 WBDI could deliver a brand affiliation with BR2049. Plaintiff is informed and
6 believes and on that basis, and subject to the need for discovery, alleges that when
7 Tesla and Musk learned that was not true or not the same situation as they had
8 believed, WBDI had a financial incentive to avoid any claims of breach of contract
9 or adjustment of the contract price, and one way to do that was essentially to allow
10 the fudging (questionable manipulation) of the situation by either suggesting,
11 encouraging, or knowingly allowing Tesla and Musk's generation of and use of the
12 infringing Presentation Slide 2 Image.

13 95. Accordingly, all Defendants had an incentive to permit infringement by
14 the Direct Infringers.

15 96. The foregoing acts of Defendants WBDI, Tesla and Musk infringed
16 upon the exclusive rights granted to Alcon under 17 U.S.C. § 106 to reproduce,
17 create derivative works, display, distribute and publicly perform BR2049 and its
18 protectible elements. Such actions and conduct constitute copyright infringement in
19 violation of 17 U.S.C. § 501, *et seq.*

20 97. Plaintiff has complied with 17 U.S.C. §§ 101, *et seq.* and secured and
21 registered the exclusive rights and privileges in and to the copyrights of the above-
22 referenced work in accordance with 17 U.S.C. § 408.

23 98. Plaintiff suffered damages as a result of Defendants' unauthorized use
24 of BR2049 and its protectible elements.

25 99. Plaintiff is entitled to temporary, preliminary and/or permanent
26 injunctive relief, pursuant to 17 U.S.C. § 502(a).

27 100. Pursuant to 17 U.S.C. § 503 and its subdivisions, Plaintiff is entitled to
28 impoundment of all materials used to achieve and records documenting Defendants'

1 exploitation of, their infringements, including without limitation all materials used
2 by Defendants or any image generation tool employed by them to generate the
3 Presentation Slide 2 Image.

4 101. Plaintiff is entitled to recover and seeks its actual damages and any
5 additional profits of Defendants WBDI, Tesla and Musk attributable to the
6 infringements, under 17 U.S.C. § 504(b).

7 102. Plaintiff also is entitled to elect to recover and seeks statutory damages
8 under 17 U.S.C. §§ 512 and 504(c), in an amount of not less than \$750 or more than
9 \$30,000 per infringement of BR2049. Furthermore, Plaintiff is informed and
10 believes and on that basis alleges that Defendants' acts of copyright infringement, as
11 alleged above, were willful, intentional, and malicious. Such acts subject
12 Defendants to liability for statutory damages under Section 504(c)(2) of the
13 Copyright Act in the sum of up to \$150,000 per infringement.

14 103. Within the time permitted by law, plaintiff will make its election
15 between actual damages and profit disgorgement, or statutory damages.

16 104. Plaintiff also is entitled to a discretionary award of attorney fees under
17 17 U.S.C. § 505.

18 105. Plaintiff seeks or reserves the right to seek any or all of the above forms
19 of relief, in addition to prejudgment interest to the extent legally available and
20 Plaintiff's costs.

21 **THIRD CLAIM FOR RELIEF**

22 ***Contributory Copyright Infringement in Violation of 17 U.S.C. § 501, et seq.***

23 ***Against Defendants WBDI, Tesla and Musk***

24 106. Plaintiff repeats, re-alleges and incorporates herein by reference each
25 and every allegation set forth in all of the foregoing paragraphs, and each
26 paragraph of this Complaint hereafter, as if set forth herein in full.

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1 107. To the extent any of the allegations or theories in this Third Claim for
2 Relief are inconsistent with other allegations or theories pled in this Complaint,
3 they are pled in the alternative.

4 108. If Defendants WBDI, Tesla and Musk are not individually liable as
5 direct infringers of BR2049, they are secondarily liable for the infringements
6 committed by the Direct Infringers under the contributory infringement doctrine.

7 109. Defendants WBDI, Tesla and Musk had, or should have had,
8 knowledge of the infringements of the Direct Infringers. Tesla and Musk plainly
9 intentionally included the Presentation Slide 2 Image in the October 10, 2024 Tesla
10 presentation, and they could plainly see that it was not an actual still image from
11 BR2049, but rather a stylized copy likely to found infringing. They also all knew
12 that Alcon had refused permission to use BR2049 or any of its elements in the
13 presentation or in connection with it. Defendant WBDI was using its shared
14 services licensing department to perform clearance work for the presentation at
15 least related to motion picture references. Plaintiff is informed and believes and on
16 that basis and subject to the need for discovery alleges that if WBDI or its
17 personnel were not Direct Infringers, WBDI's shared services licensing clearance
18 department was at least being shown image options, including viewing the
19 proposed Presentation Slide 2 Image in advance of the event, and thus knew about
20 the infringement.

21 110. Defendants WBDI, Tesla and Musk either materially contributed to or
22 induced the infringements. Tesla and Musk materially contributed to the direct
23 infringements by including the Presentation Slide 2 in Musk's presentation.
24 Plaintiff is informed and believes and on that basis and subject to the need for
25 discovery alleges that Musk was determined specifically to reference BR2049 and
26 an image from it in the presentation, and his determination induced the direct
27 infringements by the Direct Infringers of creating the infringing Presentation Slide
28 2 Image. Defendant WBDI materially contributed to the direct infringements at the

1 very least in that the event display, distribution and public performance aspects of
2 the infringement occurred at WBDI's Burbank, California studio lot, and with the
3 use and support of WBDI's facilities and technology. Plaintiff is informed and
4 believes and on that basis, and subject to the need for discovery, alleges that WBDI
5 induced the infringement by convincing or encouraging the Direct Infringers and
6 Tesla and Musk that Alcon's denial of any BR2049 permissions could be
7 circumvented by generation and use of an AI-generated copy of iconic BR2049
8 imagery, as Alcon alleges the Presentation Slide 2 Image to be.

9 111. The foregoing acts of Defendants WBDI, Tesla and Musk infringed
10 upon the exclusive rights granted to Alcon under 17 U.S.C. § 106 to reproduce,
11 create derivative works, display, distribute and publicly perform BR2049 and its
12 protectible elements. Such actions and conduct constitute copyright infringement in
13 violation of 17 U.S.C. § 501, *et seq.*

14 112. Plaintiff has complied with 17 U.S.C. §§ 101, *et seq.* and secured and
15 registered the exclusive rights and privileges in and to the copyrights of the above-
16 referenced work in accordance with 17 U.S.C. § 408.

17 113. Plaintiff suffered damages as a result of Defendants' unauthorized use
18 of BR2049 and its protectible elements.

19 114. Plaintiff is entitled to temporary, preliminary and/or permanent
20 injunctive relief, pursuant to 17 U.S.C. § 502(a).

21 115. Pursuant to 17 U.S.C. § 503 and its subdivisions, Plaintiff is entitled to
22 impoundment of all materials used to achieve and records documenting Defendants'
23 exploitation of, their infringements, including without limitation all materials used
24 by Defendants or any image generation tool employed by them to generate the
25 Presentation Slide 2 Image.

26 116. Plaintiff is entitled to recover and seeks its actual damages and any
27 additional profits of Defendants WBDI, Tesla and Musk attributable to the
28 infringements, under 17 U.S.C. § 504(b).

1 117. Plaintiff also is entitled to elect to recover and seeks statutory damages
2 under 17 U.S.C. §§ 512 and 504(c), in an amount of not less than \$750 or more than
3 \$30,000 per infringement of BR2049. Furthermore, Plaintiff is informed and
4 believes and on that basis alleges that Defendants' acts of copyright infringement, as
5 alleged above, were willful, intentional, and malicious. Such acts subject
6 Defendants to liability for statutory damages under Section 504(c)(2) of the
7 Copyright Act in the sum of up to \$150,000 per infringement.

8 118. Within the time permitted by law, Plaintiff will make its election
9 between actual damages and profit disgorgement, or statutory damages.

10 119. Plaintiff also is entitled to a discretionary award of attorney fees under
11 17 U.S.C. § 505.

12 120. Plaintiff seeks or reserves the right to seek any or all of the above
13 forms of relief, in addition to prejudgment interest to the event legally available
14 and Plaintiff's costs.

15 **FOURTH CLAIM FOR RELIEF**

16 ***False Endorsement in Violation of 15 U.S.C. § 1125(a)(1)(A)***

17 ***against All Defendants***

18 121. Plaintiff repeats, re-alleges and incorporates herein by reference each
19 and every allegation set forth in all of the foregoing paragraphs, and each
20 paragraph of this Complaint hereafter, as if set forth herein in full.

21 122. To the extent any of the allegations or theories in this Fourth Claim for
22 Relief are inconsistent with other allegations or theories pled in this Complaint,
23 they are pled in the alternative.

24 123. Alcon owns the "Blade Runner 2049" property and that includes
25 marks and elements that have goodwill and secondary meaning within the meaning
26 of the Lanham Act. Among other such elements, "Blade Runner 2049," and the
27 words "Blade Runner" in contexts that refer to or include the BR2049 motion
28 picture (such as, for example, the words "Blade Runner" not followed by the

1 number “2049,” but alongside iconic images from the BR2049 motion picture, or
2 other callouts to specific scenes or elements of BR2049, including images like
3 Exhibits A, B and C), and many specific elements of the BR2049 motion picture
4 (such as particularly iconic or memorable images from the Picture), have achieved
5 secondary meaning within the meaning of the Lanham Act and at the level of
6 famous marks.

7 124. Certain images and visual sequences from the Picture have secondary
8 meaning on their own, immediately evoking BR2049, and with their own
9 commercial marketing history and significance. The Exhibit A Image and the
10 Exhibit B Images are such images.

11 125. Defendants Tesla and Musk have engaged in false representations
12 which are likely to cause confusion, or to cause mistake, or to deceive as to the
13 affiliation, connection or association of Tesla and Musk with Alcon or as to the
14 sponsorship or approval of Tesla’s or Musk’s goods, services, or commercial
15 activities by Alcon.

16 126. Plaintiff alleges that Tesla and Musk engaged in the following specific
17 conduct that together constituted false statements that constituted false
18 representations of the type described in the foregoing paragraph 124: the conduct
19 and statements made by Tesla and Musk at the October 10, 2024 Tesla-WBDI
20 event as described in paragraphs 50-69 above.

21 127. Tesla’s and Musk’s unauthorized use of, and references, to Alcon’s
22 BR2049 marks and secondary meaning elements had and have the effect of falsely
23 representing that Tesla’s and Musk’s goods and services are licensed, sponsored,
24 endorsed, or otherwise authorized by Alcon.

25 128. Tesla’s and Musk’s conduct is likely to cause confusion or mistake
26 and to deceive consumers and/or Alcon’s relevant actual and potential business
27 partners as to the endorsement, sponsorship, affiliation, connection, or association
28 of Alcon with Tesla’s and Musk’s services and products. In this context, Alcon’s

1 relevant business partners include automotive brands with potential interest in
2 brand affiliations with BR2049, including without limitation with the BR2049-
3 based *Blade Runner 2099* television series currently in production by Alcon. They
4 also include business partners in the Hollywood talent pool market where Alcon is
5 active on an everyday basis, and which Hollywood talent pool market generally is
6 less likely to deal with Alcon, or parts of the market may be, if they believe or are
7 confused as to whether, Alcon has an affiliation with Tesla or Musk.

8 129. Tesla and Musk engaged in the above conduct intentionally and in bad
9 faith, conspiring to and then executing a fraudulent scheme falsely to create a
10 purported justification or excuse to feature Alcon's BR2049 prominently at the
11 outset of Tesla's and Musk's cybercab product reveal presentation, and without
12 paying Alcon any fee for doing so, for the purpose of using BR2049's goodwill to
13 increase the interest level and cache of the new Tesla product pitch and product.

14 130. All of the foregoing false endorsement uses of Alcon's BR2049 marks
15 and goodwill were commercial speech, and not subject to any defense predicated
16 on the nature of the use being a non-commercial use or non-commercial speech.
17 Specifically, some or all of Tesla's and Musk's speech was either (a) core
18 commercial speech in that it proposes a commercial transaction, or in the
19 alternative, (b) was nonetheless commercial for purposes of false endorsement law
20 and Plaintiff's claims herein, in that the communications were advertisements,
21 made reference to a specific product, and the speaker had an economic motivation
22 for the communication, all within the meaning of *Bolger v. Youngs Drugs Products*
23 *Corp.*, 463 U.S. 60 (1983) and its progeny.

24 131. As a direct and proximate result of Tesla's and Musk's wrongful
25 actions, Alcon has suffered damages in an amount to be proven at trial, but in
26 excess of the jurisdictional minimum.

27 132. Alcon further alleges that Tesla's and Musk's unauthorized use of
28 Alcon's BR2049 marks and secondary meaning elements will continue unless and

1 until Tesla and Musk are enjoined. Alcon has no adequate remedy at law to
2 prevent Tesla and Musk from continuing to wrongfully violate Alcon’s rights, and
3 Alcon will suffer irreparable harm unless Defendants are enjoined from continuing
4 their wrongful conduct.

5 133. Plaintiff is informed and believes and on that basis alleges that if
6 afforded a reasonable opportunity for discovery, discovery will show that
7 Defendant WBDI conspired with Tesla and Musk to participate in the above
8 conduct, without Alcon’s express written or oral consent, and over Alcon’s express
9 refusals and objections, for purposes of trade or for other commercial or advertising
10 purposes, and took actions intended to further that conspiracy, such as, among
11 other things:

- 12 a. Attempting to justify use of Alcon’s BR2049 brand by advancing a
13 sham “clip licensing” scheme;
- 14 b. Generating the infringing Presentation Slide 2 Image and/or
15 encouraging Tesla and Musk to use it; and
- 16 c. Intentionally and purposefully not engaging with Alcon at all about a
17 potential brand affiliation, and only engaging with Alcon in any way
18 about the BR2049 use on the day of the event.

19 134. Plaintiff is informed and believes and on that basis alleges that if
20 afforded a reasonable opportunity for discovery, discovery will show that
21 Defendant WBDI aided and abetted Tesla’s and Musk’s Lanham Act violations
22 described herein, including in that WBDI aided, encouraged and/or lent meaningful
23 support to Tesla and Musk before, during or after Tesla’s and Musk’s violations,
24 and with knowledge by WBDI that the acts by Tesla and Musk were improper.

25 135. Defendants all had actual knowledge of the wrongfulness of their
26 conduct and the high probability that such acts would cause injury and/or damage
27 to Plaintiff. Despite their knowledge, Defendants intentionally pursued their
28 course of conduct, resulting in injury or damage to Plaintiff.

1 **Prayer for Relief**

2 WHEREFORE, Plaintiff prays judgment be entered in its favor and against
3 Defendants, and each of them, as follows:

4 1. On the First Claim for Relief for Copyright Infringement:

- 5 a. For a preliminary and permanent injunction against Defendants and
6 anyone working in concert with them from further copying, displaying,
7 distributing, selling, or offering to sell BR2049 or protectible elements
8 thereof in connection with Tesla or Musk, or making derivative works
9 thereof for such purposes.
- 10 b. As permitted under 17 U.S.C. § 503, for impoundment of all copies of
11 the Presentation Slide 2 Image and underlying materials used in
12 violation of Plaintiff’s copyrights—including digital copies or any
13 other means by which they could be used again by the Defendants
14 without Plaintiff’s authorization—as well as all related records and
15 documents.
- 16 c. For actual damages and all profits that Defendants derived from the
17 unauthorized use of BR2049 or, where applicable and at Plaintiff’s
18 election, statutory damages.
- 19 d. For an award of attorneys’ fees.
- 20 e. For an award of pre-judgment interest as allowed by law.
- 21 f. For costs of suit.
- 22 g. For such further relief as the Court deems just and proper.

23 2. On the Second Claim for Relief for Vicarious Copyright Infringement:

- 24 a. For a preliminary and permanent injunction against Defendants and
25 anyone working in concert with them from further copying, displaying,
26 distributing, selling, or offering to sell BR2049 or protectible elements
27 thereof in connection with Tesla or Musk, or making derivative works
28 thereof for such purposes.

- 1 b. As permitted under 17 U.S.C. § 503, for impoundment of all copies of
- 2 the Presentation Slide 2 Image and underlying materials used in
- 3 violation of Plaintiff’s copyrights—including digital copies or any
- 4 other means by which they could be used again by the Defendants
- 5 without Plaintiff’s authorization—as well as all related records and
- 6 documents.
- 7 c. For actual damages and all profits that Defendants derived from the
- 8 unauthorized use of BR2049 or, where applicable and at Plaintiff’s
- 9 election, statutory damages.
- 10 d. For an award of attorneys’ fees.
- 11 e. For an award of pre-judgment interest as allowed by law.
- 12 f. For costs of suit.
- 13 g. For such further relief as the Court deems just and proper.

14 3. On the Third Claim for Relief for Contributory Copyright Infringement:

- 15 a. For a preliminary and permanent injunction against Defendants and
- 16 anyone working in concert with them from further copying, displaying,
- 17 distributing, selling, or offering to sell BR2049 or protectible elements
- 18 thereof in connection with Tesla or Musk, or making derivative works
- 19 thereof for such purposes.
- 20 b. As permitted under 17 U.S.C. § 503, for impoundment of all copies of
- 21 the Presentation Slide 2 Image and underlying materials used in
- 22 violation of Plaintiff’s copyrights—including digital copies or any
- 23 other means by which they could be used again by the Defendants
- 24 without Plaintiff’s authorization—as well as all related records and
- 25 documents.
- 26 c. For actual damages and all profits that Defendants derived from the
- 27 unauthorized use of BR2049 or, where applicable and at Plaintiff’s
- 28 election, statutory damages.

- 1 d. For an award of attorneys' fees.
- 2 e. For an award of pre-judgment interest as allowed by law.
- 3 f. For costs of suit.
- 4 g. For such further relief as the Court deems just and proper.
- 5 4. On the Fourth Claim for Relief (False Endorsement in Violation of 15 U.S.C.
- 6 § 1125(a)(1)(A))
- 7 1. For injunctive relief, including without limitation for an order mandating
- 8 that Defendants cease any further promotional or advertising use of
- 9 BR2049; that Defendants place a corrective notice or disclaimer on the
- 10 event live feed and all copies thereof putting viewers on notice that the
- 11 portions of the event referencing BR2049 false and misleading and that
- 12 BR2049 and Alcon have no relationship or affiliation with Tesla, Musk or
- 13 the cybercab product; and an order mandating that Defendants cease to
- 14 distribute any further copies of the event livestream that contains the
- 15 BR2049 references and Presentation Slide 2.
- 16 2. For compensatory damages;
- 17 3. Defendants' profits;
- 18 4. Attorney fees;
- 19 5. Costs of suit;
- 20 6. Prejudgment Interest; and
- 21 7. Such other and further relief as the Court may deem just and proper.

23 DATED: October 21, 2024

ANDERSON YEH PC
Edward M. Anderson
Regina Yeh



Attorneys for Plaintiff
ALCON ENTERTAINMENT, LLC

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DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, on its claims against Defendants Tesla, Inc. (“Tesla”), Elon Musk (“Musk”), and Warner Bros. Discovery, Inc. (“WBDI”), Plaintiff Alcon Entertainment, LLC hereby demands a trial by jury of all matters triable to a jury.

DATED: October 21, 2024

ANDERSON YEH PC
Edward M. Anderson
Regina Yeh



Attorneys for Plaintiff
ALCON ENTERTAINMENT, LLC