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11 UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA

13 COLUMBIA PICTURES )	
14 INDUSTRIES, INC., DISNEY )	Case No. CV 06-1093 FMC (JCx)
15 ENTERPRISES, INC., PARAMOUNT )	
16 PICTURES CORPORATION, )	<b>NOTICE OF EX PARTE</b>
17 TRISTAR PICTURES, INC., )	<b>APPLICATION AND EX PARTE</b>
18 TWENTIETH CENTURY FOX FILM )	<b>APPLICATION FOR ORDER</b>
19 CORPORATION, WARNER BROS. )	<b>SETTING CASE MANAGEMENT</b>
20 ENTERTAINMENT INC., )	<b>CONFERENCE AT THE COURT'S</b>
21 UNIVERSAL CITY STUDIOS LLLP, )	<b>EARLIEST OPPORTUNITY</b>
22 and UNIVERSAL CITY STUDIOS )	
23 PRODUCTIONS LLLP, )	Judge: Hon. Florence-Marie Cooper
24 Plaintiffs, )	Ctrm: 750
25 v. )	
26 JUSTIN BUNNELL, FORREST )	
27 PARKER, WES PARKER, VALENCE )	
28 MEDIA, LLC, and DOES 1-10, )	
Defendants. )	

1           **PLEASE TAKE NOTICE** that the above-named plaintiffs hereby move *ex*  
2 *parte* for an order setting a case management conference at the Court's earliest  
3 opportunity. This Ex Parte Application is based on this Notice, the accompanying  
4 Application; the accompanying Declaration of Steven B. Fabrizio dated March 28,  
5 2008 ("Fabrizio Decl.") and exhibits; all pleadings on file with the Court, all matters  
6 of which the Court may take judicial notice, and all such additional evidence and  
7 argument as may be presented to the Court.

8           Plaintiffs seek an immediate case management conference for the purpose of  
9 having the Court order a schedule for (a) obtaining a permanent injunction against  
10 defendants; and (b) the commencement of damages proceedings. Defendants'  
11 counsel has received notice of this Ex Parte Application pursuant to Local Rule 7-  
12 19.1 and has indicated that defendants will consent to an immediate case  
13 management conference. Fabrizio Decl. ¶ 4.

14  
15 Dated: March 28, 2008

Respectfully submitted,

JENNER & BLOCK LLP

By: 

Steven B. Fabrizio

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*Attorneys for Plaintiffs*

1 **EX PARTE APPLICATION**

2 On December 13, 2007, the Court entered an Order granting plaintiffs’  
3 motion for terminating sanctions and directing the clerk to enter default against  
4 defendants (the “December 13 Order”); default was entered in December 17, 2007.  
5 As the Court recognized in its December 13 Order, defendants willfully destroyed  
6 vast amounts of highly relevant evidence, irrevocably prejudicing plaintiffs’ ability  
7 to have a fair adjudication on the merits of their copyright infringement claims.  
8 Upon the entry of default, the allegations of plaintiffs’ complaint are taken to be  
9 true. *Fair Housing of Marin v. Combs*, 285 F.3d 899, 906 (9th Cir. 2002).

10 Following the December 13 Order, the parties engaged in extended  
11 discussions to attempt to resolve plaintiffs’ claims without further litigation. Those  
12 negotiations – themselves marked by defendants’ gamesmanship and foot-dragging  
13 – have failed to yield a workable settlement of this action. Fabrizio Decl. ¶ 2.  
14 Plaintiffs are thus compelled to seek an expedited schedule for: (a) a permanent  
15 injunction against defendants to enjoin their infringement of plaintiffs’ copyrighted  
16 works; and (b) the commencement of proceedings to determine and assess damages  
17 against defendants for their infringement of plaintiffs’ copyrighted works. Further,  
18 in the last few days, an online source has suggested that defendants are attempting to  
19 sell or otherwise transfer the domain “torrentspy.com” – the website through which  
20 defendants encouraged and facilitated infringement of plaintiffs’ copyrighted works  
21 – undoubtedly to another pirate website operator, and possibly one outside of the  
22 United States. Fabrizio Decl., Ex. 1. If such reports are true, defendants plainly  
23 would be attempting to defeat the equitable remedies to which plaintiffs are entitled  
24 upon entry of judgment, and plaintiffs may need to seek emergency pre-judgment  
25 relief.

26 Plaintiffs therefore request that the Court set a case management conference  
27 as early as the Court is able to hear the parties. Defendants’ counsel has received  
28 notice of this Ex Parte Application pursuant to Local Rule 7-19.1 and has indicated

1 that defendants will consent to an immediate case management conference. Fabrizio  
2 Decl. ¶ 4.

3  
4 Dated: March 28, 2008

Respectfully submitted,

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