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CLERY, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

5 Attorneys for Plaintiff
6 DR. SEUSS ENTERPRISES, L.P.

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 DR. SEUSS ENTERPRISES, L.P., a
11 California limited partnership,

CASE NO:
03 CV 0150 J (LAB)

12 Plaintiff,

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR:**

13 v.

- 1. Copyright Infringement
(17 U.S.C. § 501); and
- 2. Trademark Infringement
(15 U.S.C. § 1114(1)).

14 MORRIS COSTUMES INC., a North
15 Carolina Corporation,

16 Defendant.

17 **DEMAND FOR JURY TRIAL**

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COPY

1 DR. SEUSS ENTERPRISES, L.P. alleges as follows:

2 **THE PARTIES**

3 1. Plaintiff DR. SEUSS ENTERPRISES, L.P. (“Seuss”) is a California limited
4 partnership which owns the copyrights, trademarks and all related rights to the characters,
5 illustrations and prose of the works of Theodor S. Geisel, the author and illustrator of the
6 famous children’s books written under the pseudonym **DR. SEUSS**.

7 2. Plaintiff is informed and believes and thereon alleges that defendant
8 MORRIS COSTUMES INC. (“Morris”) is a North Carolina corporation with its principal
9 place of business at 3108 Monroe Road, Charlotte, North Carolina. Upon information and
10 belief, plaintiff alleges that Morris manufactures, sells, distributes and ships infringing
11 goods into California and into this district.

12 **JURISDICTION AND VENUE**

13 3. This Court has jurisdiction over the subject matter of this action under
14 28 U.S.C. §§ 1331, 1338(a), and 1338(b) and 15 U.S.C. § 1121, because this action arises
15 under the laws of the United States relating to copyrights and trademarks.

16 4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because
17 defendant’s conduct results in actionable conduct within the Southern District of
18 California and defendant thus subjects itself to personal jurisdiction in this district.

19 5. This Court has personal jurisdiction over defendant by reason of defendant’s
20 selling, shipping and distribution of infringing goods into California and into this district.

21 **NATURE OF ACTION**

22 6. This is an action for the willful infringement of registered copyrights in
23 violation of the copyright laws of the United States, 17 U.S.C. § 501 and the willful
24 infringement of registered trademarks, 15 U.S.C. §§ 1114(1). This action
25 results directly from defendant’s sale and distribution of infringing hats, costumes and
26 accessories.

1 **BACKGROUND ALLEGATIONS**

2 7. Theodor S. Geisel, writing and illustrating under the pseudonyms
3 **DR. SEUSS** and **THEO LeSEIG**, began writing and illustrating children’s books in or
4 around 1931. Over the next sixty years, Mr. Geisel wrote, illustrated and published at
5 least 47 **DR. SEUSS** books. Mr. Geisel wrote these books to entertain children, to
6 educate, to convey values and to promote and stimulate children’s love of reading and the
7 development of literary skills.

8 8. The **DR. SEUSS** books and the **DR. SEUSS** characters and illustrations
9 have attained worldwide fame, popularity and recognition. Children all over the world
10 read the **DR. SEUSS** books, and parents and teachers worldwide use the books to
11 motivate children, teach community values and enhance literacy.

12 9. Of all the **DR. SEUSS** characters and illustrations that have attained
13 worldwide recognition and fame, arguably the most famous is the main character in *The*
14 *Cat in the Hat*. The illustration of the **CAT IN THE HAT** is characterized by his
15 distinctive red and white horizontally striped stovepipe hat, his distinctive red bow tie, and
16 his black body with white face, chest and hands.

17 10. The **CAT IN THE HAT** also appears in *The Cat in the Hat Comes Back*,
18 *The Cat in the Hat Songbook* and *The Cat’s Quizzer*, among other works. In all of these
19 works, the **CAT IN THE HAT** appears with his famous red and white horizontally
20 striped hat, famous red bow tie, and black body with white face, chest and hands.

21 **SEUSS’ COPYRIGHTS AND TRADEMARKS**

22 11. The **DR. SEUSS** characters, books and illustrations, including *The Cat in*
23 *the Hat*, are protected by United States copyright law, and are registered with the United
24 States Copyright Office insofar as they are aspects of the registered works. The copyright
25 registrations are perfected, and the registrations have been renewed with the United States
26 Copyright Office. The registrations are in full force. Seuss owns all of these registrations
27 and rights by assignment.

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1 15. Morris sells and distributes **CAT IN THE HAT** Merchandise which is
2 confusingly similar to Seuss' **CAT IN THE HAT DESIGN** and **CAT'S HAT DESIGN**
3 trademarks, and has used the marks and names **CAT IN THE HAT** and **DR. SEUSS** in
4 conjunction with the sales and marketing of its **CAT IN THE HAT** Merchandise, all of
5 which are likely to cause confusion, mistake, or to deceive as to the affiliation,
6 association, origin, sponsorship or approval of defendant's goods with Seuss. Morris has
7 not been authorized or licensed by Seuss to use these trademarks and is thereby violating
8 Seuss' rights under federal trademark law. Attached hereto as Exhibit 3 to this complaint
9 is a true and correct copy of a page from Morris Costumes' product catalog promoting its
10 **CAT IN THE HAT** Merchandise.

11 16. Morris represented to Seuss that the **CAT IN THE HAT** Merchandise it
12 sells are authorized products purchased by Morris from a Seuss sublicensee, Clown Alley.
13 The sublicense with Clown Alley, however, terminated on or about June 30, 2001, and no
14 sales have been reported to Seuss from Clown Alley since the termination. Seuss has
15 therefore repeatedly requested that Morris substantiate its representation that it is selling
16 authorized products by providing documentary evidence of its purported purchase of the
17 **CAT IN THE HAT** Merchandise from Clown Alley, including documents identifying
18 what items were purchased, when and in what quantities. Morris has repeatedly refused to
19 provide such documentation.

20 17. On or about January 16, 2003, counsel for Seuss sent Morris a final demand
21 that documents be provided by January 20, 2003, evidencing that Morris is reselling
22 authorized product. Morris was informed that refusal to provide evidence that its **CAT IN**
23 **THE HAT** Merchandise came from an authorized source would be considered an
24 admission that the products are infringing goods. Morris did not provide any documents
25 in response to Seuss' demand. Given the Morris' refusal to substantiate that its products
26 come from a legitimate source, Seuss must conclude they do not. Seuss therefore alleges
27 that Morris is willfully infringing Seuss' copyrights and trademarks although it was put on
28 notice of Seuss' rights.

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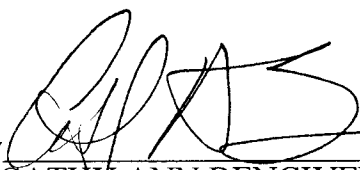
7. For plaintiffs attorneys' fees and costs of this action, as provided for in 15 U.S.C. § 1117 and 17 U.S.C. § 505; and

8. For such further and additional relief as the Court may deem just and proper, including pre- and post-judgment interest.

JURY TRIAL DEMAND

Seuss respectfully requests a jury trial for the adjudication of all claims for which a jury trial is available under the Seventh Amendment of the United States Constitution.

Dated: January 23, 2003

By 
CATHY ANN BENCIVENGO
MATTHEW C. BERNSTEIN
Attorneys for Plaintiff
DR. SEUSS ENTERPRISES, L.P.