

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

|                          |   |                         |
|--------------------------|---|-------------------------|
| Dallas Buyers Club, LLC, | ) |                         |
|                          | ) |                         |
|                          | ) | Case No.: 4:15-cv-00047 |
| Plaintiff,               | ) |                         |
|                          | ) |                         |
| v.                       | ) |                         |
|                          | ) |                         |
| DOES 1-12,               | ) |                         |
|                          | ) |                         |
| Defendants.              | ) |                         |

**COMPLAINT FOR COPYRIGHT INFRINGEMENT**

Plaintiff, Dallas Buyers Club, LLC, by and through its undersigned counsel, for and as its Complaint against Defendants, alleges as follows:

**JURISDICTION AND VENUE**

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Laws of the United States (17 U.S.C. §101 et seq.). As set forth in greater detail below, this action involves the unauthorized acquisition and transfer of the copyrighted motion picture the “*Dallas Buyers Club*” by Defendants that has received widespread critical acclaim (hereinafter the “MOVIE”). The MOVIE won three Academy Awards and was nominated for six. It also won numerous other awards including two Golden Globes. Two of its stars, Matthew McConaughey and Jared Leto, won Oscars for their performances in the MOVIE.

2. This Court has jurisdiction under 17 U.S.C. §101 et seq.; 28 U.S.C. §1331 (federal question); and 28 U.S.C. §1338(a) (copyright).

3. The manner of the transfer and copying of the MOVIE is accomplished by using a network called a "BitTorrent protocol" or "torrent," which is different than the standard Peer-to-

Peer ("P2P") protocol. The BitTorrent protocol makes even small computers with low bandwidth capable of participating in large data transfers for copying large files such as movies. The initial file-provider intentionally elects to share a file with a torrent network. This initial file is called a seed. Other users ("peers") and the network connect to the seed file to download a movie. As additional peers request the same file, each additional user knowingly becomes a part of the network from which the file can be downloaded. Each new file downloader receives a different piece of the data from each user who has already downloaded the file that together comprises the whole. This piecemeal system with multiple pieces of data coming from peer members is usually referred to as a "swarm." The effect of this technology makes every downloader also an uploader of the illegally transferred file(s). This means that every "node" or peer user who has a copy of the infringing copyrighted material on a torrent network intentionally also becomes a source of download for that infringing file.

4. This distributed and cooperative nature of BitTorrent leads to a rapid viral spreading of a file throughout peer users. As more peers join the swarm, the likelihood of a successful download increases. Because of the nature of a BitTorrent protocol, any seed peer that has downloaded a file prior to the time a subsequent peer downloads the same file is automatically a source for the subsequent peer so long as that first seed peer is online at the time the subsequent peer downloads a file. Essentially, because of the nature of the swarm downloads as described above, every infringer is cooperatively working together in the unauthorized distribution of the copyrighted material over the Internet.

5. On information and belief, personal jurisdiction in this District is proper because each Defendant, without consent or permission of Plaintiff as exclusive rights owner, within this District, reproduced, distributed and offered to distribute among other Defendants over the Internet the copyrighted MOVIE for which Plaintiff has exclusive rights.

6. Geolocation technology was used to trace the Internet Protocol ("IP") addresses of each Defendant to a point of origin within this District. On information and belief, each Defendant has an IP address based in this District and resides in or committed copyright infringement in this District.

7. Venue in this District is proper under 28 U.S.C. §1391(b) and/or 28 U.S.C. §1400(a). Although the true identity of each Defendant is unknown to Plaintiff at this time, on information and belief, Defendants reside in this District, may be found in this District and/or a substantial part of the acts of infringement complained of herein occurred in this District.

### **THE PARTIES**

8. Plaintiff brings this action to stop Defendants from copying and distributing to others over the Internet unauthorized copies of Plaintiff's copyrighted MOVIE. Defendants' infringements allow them and others to unlawfully obtain and distribute an unauthorized copy of the MOVIE for free. Each time a Defendant unlawfully distributes a free copy of Plaintiff's copyrighted MOVIE to others over the Internet, each person who copies the MOVIE then distributes the unlawful copy to others without any significant degradation in sound and picture quality. Thus, a Defendant's distribution of even one unlawful copy of a motion picture can result in the nearly instantaneous worldwide distribution of that single copy to a limitless number of people. Plaintiff now seeks redress for this infringement of its exclusive rights.

9. Plaintiff is the owner of the copyright and/or the pertinent exclusive rights under copyright in the United States in the MOVIE that has been unlawfully distributed over the Internet by Defendants.

10. The true names of Defendants are unknown to Plaintiff at this time. Plaintiff only knows each Defendant by the Internet Protocol ("IP") address assigned to that Defendant by his or her Internet Service Provider and the date and the time at which the infringing activity of each

Defendant was observed. Plaintiff believes that information obtained in discovery will lead to the identification of each Defendant's true name and will permit Plaintiff to amend this Complaint to state the same. Plaintiff further believes that additional information obtained will lead to the identification of additional infringing parties, as monitoring of online infringement of Plaintiff's motion picture is ongoing.

**COUNT I  
COPYRIGHT INFRINGEMENT**

11. The MOVIE has significant value and has been produced and created at considerable expense.

12. At all relevant times, Plaintiff has been the holder of the pertinent exclusive rights infringed by Defendants, as alleged hereunder, including but not limited to the copyrighted MOVIE, including derivative works. The copyrighted MOVIE is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights. (Exhibit A)

13. The copyrighted MOVIE includes a copyright notice advising the viewer that the motion picture is protected by the Copyright Laws.

14. Plaintiff is informed and believes that each Defendant, without the permission or consent of Plaintiff, has used, and continues to use, an online media distribution system to reproduce and distribute to the public, including by making available for distribution to others, the copyrighted MOVIE. Plaintiff has identified each Defendant by the IP address assigned to that Defendant by his or her ISP and the date and the time at which the infringing activity of each Defendant was observed. (Exhibit B) Each Defendant has violated Plaintiff's exclusive rights of reproduction and distribution. Each Defendant's actions constitute infringement of Plaintiff's exclusive rights protected under the Copyright Act (17 U.S.C. §101 *et seq.*).

15. On information and belief, each Defendant deliberately participated in a swarm and/or reproduced and/or distributed the same seed file of Plaintiff's copyrighted MOVIE in digital form with other Defendants. In particular, on information and belief, Defendants participated in a collective, cooperative and interdependent manner with other Defendants via the Internet for the unlawful purpose of reproducing, exchanging and distributing copyrighted material unique to the swarm.

16. The foregoing acts of infringement constitute a collective enterprise of shared, overlapping facts and have been willful, intentional, and in disregard of and with indifference to the rights of Plaintiff.

17. As a result of each Defendant's infringement of Plaintiff's exclusive rights under copyright, Plaintiff is entitled to relief pursuant to 17 U.S.C. §504 and to its attorneys' fees and costs pursuant to 17 U.S.C. §505.

18. The conduct of each Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff great and irreparable injury that cannot fully be compensated or measured in money. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. §§502 and 503, Plaintiff is entitled to injunctive relief prohibiting each Defendant from further infringing Plaintiff's copyright and ordering that each Defendant destroy all unauthorized copies of the copyrighted MOVIE.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for judgment against each Defendant and relief as

follows:

- A. For entry of permanent injunctions providing that each Defendant shall be enjoined

from directly or indirectly infringing Plaintiff's rights in the copyrighted MOVIE, including without limitation by using the Internet to reproduce or copy Plaintiff's MOVIE, to distribute Plaintiff's MOVIE, or to make Plaintiff's MOVIE available for distribution to the public, except pursuant to a lawful license or with the express authority of Plaintiff. Each Defendant also shall destroy all copies of Plaintiff's MOVIE that Defendant has downloaded onto any computer hard drive or server without Plaintiff's authorization and (subject to the Order of Impoundment prayed for below) shall serve up all copies of the downloaded MOVIE transferred onto any physical medium or device in each Defendant's possession, custody or control.

B. For Judgment in favor of Plaintiff against Defendants that they have: a) willfully infringed Plaintiff's rights in its federally registered copyright pursuant to 17 U.S.C. §501; and b) otherwise injured the business reputation and business of Plaintiff by Defendants' acts and conduct set forth in this Complaint.

C. For Judgment in favor of Plaintiff against Defendants for actual damages or statutory damages pursuant to 17 U.S.C. §504, at the election of Plaintiff, in an amount to be determined at trial.

D. For an Order of Impoundment under 17 U.S.C. §§503 and 509(a) impounding all infringing copies of Plaintiff's MOVIE which are in Defendants' possession or under their control.

E. For Judgment in favor of Plaintiff and against Defendants awarding Plaintiff attorneys' fees, litigation expenses (including fees and costs of expert witnesses) and other costs of this action.

F. For Judgment in favor of Plaintiff against Defendants, awarding Plaintiff such

further declaratory and injunctive relief as may be just and proper under the circumstances.

**JURY DEMAND**

Plaintiff demands trial by jury on all issues so triable.

DATED: January 9, 2015

Respectfully submitted,

Dallas Buyers Club, LLC,

By: s/Daniel R. Kirshbaum, P.C.

Daniel R. Kirshbaum  
Texas Bar No. 11533000  
4900 Woodway, Suite 600  
Houston, Texas 77056  
(832) 617-5683-ofc  
(713) 208-7709-cell  
(832) 266-0282-fax

s/ Keith A. Vogt

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Chicago, IL 60661  
(630) 974-5707  
keithvogtjd@gmail.com

Attorneys for Plaintiff

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Maria A. Pallante*

Register of Copyrights, United States of America

**Registration Number**  
**PA 1-873-195**

**Effective date of registration:**  
November 13, 2013

## Title \_\_\_\_\_

**Title of Work:** Dallas Buyers Club

## Completion/Publication \_\_\_\_\_

**Year of Completion:** 2013

**Date of 1st Publication:** November 1, 2013

**Nation of 1st Publication:** United States

**Preregistration:** PRE000006719

## Author \_\_\_\_\_

▪ **Author:** Dallas Buyers Club, LLC

**Author Created:** entire motion picture

**Work made for hire:** Yes

**Citizen of:** United States

**Domiciled in:** United States

## Copyright claimant \_\_\_\_\_

**Copyright Claimant:** Dallas Buyers Club, LLC

2170 Buckthorne Place, Suite 400, The Woodlands, TX, 77380

## Limitation of copyright claim \_\_\_\_\_

**Material excluded from this claim:** script/screenplay, preexisting music

**Previous registration and year:** TXu 1-835-443 2012

**New material included in claim:** all other cinematographic material

## Certification \_\_\_\_\_

**Name:** Carly Seabrook

**Date:** November 1, 2013



Universal City Studios LLC  
Carly Seabrook  
100 Universal City Plaza  
Bldg. 1280, 6th Floor  
Universal City, CA 91608



\*0000PA00018731950101\*

Registration #: PA0001873195  
Service Request #: 1-1005221967

## Dallas Buyers Club

| No | IP             | HitDateUTC (mm/dd/yy) | File Hash                                      | ISP                             | City    | County |
|----|----------------|-----------------------|--|---------------------------------|---------|--------|
| 1  | 73.166.213.9   | 11/20/14 02:32:37 AM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Houston | Harris |
| 2  | 23.30.84.150   | 11/20/14 01:43:52 AM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Business Communications | Katy    | Harris |
| 3  | 73.166.143.236 | 11/18/14 06:42:30 AM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Humble  | Harris |
| 4  | 98.201.150.186 | 11/18/14 01:16:18 AM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Houston | Harris |
| 5  | 98.201.200.177 | 11/16/14 11:22:26 PM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Houston | Harris |
| 6  | 98.195.130.140 | 11/16/14 03:25:24 PM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Houston | Harris |
| 7  | 98.194.40.181  | 11/10/14 02:50:49 AM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Houston | Harris |
| 8  | 50.194.191.90  | 11/2/14 05:24:21 PM   | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Houston | Harris |
| 9  | 98.194.26.74   | 10/28/14 10:25:37 AM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Houston | Harris |
| 10 | 76.31.199.133  | 10/26/14 07:58:16 PM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Houston | Harris |
| 11 | 98.194.19.33   | 10/24/14 04:57:36 AM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Spring  | Harris |
| 12 | 76.31.30.206   | 10/23/14 09:08:42 PM  | SHA1: 5CD6DC7A993658B0168E3241C090D5EBA269482C | Comcast Cable                   | Houston | Harris |

Exhibit B

**CIVIL COVER SHEET**

The JS 44 civil cover sheet is to be filed with the complaint and any supplemental pleadings and other papers required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

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|   |   |
|---|---|
| <p><b>I. (a) PLAINTIFFS</b></p> <p><b>(b)</b> County of Residence of First Listed Plaintiff _____<br/><i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c)</b> Attorneys <i>(Firm Name, Address, and Telephone Number)</i></p> | <p><b>DEFENDANTS</b></p> <p>County of Residence of First Listed Defendant _____</p> <p>NOTE: In land condemnation cases, use the location of the tract of land involved.</p> <p>Attorneys <i>(If Known)</i></p> |
|---|---|

| <p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p>1 U.S. Government Plaintiff                      3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p>2 U.S. Government Defendant                      4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p> | <p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td>1</td> <td>1</td> <td>Incorporated or Principal Place of Business In This State</td> <td>4</td> <td>4</td> </tr> <tr> <td>Citizen of Another State</td> <td>2</td> <td>2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td>5</td> <td>5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>3</td> <td>3</td> <td>Foreign Nation</td> <td>6</td> <td>6</td> </tr> </tbody> </table> |     | PTF   | DEF |     | PTF | DEF | Citizen of This State | 1 | 1 | Incorporated or Principal Place of Business In This State | 4 | 4 | Citizen of Another State | 2 | 2 | Incorporated and Principal Place of Business In Another State | 5 | 5 | Citizen or Subject of a Foreign Country | 3 | 3 | Foreign Nation | 6 | 6 |
|--|---|-----|---|-----|-----|-----|-----|-----------------------|---|---|---|---|---|--------------------------|---|---|---|---|---|---|---|---|----------------|---|---|
|  | PTF   | DEF |   | PTF | DEF |     |     |                       |   |   |   |   |   |                          |   |   |   |   |   |   |   |   |                |   |   |
| Citizen of This State  | 1   | 1   | Incorporated or Principal Place of Business In This State     | 4   | 4   |     |     |                       |   |   |   |   |   |                          |   |   |   |   |   |   |   |   |                |   |   |
| Citizen of Another State   | 2   | 2   | Incorporated and Principal Place of Business In Another State | 5   | 5   |     |     |                       |   |   |   |   |   |                          |   |   |   |   |   |   |   |   |                |   |   |
| Citizen or Subject of a Foreign Country  | 3   | 3   | Foreign Nation  | 6   | 6   |     |     |                       |   |   |   |   |   |                          |   |   |   |   |   |   |   |   |                |   |   |

**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

| CONTRACT   | TORTS   | FORFEITURE/PENALTY  | BANKRUPTCY  | OTHER STATUTES  |   |
|--|---|---|---|---|---|
| 110 Insurance<br>120 Marine<br>130 Miller Act<br>140 Negotiable Instrument<br>150 Recovery of Overpayment & Enforcement of Judgment<br>151 Medicare Act<br>152 Recovery of Defaulted Student Loans (Excl. Veterans)<br>153 Recovery of Overpayment of Veteran's Benefits<br>160 Stockholders' Suits<br>190 Other Contract<br>195 Contract Product Liability<br>196 Franchise | <b>PERSONAL INJURY</b><br>310 Airplane<br>315 Airplane Product Liability<br>320 Assault, Libel & Slander<br>330 Federal Employers' Liability<br>340 Marine<br>345 Marine Product Liability<br>350 Motor Vehicle<br>355 Motor Vehicle Product Liability<br>360 Other Personal Injury<br>362 Personal Injury - Med. Malpractice | <b>PERSONAL INJURY</b><br>365 Personal Injury - Product Liability<br>367 Health Care/Pharmaceutical Personal Injury Product Liability<br>368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br>370 Other Fraud<br>371 Truth in Lending<br>380 Other Personal Property Damage<br>385 Property Damage Product Liability | 625 Drug Related Seizure of Property 21 USC 881<br>690 Other<br><br><b>LABOR</b><br>710 Fair Labor Standards Act<br>720 Labor/Mgmt. Relations<br>740 Railway Labor Act<br>751 Family and Medical Leave Act<br>790 Other Labor Litigation<br>791 Empl. Ret. Inc. Security Act<br><br><b>IMMIGRATION</b><br>462 Naturalization Application<br>463 Habeas Corpus - Alien Detainee (Prisoner Petition)<br>465 Other Immigration Actions | 422 Appeal 28 USC 158<br>423 Withdrawal 28 USC 157<br><br><b>PROPERTY RIGHTS</b><br>820 Copyrights<br>830 Patent<br>840 Trademark<br><br><b>SOCIAL SECURITY</b><br>861 HIA (1395ff)<br>862 Black Lung (923)<br>863 DIWC/DIWW (405(g))<br>864 SSID Title XVI<br>865 RSI (405(g))<br><br><b>FEDERAL TAX SUITS</b><br>870 Taxes (U.S. Plaintiff or Defendant)<br>871 IRS—Third Party 26 USC 7609 | 375 False Claims Act<br>400 State Reapportionment<br>410 Antitrust<br>430 Banks and Banking<br>450 Commerce<br>460 Deportation<br>470 Racketeer Influenced and Corrupt Organizations<br>480 Consumer Credit<br>490 Cable/Sat TV<br>850 Securities/Commodities/Exchange<br>890 Other Statutory Actions<br>891 Agricultural Acts<br>893 Environmental Matters<br>895 Freedom of Information Act<br>896 Arbitration<br>899 Administrative Procedure Act/Review or Appeal of Agency Decision<br>950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br>210 Land Condemnation<br>220 Foreclosure<br>230 Rent Lease & Ejectment<br>240 Torts to Land<br>245 Tort Product Liability<br>290 All Other Real Property   | <b>CIVIL RIGHTS</b><br>440 Other Civil Rights<br>441 Voting<br>442 Employment<br>443 Housing/Accommodations<br>445 Amer. w/Disabilities - Employment<br>446 Amer. w/Disabilities - Other<br>448 Education   | <b>PRISONER PETITIONS</b><br>510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br>530 General<br>535 Death Penalty<br>540 Mandamus & Other<br>550 Civil Rights<br>555 Prison Condition<br>560 Civil Detainee - Conditions of Confinement  |   |   |   |

**V. ORIGIN** *(Place an "X" in One Box Only)*

|                       |                            |                                 |                          |  |                            |
|-----------------------|----------------------------|---------------------------------|--------------------------|--|----------------------------|
| 1 Original Proceeding | 2 Removed from State Court | 3 Remanded from Appellate Court | 4 Reinstated or Reopened | 5 Transferred from another district <i>(specify)</i> | 6 Multidistrict Litigation |
|-----------------------|----------------------------|---------------------------------|--------------------------|--|----------------------------|

|  |   |
|--|---|
| <p><b>VI. CAUSE OF ACTION</b> <i>(Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)</i></p> | <p><b>VII. PREVIOUS BANKRUPTCY MATTERS</b> <i>(For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)</i></p> |
|--|---|

**VIII. REQUESTED IN COMPLAINT:**                      CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23                      DEMAND \$                      CHECK YES only if demanded in complaint: JURY DEMAND:                      Yes                      No

**IX. This case (check one box)**                      is not a refiling of a previously dismissed action

is a refiling of case number \_\_\_\_\_ previously dismissed by Judge \_\_\_\_\_

Date \_\_\_\_\_ Signature of Attorney of Record \_\_\_\_\_