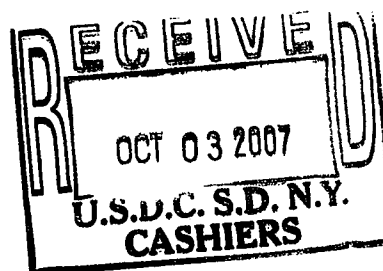


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**JUDGE BATTS**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
BOURNE CO.,

Plaintiff,

- against -

TWENTIETH CENTURY FOX FILM  
CORPORATION, FOX BROADCASTING  
COMPANY, TWENTIETH CENTURY FOX  
TELEVISION, INC., TWENTIETH CENTURY  
FOX HOME ENTERTAINMENT, INC., FUZZY  
DOOR PRODUCTIONS, INC., THE CARTOON  
NETWORK, INC., SETH MACFARLANE,  
WALTER MURPHY,

Defendants.  
----- X

**07 CIV 8580**

07 Civ.

**COMPLAINT AND  
JURY DEMAND**

Plaintiff, Bourne Co. ("Bourne"), for its Complaint against Defendants Twentieth Century Fox Film Corporation ("Fox Film"), Fox Broadcasting Company ("Fox Broadcasting"), Twentieth Century Fox Television, Inc. ("Fox Television"), Twentieth Century Fox Home Entertainment, LLC ("Fox Home Entertainment") (collectively, the "Fox Defendants"), Fuzzy Door Productions, Inc. ("Fuzzy Door"), The Cartoon Network, Inc. ("Cartoon Network"), Seth MacFarlane ("MacFarlane") and Walter Murphy

(“Murphy”), by its counsel Moses & Singer LLP, alleges upon information and belief as to facts concerning others and upon personal knowledge as to facts concerning Bourne, as follows:

### NATURE OF THE ACTION

1. This action arises from Defendants’ willful infringement of Plaintiff’s copyright interests in the famous and iconic song, “When You Wish Upon a Star.”

2. “When You Wish Upon a Star” is one of the most famous songs of all time. The song was originally written for the classic Walt Disney film, *Pinocchio*. Since then, the song has been recorded by over 100 performing artists and has become a cultural treasure, epitomizing the wonders of childhood and the powers of love, hope and belief. Bourne is the sole copyright owner of “When You Wish Upon a Star.”

3. Some time in 2000, MacFarlane, Murphy, Fuzzy Door and certain of the Fox Defendants created an episode of their television show, *The Family Guy*, titled “When You Wish Upon a Weinstein.” This episode centers around the main character’s inability to manage his family’s finances and his bigoted belief that he needs to hire a Jewish person to take care of his money. The centerpiece of this frequently anti-Semitic story is a song, sung by the main character, titled “I Need a Jew” (the “Infringing Song”). This song consists of a thinly-veiled copy of the music from “When You Wish Upon a Star,” coupled with new anti-Semitic lyrics. The creation of the Infringing Song, a derivative work based upon “When You Wish Upon a Star,” was done without the authorization of Bourne.

4. Although the Fox Defendants initially withheld “When You Wish Upon a Weinstein” from distribution in recognition of how offensive the episode is (even by the

standards of a show that prides itself on offensive content), the episode was eventually broadcast in syndication and re-runs, including by Defendants Cartoon Network and Fox Broadcasting. The episode, including the Infringing Song, was also eventually distributed to the public in various home video formats by Fox Home Entertainment. Defendants have distributed well over one million copies of the episode with the Infringing Song. Defendants have earned significant sums of money from these acts of infringement.

5. Defendants' infringing activities have also caused substantial and irreparable harm to Bourne, and have harmed the value and reputation of "When You Wish Upon a Star" by associating the famous song with a vile and outrageous anti-Semitic message. Bourne has attempted to negotiate a resolution to this dispute with the Fox Defendants, but was rebuffed in those efforts.

6. Defendants' steadfast refusal to cease their willful infringement, even when presented with the harm that such infringement is causing Bourne, leaves Bourne with no choice but to bring this action for copyright infringement, seeking injunctive relief to prevent Defendants' further dissemination of the Infringing Song, and also damages to compensate Bourne for Defendants' willful and wanton behavior.

#### **JURISDICTION AND VENUE**

7. Bourne brings this action for willful copyright infringement in violation of the Copyright Act, 17 U.S.C. §101, et seq.

8. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338(a).

