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F I L E D
Clerk of the Superior Court

DEC 04 2020

By: A. HUSTED, Deputy

ELECTRONICALLY RECEIVED
Superior Court of California,
County of San Diego
11/05/2020 at 12:00:15 PM
Clerk of the Superior Court
By Gen Dieu, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ILENE MORENO, CHERYL JAMES-
WARD, and LARAY PETERSON,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

DISNEY INTERACTIVE STUDIOS, INC.,
a California corporation; and DOES 1-50,
inclusive,

Defendants.

CASE NO. 37-2019-00039785-CU-BT-CTL

CLASS ACTION

~~[PROPOSED]~~ ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND PROVIDING
FOR NOTICE

[IMAGED FILE]

1 Pending before the Court is the Motion for Preliminary Approval of Class Action
2 Settlement (“Motion”) relating to the settlement (“Settlement”) between plaintiffs and defendant
3 Buena Vista Catalogue Co., d/b/a Disney Movie Club (“Disney” or “Defendant”).¹ Having read
4 and considered the moving papers, including the Settlement Agreement, and finding good cause,
5 the Court finds and orders as follows:

6 1. Based upon the Court’s review of the Settlement Agreement, the Memorandum of
7 Points and Authorities in Support of the Motion, and the entire record, the Motion for Preliminary
8 Approval of Class Action Settlement is GRANTED.

9 2. The Court hereby conditionally certifies the following class (“Class”) for
10 settlement purposes only: “All California residents who, between July 30, 2015 and December
11 4, 2020 [the date of entry of this order], were enrolled by Disney in the Disney Movie Club.
12 Excluded from the Class are all employees of Disney, all employees of Plaintiffs’ counsel, and the
13 judicial officers to whom this case is assigned.”

14 3. The Court appoints Dostart Hannink & Coveney LLP as Class Counsel. The Court
15 appoints Ilene Moreno, Cheryl James-Ward, LaRay Peterson, Henry De leon, Anthony Gonzalez,
16 and Kyle Lanese as the Class Representatives. The Court designates CPT Group, Inc. as the
17 Settlement Administrator.

18 4. The Court preliminarily approves the Settlement, including the monetary relief,
19 injunctive relief, procedure for payment of Class Counsel’s attorneys’ fees and litigation expenses
20 to the extent ultimately awarded by the Court, and procedure for payment of the service awards to
21 the Class Representatives to the extent ultimately awarded by the Court. The Court has reviewed
22 the monetary relief and the injunctive relief that are provided as part of the Settlement and
23 recognizes the value to the Class. It appears to the Court on a preliminary basis that the
24 Settlement is fair, adequate, and reasonable as to all potential Class Members when balanced
25 against the cost and uncertainty associated with further litigation of liability and damages issues.

26
27 ¹ The definitions of capitalized terms in this Order are the same as the definitions of those terms in
28 the Settlement Agreement.

1 It further appears that settlement of the Action at this time will avoid substantial additional costs
2 by all Parties, as well as the delay and risks that would be presented by the further prosecution of
3 the Action. It also appears that the Settlement has been reached as a result of intensive, serious,
4 and non-collusive arm's-length negotiations.

5 5. The Court approves the emailed Summary Class Notice (Exhibit A to the
6 Settlement Agreement), the mailed Summary Class Notice (Exhibit B to the Settlement
7 Agreement), the Long Form Notice (Exhibit C to the Settlement Agreement), and the paper Claim
8 Form (Exhibit D to the Settlement Agreement). The notice procedure described in the Settlement
9 Agreement meets the requirements of Rule 3.766(d) of the California Rules of Court and due
10 process, and constitutes the best practicable notice under the circumstances. The Settlement
11 Administrator is directed to disseminate the emailed Summary Class Notice to Class Members via
12 email (or, if no email address is available, then via U.S. Mail, as described in the Settlement
13 Agreement) no later than thirty-five (35) days following the date of entry of this order, and to take
14 all steps necessary to establish a settlement website. Class Counsel is authorized to direct the
15 Settlement Administrator to undertake additional steps to disseminate the Summary Class Notice.
16 The date on which the Summary Class Notice is emailed or mailed is the "Notice Date."

17 6. In order to receive a share of the Settlement Amount, Class Members must file a
18 timely Claim, either electronically via the Settlement Website or via a paper Claim Form, and that
19 Claim must be validated by the Settlement Administrator as set forth in the Settlement Agreement.

20 7. Any individual who wishes to exclude himself or herself from the Settlement Class
21 shall mail, email, or deliver to the Settlement Administrator a written request for exclusion no later
22 than forty-five (45) days following the Notice Date, as set forth in the Settlement Agreement.
23 Class Members who do not timely request exclusion shall be bound by the provisions of the
24 Settlement Agreement and all orders or judgments that may be entered by the Court.

25 8. Class Members may object to the Settlement or to any of its provisions either orally
26 or in writing. Any written objection shall be filed with the Clerk of this Court and served upon
27 counsel for the Parties and the Settlement Administrator no later than forty-five (45) days
28 following the Notice Date. Any written objection must state the legal and factual basis for the

1 objection and must be served by first-class mail upon (1) the Settlement Administrator, at CPT
2 Group, 50 Corporate Park, Irvine, California 92606; (2) Defendant's counsel, Amy P. Lally,
3 Sidley Austin LLP, 1999 Avenue of the Stars, 17th Floor, Los Angeles, California 90067; and
4 (3) Class Counsel, Zach P. Dostart, Dostart Hannink & Coveney LLP, 4180 La Jolla Village
5 Drive, Suite 530, La Jolla, California 92037. Alternatively, an objection may be made to the
6 Court orally at the final approval hearing.

7 9. The Parties shall file any motion for final approval, and Class Counsel shall file its
8 motion for attorneys' fees, litigation expenses, and for service awards to the Class Representatives,
9 on the dates required under the Local Rules and under controlling law. The motion for final
10 approval shall identify a proposed *cy pres* recipient consistent with Code of Civil Procedure
11 section 384.

12 10. A Final Approval Hearing shall be held in this Court, located at 330 West
13 Broadway, San Diego, California 92101, Department 67, on May 21, 2021, at
14 9:00 a.m., at which time the Court will determine whether the Settlement should be granted
15 final approval. At that time, the Court will also consider Class Counsel's motion for attorneys'
16 fees, litigation expenses, and any proposed service awards to the Class Representatives. The
17 Court reserves the right to adjourn or continue the date of the Final Approval Hearing and all dates
18 provided for in the Settlement without further notice to Class Members, and retains jurisdiction to
19 consider all further matters arising out of or connected with the proposed Settlement. The Parties,
20 Class Members, and any other interested parties should consult this Action's docket and the
21 Superior Court's General Orders and website for information about whether the Final Approval
22 Hearing will proceed in person and/or by remote means.

23 11. Plaintiffs are hereby granted leave to file a Second Amended Complaint, setting
24 forth the class definition recited in Paragraph 2, above, with the end of the class period being the
25 date of entry of this order. If the Settlement is not finally approved by the Court, (i) the
26 conditional certification of the Class shall be withdrawn, (ii) the Second Amended Complaint and
27 any Answer thereto shall be stricken or withdrawn; (iii) the Parties will return to the *status quo*
28 *ante*, as if no Agreement had been negotiated or entered into; and (iv) the Settlement

1 Administrator will, after deducting any settlement administration expenses incurred as of that date,
 2 return any Settlement funds in its possession to the Defendant.

3 12. In accordance with the terms of the Settlement, the Court hereby adopts the
 4 following dates for performance of the specified activities leading to the Final Approval Hearing:

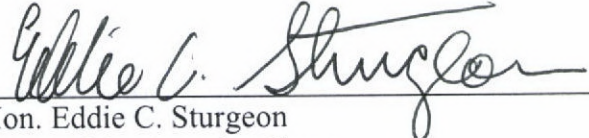
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|----------------------|---|---|
| 5 6 | 14 days after preliminary approval | Deadline for Defendant to wire transfer Two Million Five Hundred Thousand Dollars (\$2,500,000.00) to the Settlement Administrator. |
| 7 8 | 14 days after preliminary approval | Defendant shall provide to Class Counsel and the Settlement Administrator the final Database of Class Members. |
| 9 10 | 35 days after preliminary approval | Deadline for the Settlement Administrator to email the emailed Summary Class Notice to Class Members. This is the "Notice Date." |
| 11 12 13 14 | By the Notice Date, which is 35 days after preliminary approval | Deadline for Settlement Administrator to establish a Settlement Website on which it will make available the Second Amended Complaint, the Settlement Agreement, the Summary Class Notice, the Long Form Class Notice, the Claim Form (in a format that may be printed), this Order Granting Preliminary Approval, and any other materials agreed to by the Parties. |
| 15 16 17 | 14 days after Notice Date | Deadline for the Settlement Administrator to mail the mailed Summary Class Notice to any Class Members for whom the emailed Summary Class Notice was "bounced back" as indicating an invalid email address. |
| 18 19 20 | 45 ⁶⁰ days after Notice Date | Claim/Exclusion/Objection Deadline; Last day for Class Members to submit a Claim; last day for Class Members to request exclusion from the Class; last day for Class Members to file and serve any written objections to the Settlement |
| 21 22 23 24 | 15 court days after Claim/Exclusion/Objection Deadline | Settlement Administrator to make available to Class Counsel and Defendant's counsel a written report listing the name and contact information of each Participating Class Member, each Excluded Class Member, and any Class Member who has objected to the Settlement. |
| 25 26 | <u>May 21</u> , 2021, at <u>9:00 a.m.</u> | Final Approval Hearing |

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13. The Parties are ordered to carry out the Settlement in the manner provided in the Settlement Agreement and this Order.

IT IS SO ORDERED.

DATED: Dec. 4, 2020



Hon. Eddie C. Sturgeon
Judge of the Superior Court

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