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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 Denise Daniels,
18
19 Plaintiff,

20 v.

21 The Walt Disney Company;
22 Disney Enterprises, Inc.;
23 Disney Consumer Products
and Interactive Media Inc.;
24 Disney Interactive Studios, Inc.;
Disney Shopping, Inc.;
25 Pixar

26 Defendants.
27
28

Case No. 2:17-cv-04527

**Complaint for Breach of
Implied-in-Fact Contract**

Jury Trial Demanded

1 **Introduction**

2 1. Disney·Pixar released *Inside Out* in 2015 to rave reviews. *Inside Out*
3 was later was nominated for two Academy Awards and won the Academy
4 Award for Best Original Screenplay. Critics continue to applaud Disney·Pixar
5 for the inventiveness, creativity, and novelty in the fundamental premise of
6 *Inside Out*: the use of anthropomorphized emotions Joy, Sadness, Anger, Fear,
7 and Disgust as individual characters within the head of an 11-year old girl.

8 2. In June 2017, in fact, the *New York Times* ranked *Inside Out* as the
9 seventh best movie in the 21st century so far. The article explained “The
10 personification of abstract concepts and the visual rendering of human
11 consciousness from the inside are astonishing feats, executed with unparalleled
12 inventiveness.”

13 3. But Disney·Pixar was not the first to conceive of the idea of
14 anthropomorphized, color-coded characters representing single emotions, as
15 depicted in *Inside Out*.

16 4. Denise Daniels has dedicated her career over the last four decades to
17 help children better manage and deal with their emotions. As part of her
18 distinguished efforts, Daniels conceived of—and developed—a children’s
19 program called *The Moodsters*. *The Moodsters* live “deep down inside every
20 child,” and featured five main characters. Each character is an animated,
21 anthropomorphized figure representing a single emotion with a corresponding
22 color, and specifically happiness (yellow), anger (red), sadness (blue), fear
23 (green), and love (pink). From 2005 through 2009, and every year in between,
24 Daniels, along with her industry-leading team, approached and pitched
25 Disney·Pixar to partner on a project relating to *The Moodsters*.

26 5. The individuals at Disney·Pixar who had access to materials and
27 descriptions of *The Moodsters* include Thomas Staggs, then CFO of The Walt
28 Disney Corporation; Pete Docter, of Pixar; Rich Ross, then President of Disney

1 Channels Worldwide, and later Chairman of Walt Disney Studios; Nancy
2 Kanter, of Playhouse Disney (now referred to as Disney Junior); Paula
3 Rosenthal, of Playhouse Disney; and Roy E. Disney, who was the son and
4 nephew of the founders of the Walt Disney Company.

5 6. Daniels and her team pitched and disclosed the idea underlying the
6 *The Moodsters* to Disney·Pixar with the understanding, as is custom in the
7 entertainment and motion picture industry, that Daniels would be compensated
8 if Disney·Pixar used the idea. Disney·Pixar accepted these disclosures under
9 these circumstances.

10 7. Disney·Pixar has used Daniels' idea in the movie *Inside Out*, and
11 merchandise and Disney·Pixar has not compensated Daniels.

12 **The Parties**

13 8. Plaintiff Denise Daniels is a citizen and resident of the State of
14 Minnesota.

15 9. Defendant The Walt Disney Company is a Delaware corporation
16 with its principal place of business in Burbank, California.

17 10. Defendant Disney Enterprises Inc. is a Delaware corporation with its
18 principal place of business in Burbank, California.

19 11. Defendant Disney Consumer Products and Interactive Media, Inc. is
20 a California corporation with its principal place of business in Burbank,
21 California. Disney Consumer Products is a subsidiary of Disney Enterprises Inc.

22 12. Defendant Disney Interactive Studios, Inc. is a California corporation
23 with its principal place of business in Burbank, California. Disney Interactive
24 Studios is a subsidiary of Disney Enterprises Inc.

25 13. Defendant Disney Shopping, Inc. is a Delaware corporation with its
26 principal place of business in Burbank, California. Disney Shopping is a
27 subsidiary of Disney Enterprises Inc.

28 14. Defendant Pixar is a California corporation with its principal place of

1 business in Emeryville, CA 94608.

2 15. The Defendants are collectively referred to in this Complaint as
3 Disney·Pixar.

4 **Jurisdiction and Venue**

5 16. This Court has diversity jurisdiction under 28 U.S.C. §1332. The
6 amount in controversy exceeds the sum or value of \$75,000, exclusive of
7 interest and costs. Daniels, on one hand, and Disney·Pixar, on the other hand,
8 are citizens of different states within the meaning of 28 U.S.C. §1332.

9 17. This Court has personal jurisdiction over Disney·Pixar because all
10 Defendants reside in the State of California.

11 18. Venue is proper in this District pursuant to 28 U.S.C. §1391(b)
12 because The Walt Disney Company, Disney Enterprises Inc., Disney
13 Consumer Products, Inc., Disney Interactive Studios, Inc., Disney Shopping,
14 Inc., reside in this District, and Pixar is a resident of California; and a
15 substantial part of the events and omissions giving rise to Daniels' claim
16 occurred in this District.

17 **Factual Background**

18 **Denise Daniels is a highly regarded child development expert**

19 19. Daniels has over 40 years of experience in researching children's
20 social and emotional development.

21 20. In 1986, with a background in Pediatric Oncology Nursing and Crisis
22 Intervention, Daniels co-founded the National Childhood Grief Institute.

23 21. Daniels and her team of mental health professionals traveled to
24 devastated areas to provide grief and trauma counseling for young victims, such
25 as in the aftermaths of the Hurricane Katrina and the 2004 tsunami in Southeast
26 Asia. She also helped children, parents, and teachers cope with the Oklahoma
27 City bombing, the shooting at Columbine High School, and the terrorist attack
28 on 9/11 in New York City.

1 22. Daniels also shared her research, thoughts, and insight through
2 television. Daniels became the first parenting expert for NBC's the Today Show
3 in 1991.

4 23. Daniels won a Peabody award for her work on a PBS television
5 special helping children understand and cope with war.

6 24. In addition to the Today Show on NBC, Daniels has appeared on
7 Oprah, Dateline, The View, CNN, NBC's Nightly News, Larry King Live,
8 Good Morning America, and Fox News. Daniels has also been featured in The
9 Wall Street Journal, The New York Times, The Washington Post, and Parents,
10 Parenting, and Newsweek magazines.

11 25. Fortune 500 companies have recognized Daniels as a leader in the
12 area of children's social and emotional development. For instance, Pfizer
13 retained Daniels as a consultant to help physicians better communicate and
14 understand pediatric patients. Daniels created an innovative pediatric health
15 care assessment program for physicians, which included a thermometer, and
16 color-coded symbols and illustrations to express different emotions.

17 26. Also through her partnership with Pfizer, Daniels created "First Aid
18 for Feelings," a workbook that was developed to help pediatric patients cope
19 with emotional issues surrounding hospitalization. This workbook has been
20 used in over 200 pediatric units across the country, and integrated into ten U.S.
21 medical school training programs. Over 15 million copies of First Aid for
22 Feelings have been published. In total, Daniels is a published author of nine
23 children's self-help books.

24 **The Conception and Development of the Moodsters**

25 27. Daniels wanted to expand on her idea of using color-coded
26 illustrations of emotions to help children with their social and emotional
27 development.

28 28. Daniels conceived of *The Moodsters*, a children's animation starring

1 five color-coded anthropomorphic characters, each individually representing a
2 single emotion: happiness, sadness, anger, love, and fear.

3 29. These characters lived in an abstract world inside a child. For
4 instance, early materials about *The Moodsters* explain that “[s]omewhere deep
5 down inside every child is a wonderous world where The Moodsters live.”

6 30. Daniels recruited a high-profile and accomplished team to execute on
7 her vision for *The Moodsters* and formed The Moodsters Company. This team
8 included, among others, Lisa Simon, Louise Gikow, Marc Brackett, Ph.D., and
9 A.J. Dewey.

10 **Lisa Simon**

11 31. Lisa Simon served as co-executive producer for *The Moodsters*. Simon
12 was a former Assistant Vice President of Sesame Street. She was a producer
13 and director of “Sesame Street” for over fourteen years, where she brought new
14 life and direction to what had already become a benchmark for quality
15 educational television for pre-school children. She won 15 Emmy Awards, as
16 well as a Peabody award, for her work as a producer and director. She worked
17 on several animation projects for Little Airplane Productions, Nick Jr., and
18 PBS. Simon also operated her own company, simon-sez productions, and
19 worked with major corporate, film, and video production companies. Among
20 Simon’s clients were PBS, the Discovery Network, Sony, and Disney.

21 **Louise Gikow**

22 32. Louise Gikow served as co-executive producer for *The Moodsters*,
23 along with Simon. Gikow is an Emmy award-winning author and composer of
24 over 150 scripts, books, and songs. She was a consulting producer and staff
25 writer for the PBS series “Between the Lions.” She was the co-creator and head
26 writer of Playhouse Disney’s hit show, “Johnny and the Sprites.” And Gikow
27 was the co-creator of “Lomax: The Hound of Music,” a music education show
28 for children on PBS Kids. Gikow was head writer for numerous international

1 projects, including the Middle Eastern co-production of "Sesame Stories."

2 **A.J. Dewey**

3 33. A.J. Dewey served as the creative director for *The Moodsters*. Dewey is
4 an award-winning illustrator and designer whose work spans a broad range of
5 mediums and whose clients include Sesame Street, Disney, IBM, AT&T,
6 Marvel, Nascar and Pepsi Cola. His illustrations can be seen in several
7 children's book series and hundreds of retail products. Dewey's television work
8 includes "Animal Planet," "Video Buddy," "Once Upon a Tree" and "Dr.
9 Seuss's My Many Colored Days," a symphonic animated version of the
10 popular children's book. From 2004 to 2007, Dewey was the Senior Designer at
11 Manhattan Toy, where he designed a broad list of toy products, including the
12 2006 launches of Groovy Girls' Petrageous and Cirque du Soleil's premier line
13 of childrens' products and textiles.

14 **Marc Brackett**

15 34. Marc Brackett served as a curriculum advisor on *The Moodsters*. He is
16 currently the Director of the Yale Center for Emotional Intelligence and
17 Professor in the Child Study Center at Yale University. He has published over
18 100 scholarly articles and is the recipient of numerous awards, including the
19 Joseph E. Zins award for his research on emotional intelligence in schools. His
20 research has been featured in the New York Times, Time Magazine, and
21 National Public Radio. He co-developed the RULER model of emotional
22 literacy, a model that has been adopted by over 1,000 public, charter, and
23 private schools across the United States and in other countries.

24 ***

25 35. Emotional intelligence played a preeminent role in *The Moodsters*. *The*
26 *Moodsters* aimed to help children identify, express, and manage their feelings in
27 a healthy and developmentally appropriate way. Brackett, as an advisor on *The*
28

1 *Moodsters*, co-wrote the *Emotional Literary Curriculum* with Dr. Susan E. River,
2 which laid out the educational objectives needed to develop episodes of *The*
3 *Moodsters*. *The Moodsters* show was designed to provide children with an
4 opportunity to learn “emotional literacy” using the RULER method. Daniels
5 and her team, therefore, designed *The Moodsters* to help children “acquire the
6 critical emotional knowledge and important life skills to succeed.”
7

8 36. Daniels and her team developed “a bible” for *The Moodsters*, which is
9 commonly referred to in the entertainment industry as an outline on a
10 television series’ characters, settings, and other elements.

11 37. Daniels and her team had completed the pilot episode for *The*
12 *Moodsters* in 2007.

13 38. Both the bible and the pilot revolve around five main color-coded
14 characters, each of which represents a single emotion. Because emotions are an
15 abstract concept with no known physical features or visual qualities, these
16 individual single-emotion characters are visually represented as
17 anthropomorphic figures with human characteristics, including body
18 language, voice, and facial expressions.

19 39. The five characters each individually represent one of the following
20 single emotions: happiness, sadness, anger, love, and fear.

21 **Denise Daniels and her team pitched *The Moodsters* to**
22 **Disney·Pixar from 2005 through 2009**

23
24 40. Daniels and her team sought to partner with a network or studio to
25 produce *The Moodsters* on a national and international platform. Disney·Pixar
26 and Nickelodeon Jr. were two entertainment companies that Daniels wanted to
27 potentially partner with.

28 41. Daniels and her team first contacted Disney·Pixar about *The Moodsters*

1 in 2005. They then contacted Disney-Pixar in 2006, 2007, 2008, and 2009 about
2 *The Moodsters*.

3 42. Daniels and her team contacted a number of different individuals at
4 Disney-Pixar about *The Moodsters*.

5 43. The following individuals at Disney-Pixar who received information
6 about *The Moodsters* include Pete Docter, Thomas Staggs, Nancy Kanter, Paula
7 Rosenthal, and Beth Gardiner.

8 44. In addition to the individuals listed in paragraph 43, Roy E. Disney
9 and Rich Ross had access to *The Moodsters*.

10 45. In 2005, Gikow and Simon shared materials about *The Moodsters* with
11 Paula Rosenthal, who worked for Playhouse Disney. Rosenthal then provided
12 those materials about *The Moodsters* to Nancy Kanter, also of Playhouse
13 Disney. Rosenthal requested an additional copy of *The Moodsters* materials for
14 herself.

15 46. Rosenthal and Kanter at Disney, and Gikow and Simon, at *The*
16 *Moodsters* Company, continued to discuss and share materials about *The*
17 *Moodsters* in 2006 and 2007.

18 47. In 2008, a mutual friend put Daniels in touch with Thomas Staggs.
19 Staggs was the CFO of The Walt Disney Company at the time. Daniels shared
20 materials about *The Moodsters* with Staggs.

21 48. In May 2008, Staggs informed Daniels that he would share materials
22 about *The Moodsters* with Roy E. Disney. Roy E. Disney was the son and
23 nephew of the founders of The Walt Disney Corporation.

24 49. In June 2008, Staggs informed Daniels that he shared materials about
25 *The Moodsters* with Rich Ross. At the time, Ross was the President of Disney
26 Channels Worldwide. In 2009, Ross became Chairman of Walt Disney
27 Studios. Walt Disney Studios distributes films under various banners, which
28 include Walt Disney Pictures and Pixar.

1 50. Daniels also called Docter to discuss *The Moodsters*. The two spoke for
2 an extended period of time, and Daniels walked Docter through in detail the
3 characters and concept underlying *The Moodsters*.

4 51. In short, Disney·Pixar had access to *The Moodsters* well before 2010.

5 **Disney·Pixar Released *Inside Out* in 2015**

6 52. Disney·Pixar released *Inside Out* in the United States on June 19,
7 2015.

8 53. *Inside Out* is a movie that primarily takes place inside an 11-year old
9 girl's head.

10 54. The five main characters in *Inside Out* are (1) Joy; (2) Sadness; (3)
11 Anger; (4) Fear; and (5) Disgust.

12 55. Each of these main characters is an anthropomorphic, color-coded
13 animated character representing a single emotion.

14 56. Joy's character is reflected in the color yellow. Hope and optimism
15 dictate all of her Decisions.

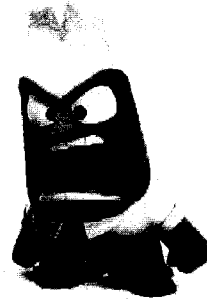


22 57. Sadness' character is reflected in the color blue. Sometimes it seems
23 like the best thing to do is just lie on the floor and have a good cry.



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58. Anger is reflected in the color red. He has a fiery spirit and tends to explode (literally) when things don't go as planned. He is quick to overreact and has little patience for life's imperfections.



59. Fear is reflected in the color purple. He is constantly on the lookout for potential disasters. There are very few activities and events that Fear does not find to be dangerous and possibly fatal.



60. Disgust is reflected in the color green. Her job is to keep Riley from being poisoned, physically or socially.

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61. Disney·Pixar invested significant resources into the development of *Inside Out*. The production budget for *Inside Out* was over \$170,000,000.

62. This investment has paid off for Disney·Pixar. *Inside Out* was a huge success at the box office.

63. Disney·Pixar generated gross revenue at the box office for *Inside Out* of over \$350,000,000 domestically and over \$850,000,000 worldwide.

64. *Inside Out* was also lauded by critics. Some film critics praised *Inside Out* for its novelty. Anthony Lane of *The New Yorker*, for instance, wrote “On the scale of inventiveness, ‘*Inside Out*’ will be hard to top this year.”

65. Disney·Pixar continues to promote *Inside Out* as an “inventive” animated film.

66. One reason *Inside Out* is considered so novel, creative, and inventive is because Disney·Pixar had never before released a movie that anthropomorphized emotions.

67. None of the three *Toy Story* movies, for instance, include anthropomorphized emotions. Nor do any characters in that trilogy represent a single emotion which corresponds to a single color.

68. *Cars* and *Cars 2* are the same in this regard. None of the characters in these movies include anthropomorphized emotions. And none of the characters represent a single emotion which corresponds to a single color.

69. *Monsters Inc.* was the first major motion picture that Doctor directed.

1 The characters in that movie, along with *Monsters University*, do not include
2 anthropomorphised emotions. Nor does any single character represent a single
3 emotion which corresponds to a single color.

4 70. The remainder of Pixar's movies that pre-date *Inside Out* are no
5 different. *A Bug's Life*, *Finding Nemo*, *The Incredibles*, *Ratatouille*, *WALL-E*, *Brave*,
6 and *Up*, are movies that do not include anthropomorphized emotions, or
7 characters that represent a single emotion which corresponded to a single color.

8 71. The Walt Disney Company, including through Walt Disney Studios,
9 has distributed over 75 animated films since *Snow White and the Seven Dwarfs* in
10 1938.

11 72. The Walt Disney Company, including through Walt Disney Studios,
12 has never distributed a film that anthropomorphized emotions as characters.

13 73. The Walt Disney Company, including through Walt Disney Studios,
14 has never distributed a film with a main character that represented a single
15 emotion which corresponds to a single color.

16 74. Disney·Pixar continues to enjoy the success of *Inside Out*.

17 75. For instance, Disney·Pixar has generated gross revenue in excess of
18 \$100,000,000 for DVD and Blu-Ray sales of *Inside Out*. And *Inside Out* was the
19 fourth most downloaded film on iTunes in 2015. Disney·Pixar has distributed,
20 and continues to distribute, *Inside Out* by DVD, Blu-ray, and Internet-based
21 downloads and streams.

22 76. Disney·Pixar also generates significant revenue from *Inside Out* toys,
23 books, and other merchandise.

24 77. Some of this merchandise attempts to capitalize on the perception
25 that *Inside Out* teaches kids about emotional intelligence.

26 78. Disney·Pixar would not have enjoyed the extreme success it has had
27 from *Inside Out* without its use of anthropomorphized emotions as its main
28 characters.

1 **Count 1**

2 **Breach of Implied-in-Fact Contract**

3 79. Daniels repeats and realleges all allegations set forth above in
4 paragraphs 1-78 as if they were stated in full and incorporated herein.

5 80. Daniels is the exclusive owner of the original ideas underlying *The*
6 *Moodsters*.

7 81. Daniels was aware and relied on customs and practices in the
8 entertainment industry when she approached Disney·Pixar about a partnership.
9 Specifically, it is common and custom in the entertainment industry for
10 creators to provide ideas and materials to producers and studios in exchange for
11 compensation and credit if such ideas or materials are later used.

12 82. Under the circumstances, Daniels disclosed her ideas regarding *The*
13 *Moodsters* to Disney·Pixar, as is custom and common in the entertainment
14 industry, with a reasonable expectation that Disney·Pixar would compensate
15 Daniels if Disney·Pixar used this idea. Thus, Daniels, individually and through
16 her team, provided ideas and materials to Disney·Pixar for sale in exchange for
17 compensation and credit if Disney·Pixar used such ideas or materials.

18 83. Under the circumstances, and consistent with the custom and
19 common practice in the entertainment industry, Disney·Pixar accepted the
20 disclosure of the ideas in *The Moodsters* with an expectation that it would have
21 to compensate Daniels if Disney·Pixar used this idea in any television, motion
22 picture, merchandise, or otherwise.

23 84. Neither before nor after any disclosure of ideas and materials did
24 Disney·Pixar ever tell Daniels, or anyone with her team, that it may use the
25 ideas and materials provided to Disney·Pixar without compensation to Daniels.

26 85. Based on the circumstances described above, Daniels and
27 Disney·Pixar have an implied-in-fact contract that requires Disney to
28 compensate and credit Daniels for the use of any ideas or materials that Daniels

1 and her team disclosed to Disney·Pixar.

2 86. Disney·Pixar has used Daniels's idea as shown in *The Moodsters*,
3 which includes a collection of anthropomorphized, single-emotion characters
4 through the release and sale of *Inside Out*, and the sale of *Inside Out*
5 merchandise. Disney·Pixar has not compensated Daniels for this use.

6 87. As a result, Disney·Pixar has materially breached, and continues to
7 materially breach, its implied-in-fact contract with Daniels.

8 88. Daniels has sustained damages as a result of Disney·Pixar's material
9 breach. Damages for this harm will be in an amount proven at trial.

10
11 **Prayer for Relief**

12 Daniels requests the following relief:

- 13 1. Entry of judgment in favor of Daniels and against Disney·Pixar on
14 Count 1 in this Complaint, in an amount to be determined at trial, but at least
15 in an amount that exceeds the jurisdictional limits of this Court;
16
17 2. An award of damages for Disney·Pixar's breach of the parties
18 implied-in-fact contract;
19
20 3. An award of costs, expenses, and disbursements;
21
22 4. Such other and further relief as is just and proper.

23 DATED: June 19, 2017

Robins Kaplan LLP

24 By: /s/ Michael A. Geibelson

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MICHAEL A. GEIBELSON

PATRICK M. ARENZ

25 Attorneys for Plaintiff Denise Daniels
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Jury Trial Demand

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff demands a trial by jury on all claims so triable.

DATED: June 19, 2017 Robins Kaplan LLP

By: /s/ Michael A. Geibelson
RONALD J. SCHUTZ
MICHAEL A. GEIBELSON
PATRICK M. ARENZ

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