

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

THE COUSTEAU SOCIETY, INC.,

Plaintiff,

v.

CELINE COUSTEAU; CAUSECENTRIC
PRODUCTIONS, INC; THE CELINE
COUSTEAU FILM FELLOWSHIP INC.
a.k.a THE OUTDOOR FILM FELLOWSHIP

Defendants.

Civil Action No.: 3:19-cv-01106-AWT

Jury Trial Demanded

OCTOBER 4, 2019

FIRST AMENDED COMPLAINT

Plaintiff The Cousteau Society, Inc. (“TCS” unless indicated otherwise), by and through its undersigned counsel, as and for its Complaint against Defendants, Celine Cousteau, CauseCentric Productions, Inc. (“CPI”), and The Celine Cousteau Film Fellowship Inc. a.k.a. The Outdoor Film Fellowship, as successor-in-interest to CPI (“CCF”) (collectively “Defendant(s)” unless indicated otherwise), alleges as follows based on knowledge of its own actions, and on information and belief as to Defendants’ actions (unless indicated otherwise):

NATURE OF THE CASE

1. This lawsuit concerns Defendants’ contumacious use of world-famous explorer Jacques-Yves Cousteau’s name, image, photograph and iconic red cap to promote her various films and foundations.

2. TCS owns the exclusive, worldwide rights to, *inter alia*, Jacques-Yves Cousteau’s name, image, photograph and famous red cap.

3. None of the Defendants is a member of TCS.

4. All of the Defendants have been on notice of TCS' exclusive, worldwide rights in the aforementioned intellectual property since at least as early as 2017.

5. All of the Defendants have been on notice since at least as early as 2017 that they do not have TCS' permission, authorization, or consent to use or otherwise exploit TCS' aforementioned intellectual property for any purpose.

6. TCS recently learned that Defendants are knowingly and intentionally trading off of Jacques-Yves Cousteau's name, image, and famous red cap.

7. For example, among other examples, Defendants have used Jacques-Yves Cousteau's name, image, and famous red cap to promote and manufacture interest in the upcoming documentary, "*Celine Cousteau, The Adventure Continues*" (the "Documentary").

8. TCS also recently became aware that Celine Cousteau is unlawfully using Jacques-Yves Cousteau's name and likeness on CPI and CCF's website to advertise and promote her film projects and foundations.

9. At its core, despite having knowledge of TCS' rights and its ownership over use of Jacques-Yves Cousteau's name, photograph, likeness, image and intellectual property, Celine Cousteau intentionally ignores these rights to promote herself and her projects.

10. Defendants intentionally infringe on TCS' intellectual property rights and Jacques-Yves Cousteau's right of publicity to portray the illusion of an association that does not exist.

11. On information and belief, despite portrayals otherwise, Celine Cousteau and her immediate family had been estranged from her grandfather Jacques-Yves Cousteau for years prior to his death, and as a result of their misuse of Jacques-Yves Cousteau's name and likeness

for their own commercial endeavors, Jacques has had to take legal action to protect against the misuse of his intellectual property rights.

12. In fact, in 1995, Celine Cousteau's father, Jean-Michel Cousteau was entangled in an ugly family feud against his father over a resort he opened in Fiji named "Cousteau's." Jacques-Yves Cousteau immediately demanded a name change fearing that people might think the resort was linked to TCS. Jacques felt Jean-Michel was "just palming off, using the [Cousteau] name ... and the name of the Cousteau Society for his financial benefit." Ultimately, Jacques-Yves Cousteau was successful in the lawsuit, but the feud did not end there. Shortly thereafter, Jean-Michel faced a similar claim by TCS regarding a resort he was building on the Big Island in Hawaii. *See* various articles detailing feud attached as **Exhibit A**. Ultimately, TCS was successful in obtaining a consent judgment against Jean-Michel that prohibited him from using the Cousteau name without Jacques' consent.

13. Like her father, Celine Cousteau unlawfully uses Jacques-Yves Cousteau's name and legacy to promote her personal commercial projects at the expense of TCS and its mission to protect and improve the quality of life for present and future generations.

14. In fact, as early as 2014, in an interview with WAG Magazine, Celine Cousteau has publicly acknowledged her use and exploitation of Jacques-Yves Cousteau's name, image, and legacy for her own personal gain. "I am leveraging my famous family history to communicate important stories about threats to our environment. I have arrived at where I am supposed to be." *See* "Cause and Effect" article in WAG Magazine, available at <http://www.wagmag.com/cause-and-effect/> attached as **Exhibit B**.

15. During his lifetime, Jacques-Yves Cousteau made clear that he wanted TCS to be tasked with carrying out his legacy and furthering his life's work. Accordingly, TCS is insuring that bad actors, such as Celine Cousteau and her father, do not exploit his legacy and goodwill.

16. To ameliorate the harm that Defendants' unlawful activities is causing to TCS, TCS brings this lawsuit against Defendants for: (i) federal trademark infringement in violation of 15 U.S.C. § 1114; (ii) federal trademark infringement in violation of 15 U.S.C. § 1125(a); (iii) federal false association, false designation of origin, and unfair competition in violation of 15 U.S.C. § 1125(a); (iv) trademark infringement and unfair competition under the common law of the State of Connecticut; (v) right of publicity under French law; and (vi) alternatively, misappropriation/right of publicity under the common law of the State of Connecticut.

THE PARTIES

17. Plaintiff TCS is a New York not-for-profit corporation with its principal place of business at 732 Eden Way North, Suite E, Number 707, Chesapeake, Virginia 23320.

18. On information and belief, Celine Cousteau is a resident of the State of New York.

19. On information and belief, CPI is a foreign-not-for profit corporation registered to do business in New York.

20. On information and belief, Defendant CCF is a Delaware corporation. CPI changed its name to CCF in 2015. Further, CPI's website announces that CPI, "as a 501c3 entity, has now become [CCF]." *See* CPI's webpage attached as **Exhibit C**. Thus, on information and belief, CCF is the successor-in-interest to CPI.

JURISDICTION AND VENUE

Subject matter jurisdiction:

21. The claims for trademark infringement, false association, false designation of origin, and unfair competition asserted in Counts I-III, *infra*, arise under the Trademark Act of 1946 (as amended), namely, 15 U.S.C. §§ 1051 et seq. Therefore, this Court has subject matter and original jurisdiction over Counts I-III pursuant to 15 U.S.C. § 1121 and 28 U.S.C §§ 1331 and 1338(a), respectively.

22. The claim for trademark infringement and unfair competition under the common law of Connecticut, in Count IV, *infra*, is so related to the federal claims asserted in Counts I-III, *infra*, that they form part of the same case or controversy. Therefore, this Court has subject matter jurisdiction over Count IV pursuant to 28 U.S.C. §§ 1338(b) and 1367(a), respectively.

23. The claims for misappropriation/right of publicity asserted in Counts V and VI, *infra*, arise under French law and under Connecticut's common law, respectively. Both claims are so related to the federal claims asserted in Counts I-III, *infra*, that they form part of the same case or controversy. Therefore, this Court has subject matter jurisdiction over Counts V and VI pursuant to 28 U.S.C. §§ 1338(b) and 1367(a), respectively.

24. Plaintiff TCS also brings this action under federal diversity jurisdiction, 28 U.S.C. § 1332, as the parties are completely diverse in citizenship and the amount in controversy exceeds \$75,000.

Personal jurisdiction:

25. Celine Cousteau was served with process personally when she was physically present in the state of Connecticut, at the screening of the infringing film "Tribes on the Edge" (the "Film"), on July 19, 2019. Thus, Celine Cousteau is subject to personal jurisdiction

pursuant to the transient jurisdiction rule. *Burnham v. Superior Court of the State of California*, County of Marin, 495 U.S. 604 (1990).

26. Further, as alleged *infra*, Celine Cousteau committed, and continues committing, a tortious act within the State of Connecticut by deliberately trading off TCS' exclusive, worldwide rights to Jacques-Yves Cousteau's name, image, photograph and famous red cap, by promoting and manufacturing interest in the Documentary and the Film. For example, Celine Cousteau presented the Film, which she also co-wrote and directed, at Grace Farms, 365 Lukes Wood Road, New Canaan, CT, on July 19, 2019 before a live audience.¹ Upon information and belief, Celine Cousteau "intends to continue holding private, public and festival screenings of 'Tribes On The Edge' with companion viewing discussions and an action guide for those who will eventually stream or download this at home or in academic institutions" as referenced on the "Tribes on Edge" webpage available at <https://tribesontheedge.com/impact-campaign/action/> and attached as Exhibit E.² TCS' claims arise out of, relate to, and concern Celine Cousteau's aforementioned conduct, which such Celine Cousteau knows and expects, or should reasonably know and expect, is harming, and will continue harming, TCS within the State of Connecticut. Based on the foregoing, this Court has personal jurisdiction over Celine Cousteau also pursuant to § 52-59(b)(a)(2).

27. As alleged *infra*, Defendant CPI, and Defendant CCF as successor-in-interest to CPI, also committed, and continue committing, a tortious act within the State of Connecticut by deliberately trading off of TCS' aforementioned exclusive rights to promote, and manufacture

¹ See Grace Farms Event Webpages, available at <https://patch.com/connecticut/newcanaan/calendar/event/20190719/593946/protecting-the-amazon-tribes-on-the-edge> and <https://gracefarms.org/events/tribes-on-the-edge/> attached as **Exhibit D**. The page shows that Celine Cousteau was recently in Connecticut for a screening of the infringing Film to the public.

² Additionally, on the "Tribes on Edge" website, Celine provides a list of states across America where she will be personally screening and discussing the infringing Film with viewers and other members of the public. See list available at <https://tribesontheedge.com/impact-campaign/screenings/> attached as **Exhibit F**.

interest in Celine Cousteau's film projects and foundations. For example, Defendant CPI, or Defendant CCF as its successor-in-interest, publicized their causes on CPI's website through the unauthorized use of Jacques-Yves Cousteau's name, likeness, and image. In addition, Defendant CPI, or Defendant CCF as its successor-in-interest, produced the Film, which was screened in Connecticut on July 19, 2019. TCS' claims arise out of, relate to, and concern Defendant CPI's, or successor-in-interest CCF's, aforementioned conduct, which such Defendants know and expect, or should reasonably know and expect, is harming, and will continue harming, TCS within the State of Connecticut. Based on the foregoing, this Court has personal jurisdiction over Defendants CPI and CCF pursuant to § 52-59(b)(a)(2).

Venue:

28. As alleged *infra*, Defendants' wrongful acts and conduct occurred in substantial part in this judicial district. Therefore, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

29. A substantial part of TCS' intellectual property that is the subject of this lawsuit is situated in this judicial district. Therefore, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

30. As alleged *supra*, Defendants are subject to personal jurisdiction in this judicial district. Therefore, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(3).

FACTS COMMON TO ALL CLAIMS FOR RELIEF

I. Jacques-Yves Cousteau

31. Jacques-Yves Cousteau was—and remains—the world's most celebrated oceanic explorer, documentarian, and marine conservationist.

32. In the early 1940s, Mr. Cousteau pioneered underwater filming by co-developing the aqualung and underwater camera, which together allowed divers to stay underwater for then-unprecedented periods while filming.

33. Thereafter, Mr. Cousteau helmed the French naval research vessel the *Calypso* and her crew (as well as numerous other vessels) for nearly half a century while exploring and researching the world's oceans, seas, and rivers.

34. Jacques-Yves Cousteau produced more than 120 critically acclaimed television series and specials, documentaries, and films, and authored more than 50 books based on his explorations aboard the *Calypso* and other vessels.

35. Mr. Cousteau's credits include *Le Monde du Silence*, for which he won the prestigious Palme d'Or Award at the 1956 Festival de Cannes, and the 1957 Academy Award for Best Documentary, Features.

36. In addition to pioneering underwater filming, Jacques-Yves Cousteau pioneered marine conservation, using his films and documentaries to raise worldwide awareness about the consequences of pollution and other human behavior on the environment.

37. In recognition of Jacques-Yves Cousteau's conservation efforts, the United Nations bestowed its prestigious International Environmental Prize upon him in 1977.

38. Mr. Cousteau also served as the Director of the Oceanographic Museum in the principality of Monaco for 30 years.

39. Before Mr. Cousteau's death in 1997, he also penned the *Bill of Rights for Future Generations*, which aims to protect the Earth for future generations.

40. A petition seeking codification of Mr. Cousteau's *Bill of Rights* into international law currently has nine million signatures.

II. TCS and its Intellectual Property Portfolio

A. TCS

41. TCS is a 501(c)(3) not-for-profit corporation, which Jacques-Yves Cousteau established in 1973 to promote and protect his carefully curated legacy, as discussed above.

42. Under the leadership of TCS' Board of Directors, including Jacques-Yves Cousteau's widow and their children, TCS has carried on Jacques-Yves Cousteau's legacy by advocating for and promoting oceanic and environmental awareness throughout the world. Such efforts include, for example:

- a. **UNESCO-Cousteau Ecotechnie Programme ("UCEP")**. UCEP is a joint effort between Equipe Cousteau and the renowned UNESCO to promote education, research, and policy-making in the fields of environmental awareness and environmental conservation.
- b. **Cousteau Divers**. Cousteau Divers is an international network of divers who use science, community, and multimedia to raise awareness for the protection of marine life.
- c. **Cousteau Kids**. Cousteau Kids organizes and hosts programs and events at 60 schools throughout the world to educate children about oceanic and environmental conservation.
- d. **The Calypso**. As stated *supra*, Jacques-Yves Cousteau's famous ship was the *Calypso*. In January 2012, the French Maritime and River Heritage Foundation conferred its prestigious *Boat of Heritage Interest Award* on the *Calypso*. TCS, the exclusive owner of the *Calypso*, has raised millions of dollars to restore the famous vessel, with the ultimate goal of having the vessel sail the oceans once again, raising awareness for oceanic conservation along the way.
- e. **Easter Island**. TCS is leading efforts to plant approximately 1.5 million trees on Easter Island in Chile, which is a part of a global program to protect and develop Easter Island.
- f. **Vaquita Conservation**. A Vaquita, colloquially known as a porpoise, is the most endangered cetacean in the world. As part of TCS' partnership with the scientific consortium Oceanides Conservacion y Desarrollo Marino, A.C., TCS is using acoustic detectors to collect data about vaquita populations and their movements. This data will allow conservationists to hopefully develop a plan to preserve--and ultimately increase--the vaquita population.

- g. **Costa Rica.** TCS recently entered into a partnership with the University of Costa Rica to create the Jacques Cousteau Observatory of Biodiversity, which will coordinate research amongst universities in South America.
- h. **Whales - Wanted Alive.** Building on what Jacques-Yves Cousteau began nearly 30 years ago, TCS is leading efforts throughout the world to enact a moratorium on commercial whaling.
- i. **Coastal Protection in Sudan.** TCS conducted a 14-year study of approximately 700 kilometers of the Sudanese Red Coast. This study culminated in a 600-page report on the Red Coast's biodiversity and marine habitats. TCS is also leading the Red Sea Shark and Ray Conservation and Management Project, which aims to conduct wider research--and ultimately help preserve--the ecosystem and food web in Sudan.

B. TCS' Intellectual Property

43. In 1973, TCS rightfully and exclusively acquired the rights to Jacques-Yves Cousteau's worldwide intellectual property portfolio. These rights included (and include), for example: (i) Mr. Cousteau's trademarks; and (ii) Mr. Cousteau's rights of privacy, publicity, and personality ((i) and (ii) collectively, "TCS' Intellectual Property").

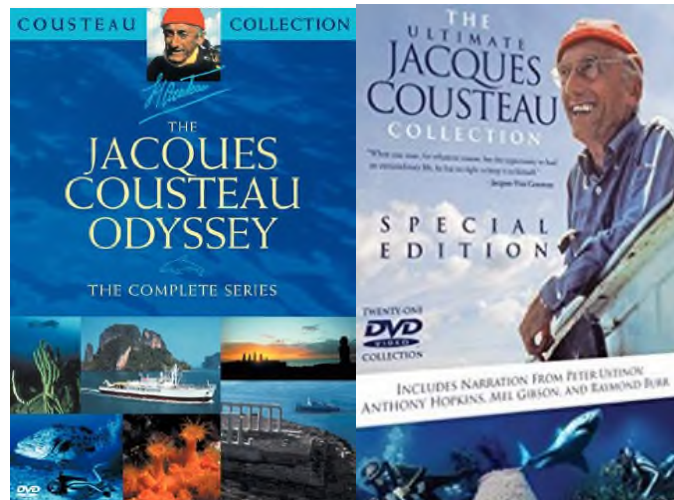
44. During his decades-long career, Mr. Cousteau appeared in countless films, photographs, and other media throughout the world donning a red stocking cap:



45. The media described (and describes) the red cap as Mr. Cousteau's "signature" and "trademark" look. *See, e.g. Exhibit G see also infra:*



46. TCS has exploited its exclusive rights in the image of Jacques-Yves Cousteau's famous red cap throughout the world. For example, as shown in *infra*, *The Jacques Cousteau Odyssey*, and *The Ultimate Jacques Cousteau Collection*, DVD collections prominently feature Mr. Cousteau wearing his famous red cap on their covers:



47. TCS also expends substantial resources on advertising, marketing, and promoting its benevolent activities under its Intellectual Property, and the marks "THE COUSTEAU SOCIETY"; "COUSTEAU DIVERS"; "COUSTEAU KIDS"; "THE JOURNEY CONTINUES";

“JACQUES-YVES COUSTEAU”; “COUSTEAU”; and “CALYPSO” (the foregoing marks, together the image of Jacques-Yves Cousteau’s red cap, the “TCS Marks”).

48. The TCS Marks are inherently distinctive.

49. The TCS Marks and Intellectual Property have been the subject of widespread, unsolicited media coverage and critical acclaim throughout the world, including the United States.

50. Because of TCS’ extensive advertising, marketing, and promotional efforts, as well as widespread, unsolicited media coverage of TCS and its activities offered under TCS’ Marks and Intellectual Property, consumers throughout the world associate TCS’ Marks and Intellectual Property uniquely with TCS.


51. The TCS Marks have acquired distinctiveness, and function as strong source identifiers in the marketplace for TCS and its activities.


52. TCS vigorously polices the marketplace for unauthorized uses of its Marks and Intellectual Property. *See generally* “Parkes + MacDonald & Image Nation Abu Dhabi Acquire Rights To Iconic Naval Explorer Jacques-Cousteau – Berlin” attached as **Exhibit H**.


53. For example, it is well known that Walt Disney Pictures paid TCS a substantial monetary penalty for using Mr. Cousteau’s red cap in the film, *The Life Aquatic With Steve Zissou*, without TCS’ authorization or consent. *See* **Exhibit H**.



54. Indeed, several of Defendant Celine Cousteau’s own cousins and other members of Jacques-Yves Cousteau’s family have expressly acknowledged that TCS owns the exclusive rights to the marks COUSTEAU, JACQUES-YVES COUSTEAU, and CALYPSO, as well as Jacques-Yves Cousteau’s name, image, signature, voice, photograph and likeness. *See, e.g.*, 2003 Consent Judgment attached as **Exhibit I**.

55. In the course of TCS using and protecting its Marks and Intellectual Property throughout the world, TCS has acquired the following trademark registrations, and filed the following trademark applications, in the United States:

Mark	U.S. Trademark Reg./Application Ser. Number	Registration/Filing Date	International Class
THE COUSTEAU SOCIETY	1,630,009 (the “ ’009 Registration”)	January 1, 1991	16 for “brochures, books and magazines dealing with topics about undersea exploration and the environment; art posters; postcards; stationery; writing paper and envelopes; decals; paper clothing tags; calendars and stamps” 25 for “clothing, namely t-shirts” 42 “promoting public awareness of the environment and conservation issues and public appreciation of natural resources through the distribution of printed material and information”
	1,631,391 (the “ ’391 Registration”)	January 15, 1991	9 for “pre-record video cassette tapes featuring programs on undersea exploration and the environmental education” 14 for “ornamental pewter lapel pin; belt buckles made of precious metal”

Mark	U.S. Trademark Reg./Application Ser. Number	Registration/Filing Date	International Class
			16 for “ brochures and books dealing with underseas exploration and the environment; calendars” 25 for “clothing - namely t-shirts and headwear” 28 for “toys - namely a model ship” 42 for “mail order services featuring gifts in the nature of books, posters, prints, calendars, greeting cards, shirts, belts and tote bags”
COUSTEAU DIVERS	4,208,783 (the “ ’783 Registration”)	September 18, 2012	41 for “providing educational classes, seminars, and workshops related to the study of the ocean; providing dive training courses”
	3,330,700 (the “ ’700 Registration”)	November 6, 2007	16 for “magazines in the field of children’s science, the environment and marine and ocean education”
COUSTEAU KIDS	3,261,940 (the “ ’940 Registration”)	July 10, 2007	16 for “magazines”

Mark	U.S. Trademark Reg./Application Ser. Number	Registration/Filing Date	International Class
 The Cousteau Society	1,631,392 (the “ ’392 Registration”)	January 15, 1991	9 for “phonograph records and prerecorded video cassette tapes featuring programs on undersea exploration and environmental education” 16 for “brochures, books and magazines dealing with topics about undersea exploration and the environment; art posters; postcards; stationery; writing paper and envelopes; decals; paper clothing tags; calendars and stamps” 18 for “tote bags” 25 for “clothing, namely t-shirts and sweatshirts” 41 for “educational services, namely conducting field study training programs and workshops in ocean research and the environment” 42 for “promoting public awareness of the environment and conservation issues and public appreciation of natural resources through the distribution of printed material and

Mark	U.S. Trademark Reg./Application Ser. Number	Registration/Filing Date	International Class information”
	87/389,097 (the “ ’097 Application”)	March 28, 2017	41 for “educational services, namely, conducting classes, seminars, conferences, workshops and field trips in the field of environmental and ocean conservation; membership club services, namely, providing training to the members in the field of environmental and ocean conservation”
	87/031,573 (the “ ’573 Application”)	May 10, 2016	16 for “publications, namely, books, hand-outs and workbooks in the field of environmental and ocean conservation; magazines in the field of environmental and ocean conservation”
THE JOURNEY CONTINUES	5,773,519 (the “ ’519 Registration”)	June 11, 2019	35 for “promoting public awareness and providing information relating to environmental and oceanic conservation”
THE JOURNEY CONTINUES	88/100,852 (the “ ’852 Application”)	August 31, 2018	41 for “production and distribution of videos, films, and digital media”

56. Attached hereto as **Exhibit J** are true and correct copies of the ‘009, ‘191, ‘783, ‘700, ‘940, ‘392, and ‘519 Registration certificates.

57. The '009, '391, '783, '700, '940, '392, and '519 Registrations, respectively, are in effect, valid, and subsisting.

58. The '009, '391, '783, '700, '940, '392, and '519 Registrations, respectively, are on the Principal Trademark Register.

59. The '700, '940 and '519 Registrations, respectively, are *prima facie* evidence of the validity of the mark covered by such Registration.

60. The '700, '940 and '519 Registrations, respectively, are *prima facie* evidence of the validity of registration of the mark covered by such Registration.

61. The '700, '940 and '519 Registrations, respectively, are *prima facie* evidence of TCS' ownership of the mark covered by such Registration.

62. The '700, '940 and '519 Registrations, respectively, are *prima facie* evidence of TCS' exclusive right to use the mark covered by such Registration for the goods and/or services specified in such Registration.

63. The '009, '391, '783 and '392 Registrations, respectively, are incontestable within the meaning of 15 U.S.C. § 1065.

64. The '009, '391, '783 and '392 Registrations, respectively, are conclusive evidence of the validity of the mark covered by such Registration.

65. The '009, '391, '783 and '392 Registrations, respectively, are conclusive evidence of the validity of registration of the mark covered by such Registration.

66. The '009, '391, '783 and '392 Registrations, respectively, are conclusive evidence of TCS' ownership of the mark covered by such Registration.

67. The '009, '391, '783 and '392 Registrations, respectively, are conclusive evidence of TCS' exclusive right to use the mark covered by such Registration for the goods and/or services specified in such Registration.

68. TCS exclusively owns all right, title, and interest in and to the TCS Marks and Intellectual Property.

69. The TCS Marks and Intellectual Property are valuable assets of TCS.

III. Defendants and Their Unlawful Activities

A. Defendants

70. Celine Cousteau is one of Jacques-Yves Cousteau's estranged granddaughters from his estranged son Jean-Michel.

71. Celine Cousteau is not and never has been a member of, or associated with, TCS.

72. Celine Cousteau does not have, and has never had, TCS' authorization, permission, or consent to use any of TCS' Marks or Intellectual Property for any purpose.

73. Defendant CPI produces and distributes multimedia content with an emphasis on short films concerning environmental and socio-cultural issues. Upon information and belief, Celine Cousteau is the founder and Executive Director of CPI.

74. Defendant CCF is a 501(c)(3) entity which, upon information and belief, is the successor-in-interest to Defendant CPI. Upon information and belief, Celine Cousteau is a co-founder and Board Member of CCF.

75. Neither Defendant CPI nor Defendant CCF is or ever has been a member of, or associated with, TCS.

76. Neither Defendant CPI nor Defendant CCF has, or have has had, TCS' authorization, permission or consent to use any of TCS' Marks or Intellectual Property for any purpose.

B. Defendants' Unlawful Activities

i. Defendant Celine Cousteau's Documentary

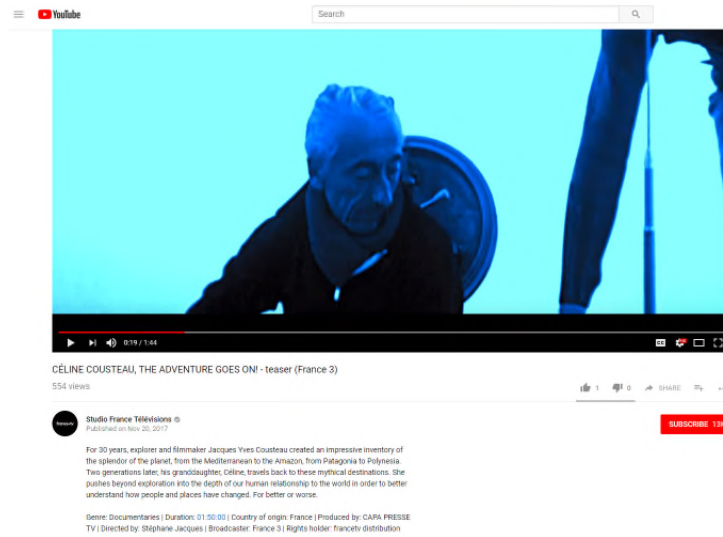
77. On information and belief, Celine Cousteau produced, appeared in, and narrated the Documentary.

78. Celine Cousteau is contumaciously using and trading off TCS' Marks and Intellectual Property to manufacture publicity for the Documentary.

79. For example, the title of the Documentary includes the phrase "The Adventure Continues."

80. The phrase "The Adventure Continues" is confusingly similar in sight, sound, meaning, connotation, and commercial impression to TCS' well-known THE JOURNEY CONTINUES mark.

81. As shown below, and in **Exhibits K and L**, on information and belief, Celine Cousteau is also using images of Jacques-Yves Cousteau; the mark JACQUES-YVES COUSTEAU; and trading off Jacques-Yves Cousteau's legacy to market and promote the Documentary:



82. On information and belief, Defendants are distributing a brochure and press kit for the Documentary to, *inter alia*, TCS' business partners. *See Exhibits K and L.*

83. As shown below, and in **Exhibits K and L**, on information and belief, Celine Cousteau is using an image of Jacques-Yves Cousteau donning his famous red cap, and the mark JACQUES-YVES COUSTEAU, in the Documentary's brochure and press kit to market and promote the Documentary:



84. TCS demanded in writing that Celine Cousteau cease the infringing conduct complained of herein. In response, counsel for Celine Cousteau represented in writing that she would not violate TCS' rights.

85. Contrary to Celine Cousteau's representations, her infringing conduct continues. For example, *after* Celine Cousteau represented that she would not violate TCS' rights, TCS discovered that she is distributing the brochure and press kit for the Documentary, attached hereto as **Exhibits K and L**.

ii. Defendant Celine Cousteau's Film

86. The Film is a documentary produced by CPI and directed and co-written by Celine Cousteau. Celine Cousteau also appears in and narrates the Film.

87. The Film explores environmental threats and health crises of indigenous peoples in the Brazilian Amazon, expanding the view to how this is relevant to our world.

88. Celine Cousteau has gathered press and attention for the film "through festival screenings, lectures, press opportunities, private and public events, and press," as described on the "Tribes on the Edge" website at <https://tribesontheedge.com/impact-campaign/action/> attached as **Exhibit E**.

89. The "Tribes on the Edge" homepage, which can be accessed at <https://tribesontheedge.com/>, lists Celine Cousteau and CPI as the copyright owners. Specifically, the page reads as follows: "COPYRIGHT TRIBES ON THE EDGE/CAUSECENTRIC PRODUCTIONS/CÉLINE COUSTEAU 2019 - ALL RIGHTS RESERVED." See website homepage for "Tribes on the Edge" as **Exhibit M**.

90. Celine Cousteau, New York and CPI are listed at the top of the homepage for the "Tribes on the Edge" webpage. See **Exhibit M**.

91. Celine Cousteau promotes the Film on CPI’s website by exploiting Jacques-Yves Cousteau’s name and likeness in various posts to falsely convey to viewers that Jacques is connected to, affiliated with, and/or associated with the Film. In fact, nothing could be further from the truth.

92. First, she promotes the Film on CPI’s website by offering a giveaway of one of Jacques-Yves Cousteau’s books. Specifically, she writes in one of her online posts that “[i]n honor of our up-coming expedition to the Brazilian Amazon to film ‘Tribes on the Edge’ we are giving away a copy of my grandfather’s book, ‘Jacques Cousteau’s Amazon Journey,’ chronicling the original 1982-83 expedition. This book is autographed by myself, my father Jean-Michel and brother Fabien” (the “Book Giveaway”). The Book Giveaway conveys to the public that Jacques-Yves Cousteau authorizes, endorses, and/or sponsors the Film—a complete misrepresentation and a misappropriation of TCS’ Intellectual Property. *See* “Return to the Amazon and Inside Tribal Territory” attached as **Exhibit N**.

93. Second, Defendant incorporates similar language in a post on CPI’s website implying that Jacques-Yves Cousteau is somehow associated with the Film. For example, in another post she writes, “[t]wenty-five years after joining my grandfather and his Calypso crew on his expedition in the Amazon, here I was again, this time with my father and his Ocean Futures Society team, to explore how the forest and its citizens had changed over the years.” *See* Celine Cousteau intentionally uses the CPI website to convey to the public that her work is an extension of Jacques-Yves Cousteau’s work and endorsed by him and his organization, TCS—a complete misrepresentation and a misappropriation of TCS’ Intellectual Property. *See* **Exhibit N**.

94. Third, in an additional exhibit of gratuitous exploitation, one of the online posts on CPI’s website entitled “Meet the Tribes on the Edge Expedition Team” includes the tag

“jaques-yves Cousteau,” even though his name is not mentioned anywhere in the post. Jacques-Yves Cousteau has no reason to be “tagged” or associated with the website, webpage, the expedition team or the Film.³ Jacques-Yves Cousteau’s name is used purely to call attention to the CPI webpage and increase search results. *See* “Meet the Tribes on the Edge Expedition Team” attached as **Exhibit O**.

95. Celine Cousteau also advertises the Film through promotional screenings across the country, including in Connecticut, where she was served with process for this action. Upon information and belief, images and pictures of Jacques Yves Cousteau are gratuitously used in the film and his name is exploited.

96. In fact, in the promotional “teaser” (the “Promo”) for the Film, which is available on the “Tribes on the Edge” website and the CPI website (available at: <http://causecentric.org/blog/return-to-the-amazon-and-inside-tribal-territory/>), Celine Cousteau explicitly references her grandfather and her first trip to the Amazon within the opening of the Promo. She invokes Jacques-Yves Cousteau’s likeness by referring to him and superimposing a picture of herself in front of the Calypso (Captain Cousteau's research vessel and starred in many of the movies he produced in the 1950s and 1960s) in the background.

97. Upon information and belief, Celine Cousteau uploaded the teaser for the Film on the website for “Tribes on the Edge” which can be found at <https://tribesontheedge.com/about/the-teaser/>.

98. At its core, Celine Cousteau has used every opportunity to connect Jacques’ name and likeness to the Film; indeed, Celine Cousteau is trying to piggyback off her grandfather Jacques-Yves Cousteau’s name and past successes to promote and generate profits for the Film

³ Traditionally, these “tags” are used to help narrow search results for users by only providing results that include those specific “Tags” or keywords

and herself. *See e.g.*, **Exhibit N**. Such action is contrary to everything Jacques-Yves Cousteau and TCS stands for.

iii. Defendant Celine Cousteau's Other Infringing Activities

99. Celine Cousteau also unlawfully uses Jacques-Yves Cousteau's name, image, photograph, likeness and trademarks on CPI and CCF's website to promote, advertise, and obtain funding for her foundation and projects.

100. For example, upon information and belief, on CCF's website, Celine writes, "I am excited to announce, on my grandfather's birthday (he would have been 105 years old) the launch of The Celine Cousteau Film Fellowship." CCF survives based on the sponsorship and donations from others; evidently, Celine Cousteau is invoking the JACQUES-YVES COUSTEAU Mark and his likeness to attract donors and funding to her organization. *See* "Announcing the Celine Cousteau Film Fellowship" post attached as **Exhibit P**.

101. On CCF's website, Celine Cousteau used to purposefully provide a picture of what appear to be "fellows" and "mentors" in Jacques-Yves Cousteau's trademarked red cap. *See* infringing image attached as **Exhibit Q**.⁴ In prior litigations, TCS has successfully enforced its rights in the "red cap." Third parties have also made clear that Jacques-Yves Cousteau's name and goodwill are associated with his famous red cap. *See infra* ¶ 50. By posting this photograph, Defendants CCF and Celine Cousteau are attempting to create an association between CCF and Jacques-Yves Cousteau that does not exist.

102. Celine Cousteau unlawfully uses Jacques-Yves Cousteau's name, image, photograph, likeness and trademarks on CPI's website to promote her foundations and causes; in

⁴ At present, the CCF website (www.TheCousteauFellowship.org; <http://www.outdoorfilmfellowship.org/>) appears not to be operational; upon information and belief, it was taken down after the initial complaint (Dkt. 1) was filed in this action. However, at least some of its content may still be accessed through a different, operational, url: <http://adam-benton-r2os.squarespace.com/>. The above-referenced picture appears to have been removed from the web site.

one post she specifically writes, “Having traveled to many places around the world, I keep hearing people say; ‘I grew up with your grandfather’, ‘your grandfather inspired me to start diving’ or ‘I got interested in ocean conservation because of him.’ Because of this, I am reminded of the incredible uniting force that one person has the capacity to generate. This force was a great inspiration for me personally as I set out to launch my own organization, CauseCentric Productions a few years ago in the hopes I could highlight people (and their causes) who have the capacity to inspire as well.” Alongside this quote is a photograph of Jacques-Yves Cousteau hugging a young Celine Cousteau.

103. Celine Cousteau is trying to garner attention for her activities, here CPI and CCF, by invoking Jacques-Yves Cousteau’s name and likeness.

104. Celine Cousteau intentionally, and without permission, used TCS’ Marks and Intellectual Property to promote her Documentary, her Film, her foundation, and her projects.

105. Celine Cousteau’s unlawful use of TCS’ Marks and Intellectual Property implies an association that does not exist.

106. These are not isolated incidents. Taken as a whole, Defendants have engaged in an intentional and egregious pattern of unlawful conduct for which TCS must be compensated.

107. Based on the foregoing, TCS seeks this Court’s assistance with stopping Defendants’ flagrant usurpation of TCS’ Marks and Intellectual Property.

COUNT I

(Federal Trademark Infringement Under 15 U.S.C. § 1114)

(Against All Defendants)

108. TCS incorporates paragraphs 1-[104] of the Complaint as though fully set forth herein.

109. Count I is for trademark infringement in violation 15 U.S.C. § 1114.

110. Celine Cousteau's use of TCS' Marks and Intellectual Property, as well as the confusingly similar and explicitly misleading phrase "The Adventure Continues," in commerce to advertise, market, promote, distribute, offer for sale and/or sell the Documentary without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Celine Cousteau is TCS; or that she is a licensee, authorized distributor, affiliate or member of TCS; or that Celine Cousteau, her activities, and/or the Documentary are authorized, endorsed, sponsored, or approved by TCS; or that Celine Cousteau, her activities, and/or the Documentary originate with, are connected with, or are associated with TCS, or vice versa.

111. Defendants use of TCS' Marks and Intellectual Property in commerce to advertise, market, and promote the Film, without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are licensees, authorized distributors, affiliates or members of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants and their activities and/or the Film originate with, are connected with, or are associated with TCS, or vice versa.

112. Defendants' use of TCS' Marks and Intellectual Property in commerce to advertise, market, and promote, CPI and/or CCF without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are a licensees, authorized distributors, affiliates or member of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants, their activities, and/or CPI and/or CCF originate with, are connected with, or are associated with TCS, or vice versa.

113. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of their willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Celine Cousteau's exploration-focused Documentary.

114. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Defendants' exploration-focused activities, including without limitation, the Film.

115. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, CPI and/or CCF.

116. Upon information and belief, Defendants have made, and will continue to make, substantial profits and gain from their unauthorized uses of TCS' Marks and Intellectual Property to which they are not entitled in law or equity.

117. Upon information and belief, Defendants' acts and conduct complained of herein constitute trademark infringement in violation of 15 U.S.C. § 1114.

118. TCS has suffered, and will continue to suffer, irreparable harm from Defendants' unauthorized uses of TCS' Marks and Intellectual Property unless restrained by law.

119. TCS has no adequate remedy at law.

COUNT II

*(Trademark Infringement Under 15 U.S.C. § 1125(a))
(Against All Defendants)*

120. TCS incorporates paragraphs 1-[104] of the Complaint as though fully set forth herein.

121. Count II is for trademark infringement in violation of 15 U.S.C. § 1125(a).

122. Celine Cousteau's use of TCS' Marks and Intellectual Property, as well as the confusingly similar and explicitly misleading phrase "The Adventure Continues," in commerce to advertise, market, promote, distribute, offer for sale and/or sell the Documentary without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Celine Cousteau is TCS; or that she is a licensee, authorized distributor, affiliate or member of TCS; or that Celine Cousteau, her activities, and/or the Documentary are authorized, endorsed, sponsored, or approved by TCS; or that Celine Cousteau, her activities, and/or the Documentary originate with, are connected with, or are associated with TCS, or vice versa.

123. Defendants use of TCS' Marks and Intellectual Property in commerce to advertise, market, and promote the Film, without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are licensees, authorized distributors, affiliates or members of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants and their activities and/or the Film originate with, are connected with, or are associated with TCS, or vice versa.

124. Defendants' use of TCS' Marks and Intellectual Property in commerce to advertise, market, and promote, CPI and/or CCF without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are a licensees, authorized distributors, affiliates or member of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants, their activities, and/or CPI and/or CCF originate with, are connected with, or are associated with TCS, or vice versa.

125. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of their willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Celine Cousteau's exploration-focused Documentary.

126. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Defendants' exploration-focused activities, including without limitation, the Film.

127. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on

the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, CPI and/or CCF.

128. Upon information and belief, Defendants have made, and will continue to make, substantial profits and gain from their unauthorized uses of TCS' Marks and Intellectual Property to which they are not entitled in law or equity.

129. Upon information and belief, Defendants' acts and conduct complained of herein constitute trademark infringement in violation of 15 U.S.C. § 1125(a).

130. TCS has suffered, and will continue to suffer, irreparable harm from Defendants' unauthorized uses of TCS' Marks and Intellectual Property unless restrained by law.

131. TCS has no adequate remedy at law.

COUNT III

*(False Association, False Designation of Origin, and
Unfair Competition Under 15 U.S.C. § 1125(a))
(Against All Defendants)*

132. TCS incorporates paragraphs 1-[104] of the Complaint as though fully set forth herein.

133. Count III is for false association, false designation of origin, and unfair competition in violation of 15 U.S.C. § 1125(a).

134. Celine Cousteau's use of TCS' Marks and Intellectual Property, as well as the confusingly similar and explicitly misleading phrase "The Adventure Continues," in commerce to advertise, market, promote, distribute, offer for sale and/or sell the Documentary without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Celine Cousteau is TCS; or that she is a licensee, authorized distributor, affiliate or member of TCS; or that Celine Cousteau, her activities, and/or the Documentary are authorized,

endorsed, sponsored, or approved by TCS; or that Celine Cousteau, her activities, and/or the Documentary originate with, are connected with, or are associated with TCS, or vice versa.

135. Defendants use of TCS' Marks and Intellectual Property in commerce to advertise, market, and promote the Film, without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are licensees, authorized distributors, affiliates or members of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants and their activities and/or the Film originate with, are connected with, or are associated with TCS, or vice versa.

136. Defendants' use of TCS' Marks and Intellectual Property in commerce to advertise, market, and promote, CPI and/or CCF without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are a licensees, authorized distributors, affiliates or member of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants, their activities, and/or CPI and/or CCF originate with, are connected with, or are associated with TCS, or vice versa.

137. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of their willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Celine Cousteau's exploration-focused Documentary.

138. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Defendants' exploration-focused activities, including without limitation, the Film.

139. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, CPI and/or CCF.

140. Upon information and belief, Defendants have made, and will continue to make, substantial profits and gain from their unauthorized uses of TCS' Marks and Intellectual Property to which they are not entitled in law or equity.

141. Upon information and belief, Defendants' acts and conduct complained of herein constitute false association, false designation of origin, and unfair competition in violation of 15 U.S.C. § 1125(a).

142. TCS has suffered, and will continue to suffer, irreparable harm from Defendants' unauthorized uses of TCS' Marks and Intellectual Property unless restrained by law.

143. TCS has no adequate remedy at law.

COUNT IV

*(Trademark Infringement and Unfair Competition Under Connecticut Common Law)
(Against All Defendants)*

144. TCS incorporates paragraphs 1-[104] of the Complaint as though fully set forth herein.

145. Count IV is for trademark infringement and unfair competition in violation of the common law of the State of Connecticut.

146. Celine Cousteau's use of TCS' Marks and Intellectual Property, as well as the confusingly similar and explicitly misleading phrase "The Adventure Continues," in commerce to advertise, market, promote, distribute, offer for sale and/or sell the Documentary without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Celine Cousteau is TCS; or that she is a licensee, authorized distributor, affiliate or member of TCS; or that Celine Cousteau, her activities, and/or the Documentary are authorized, endorsed, sponsored, or approved by TCS; or that Celine Cousteau, her activities, and/or the Documentary originate with, are connected with, or are associated with TCS, or vice versa.

147. Defendants use of TCS' Marks and Intellectual Property in commerce to advertise, market, and promote the Film, without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are licensees, authorized distributors, affiliates or members of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants and their activities and/or the Film originate with, are connected with, or are associated with TCS, or vice versa.

148. Defendants' use of TCS' Marks and Intellectual Property in commerce to advertise, market, and promote, CPI and/or CCF without TCS' consent is likely to cause

confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are a licensees, authorized distributors, affiliates or member of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants, their activities, and/or CPI and/or CCF originate with, are connected with, or are associated with TCS, or vice versa.

149. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of their willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Celine Cousteau's exploration-focused Documentary.

150. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Defendants' exploration-focused activities, including without limitation, the Film.

151. Upon information and belief, Defendants are using TCS' Marks and Intellectual Property without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between TCS' Marks and Intellectual Property on the one hand, and the exploration-focused goods and services they offer thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, CPI and/or CCF.

152. Upon information and belief, Defendants have made, and will continue to make, substantial profits and gain from their unauthorized uses of TCS' Marks and Intellectual Property to which they are not entitled in law or equity.

153. Upon information and belief, Defendants' acts and conduct complained of herein constitute trademark infringement and unfair competition in violation of the common law of the State of Connecticut.

154. TCS has suffered, and will continue to suffer, irreparable harm from Defendants' unauthorized uses of TCS' Marks and Intellectual Property unless restrained by law.

155. TCS has no adequate remedy at law.

COUNT V

*(Violation of Right of Publicity under French Law)
(Against All Defendants)*

156. TCS incorporates paragraphs 1-[104] of the Complaint as though fully set herein.

157. Count V is for a violation of the right of publicity under French law.

158. Plaintiff TCS brings this claim pursuant to the law of France, the place of Jacques-Yves Cousteau's domicile upon his death.

159. Pursuant to French precedent: 'Whereas the right of publicity has both a moral and a patrimonial aspect; the patrimonial right which allows to obtain compensation for the commercial exploitation of one's image is not merely personal and can be passed to one's heirs.'" (First Instance Court of Aix-en Provence - TGI Aix-en Provence, 24 novembre 1988, JCP ed. G 1989 n°43, II, p. 21329).

160. Celine Cousteau's misappropriation of Jacques-Yves Cousteau's name, image, photograph and likeness, as well as the confusingly similar and explicitly misleading phrase "The Adventure Continues," in commerce to advertise, market, promote, distribute, offer for sale

and/or sell the Documentary without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Celine Cousteau is TCS; or is a licensee, authorized distributor, affiliate or member of TCS; or that Celine Cousteau, her activities, and/or her Documentary originate with, are connected with, or are associated with TCS, or vice versa.

161. Defendants' misappropriation of Jacques-Yves Cousteau's name, image, photograph and likeness, in commerce to advertise, market, promote, distribute, offer for sale and/or sell the Film, without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS, or are licensees, authorized distributors, affiliates or members of TCS, or that Defendants, their activities, and/or the Film originate with, are connected with, or are associated with TCS, or vice versa.

162. Defendants' misappropriation of Jacques-Yves Cousteau's name, image, photograph and likeness, in commerce to advertise, market, and/or promote, CPI and/or CCF without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are a licensee, authorized distributor, affiliate or member of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants, their activities, and/or CPI and/or CCF originate with, are connected with, or are associated with TCS, or vice versa.

163. Upon information and belief, Celine Cousteau is using Jacques-Yves Cousteau's name, image, photograph and likeness without TCS' authorization or consent in furtherance of Celine Cousteau's willful, deliberate and bad faith efforts to trade off the association between Jacques-Yves Cousteau's name, image, photograph and likeness on the one hand, and the

exploration-focused goods and services TCS offers thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Defendant's exploration-focused Documentary.

164. Upon information and belief, Defendants are using Jacques-Yves Cousteau's name, image, photograph and likeness without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between Jacques-Yves Cousteau's name, image, photograph and likeness on the one hand, and the exploration-focused goods and services TCS offers thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Defendants' exploration-focused activities, including without limitation, the Film.

165. Upon information and belief, Defendants are using Jacques-Yves Cousteau's name, image, photograph and likeness without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between Jacques-Yves Cousteau's name, image, photograph and likeness on the one hand, and the exploration-focused goods and services TCS offers thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, CPI and/or CCF.

166. Upon information and belief, Defendants have made, and will continue to make, substantial profits and gain from their unauthorized uses of Jacques-Yves Cousteau's name, image, photograph and likeness to which they are not entitled in law or equity.

167. Upon information and belief, Defendants' acts and conduct complained of herein constitute a misappropriation of Jacques-Yves Cousteau's name, image, photo and likeness to which they are not entitled in law or equity.

168. Upon information and belief, Defendants' acts and conduct complained of herein constitute a misappropriation of Jacques-Yves Cousteau's name, image, photograph and likeness in violation of the right of publicity under French law.

169. TCS has suffered, and will continue to suffer, irreparable harm from Defendants' unauthorized uses of Jacques-Yves Cousteau's name, image, photograph and likeness unless restrained by law.

170. TCS has no adequate remedy at law.

COUNT VI

*(In the Alternative, Violation of Connecticut Common Law Misappropriation/Right of Publicity)
(Against All Defendants)*

171. TCS incorporates paragraphs 1-[104] of the Complaint as though fully set herein.

172. Count VI is for a violation of Connecticut's common law misappropriation/right of publicity.

173. Plaintiff TCS brings this claim pursuant to Connecticut common law, in the alternative of its claim for violation of the right of publicity under French law.

174. Celine Cousteau's misappropriation of Jacques-Yves Cousteau's name, image, photograph and likeness, as well as the confusingly similar and explicitly misleading phrase "The Adventure Continues," in commerce to advertise, market, promote, distribute, offer for sale and/or sell the Documentary without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Celine Cousteau is TCS; or is a licensee, authorized distributor, affiliate or member of TCS; or that Celine Cousteau, her activities, and/or her Documentary originates with, is connected with, or is associated with TCS, or vice versa.

175. Defendants' misappropriation of Jacques-Yves Cousteau's name, image, photograph and likeness, in commerce to advertise, market, promote, distribute, offer for sale and/or sell the Film, without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS, or are licensees, authorized distributors, affiliates or members of TCS, or that Defendants, their activities, and/or the Film originate with, are connected with, or are associated with TCS, or vice versa.

176. Defendants' misappropriation of Jacques-Yves Cousteau's name, image, photograph and likeness, in commerce to advertise, market, and/or promote, CPI and/or CCF without TCS' consent is likely to cause confusion, cause mistake, and/or deceive consumers into mistakenly believing that Defendants are TCS; or are a licensee, authorized distributor, affiliate or member of TCS; or that Defendants and their activities are authorized, endorsed, sponsored, or approved by TCS; or that Defendants, their activities, and/or CPI and/or CCF originate with, are connected with, or are associated with TCS, or vice versa.

177. Upon information and belief, Celine Cousteau is using Jacques-Yves Cousteau's name, image, photograph and likeness without TCS' authorization or consent in furtherance of Celine Cousteau's willful, deliberate and bad faith efforts to trade off the association between Jacques-Yves Cousteau's name, image, photograph and likeness on the one hand, and the exploration-focused goods and services TCS offers thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Defendant's exploration-focused Documentary.

178. Upon information and belief, Defendants are using Jacques-Yves Cousteau's name, image, photograph and likeness without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between Jacques-Yves Cousteau's name, image, photograph and likeness on the one hand, and the exploration-

focused goods and services TCS offers thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, Defendants' exploration-focused activities, including without limitation, the Film.

179. Upon information and belief, Defendants are using Jacques-Yves Cousteau's name, image, photograph and likeness without TCS' authorization or consent in furtherance of Defendants' willful, deliberate and bad faith efforts to trade off the association between Jacques-Yves Cousteau's name, image, photograph and likeness on the one hand, and the exploration-focused goods and services TCS offers thereunder, on the other hand, to generate turn-key brand recognition for, and interest in, CPI and/or CCF.

180. Upon information and belief, Defendants have made, and will continue to make, substantial profits and gain from their unauthorized uses of Jacques-Yves Cousteau's name, image, photograph and likeness to which they are not entitled in law or equity.

181. Upon information and belief, Defendants' acts and conduct complained of herein constitute a misappropriation of Jacques-Yves Cousteau's name, image, photograph and likeness to which they are not entitled in law or equity.

182. Upon information and belief, Defendants' acts and conduct complained of herein constitute a misappropriation of Jacques-Yves Cousteau's name, image, photograph and likeness in violation of Connecticut common law misappropriation/right of publicity.

183. TCS has suffered, and will continue to suffer, irreparable harm from Defendants' unauthorized uses of Jacques-Yves Cousteau's name, image, photograph and likeness unless restrained by law.

184. TCS has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing, TCS prays for judgment against Defendants as follows:

A. A Declaration that Defendants, by their actions, alleged herein, have infringed and violated TCS' Marks and Intellectual Property;

B. An Order preliminarily and permanently enjoining and restraining Defendants, their parents, subsidiaries, divisions, branches, affiliates, predecessors or successors-in-interest, and any entities acting or purporting to act for or on behalf of any of the foregoing, including any agents, employees, representatives, officers, directors, servants, and partners, and those persons in active concert or participation with them, from manufacturing, producing, publishing, distributing, supplying, licensing, using, copying, reproducing, advertising, promoting, displaying, offering for sale, selling, and/or otherwise exploiting any goods or services bearing any mark or other designation identical or confusingly similar to any of TCS' Marks;

C. An Order preliminarily and permanently enjoining and restraining Defendants, their parents, subsidiaries, divisions, branches, affiliates, predecessors or successors-in-interest, and any entities acting or purporting to act for or on behalf of any of the foregoing, including any agents, employees, representatives, officers, directors, servants, and partners, and those persons in active concert or participation with them, from engaging in any acts of trademark infringement, false designation of origin, or unfair competition utilizing any mark or other designation identical or confusingly similar to any of TCS' Marks on or in connection with any goods or services;

D. An Order directing Defendants to remove TCS' Marks, or any colorable imitation(s) thereof, from all of Defendants' goods and services, as well as any other web sites or

promotional materials, whether electronic, printed or otherwise, under Defendants' direct or indirect dominion or control;

E. An Order, pursuant to 15 U.S.C. § 1118, directing the seizure, delivery and destruction of each good and service within Defendants' possession, custody or control that infringes or violates TCS' rights in and to its Marks;

F. An Order requiring Defendants to account for and pay over to TCS (i) any and all profits derived by Defendants from their infringement or violation of TCS' Marks as alleged herein, and (ii) all damages sustained by TCS as a direct and/or proximate result of Defendants' infringement or violation of TCS' Marks as alleged herein, in amounts to be determined at trial;

G. A Declaration that this case is "exceptional" within the meaning of 15 U.S.C. § 1117, and awarding TCS its reasonable costs and attorneys' fees based thereon;

H. An Order awarding TCS statutory and punitive damages (including, without limitation, statutory damages pursuant to 504(c));

I. An Order awarding attorney's fees to Plaintiff related to this litigation under Section 47-110(g) of the Connecticut General Statutes;

J. An Order awarding TCS pre-judgment interest; and

K. An Order awarding TCS any further relief this Court shall deem just and equitable.

JURY DEMAND

Pursuant to Rules 38(b) and 38(c) of the Federal Rules of Civil Procedure, TCS requests a trial by jury for all issues so triable.

Dated: October 4, 2019

Respectfully submitted,
THE PLAINTIFF,
THE COUSTEAU SOCIETY, INC.

/s/

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