

1 ANDERSON YEH PC
 Edward M. Anderson (STATE BAR NO. 198183)
 2 Regina Yeh (STATE BAR NO. 266019)
 401 Wilshire Boulevard, 12th Floor
 3 Santa Monica, California 90401
 Telephone: (310) 496-4270 Facsimile: (888) 744-0317
 4 edward@andersonyehlaw.com
regina@andersonyehlaw.com
 5

6 Attorneys for Plaintiff
 ALCON ENTERTAINMENT, LLC
 7

8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
 10

11 ALCON ENTERTAINMENT, LLC,
 a Delaware limited liability company,
 12

13 Plaintiff,

14 v.
 15

16 AUTOMOBILES PEUGEOT SA, a
 17 France societe anonyme; ISABEL
 SALAS MENDEZ, an individual;
 18 and DOES 1-10, inclusive,
 19

20 Defendants.
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CASE NO.: 2:19-cv-00245

COMPLAINT FOR:

- 1) **BREACH OF CONTRACT;**
- 2) **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING;**
- 3) **PROMISSORY ESTOPPEL;**
- 4) **BREACH OF DUTY TO NEGOTIATE IN GOOD FAITH;**
- 5) **FRAUD;**
- 6) **REASONABLE VALUE OF SERVICES; AND**
- 7) **QUANTUM MERUIT**

DEMAND FOR JURY TRIAL

1 Plaintiff ALCON ENTERTAINMENT, LLC (“PLAINTIFF” or “ALCON”),
2 hereby alleges as follows:

3 **JURISDICTION AND VENUE**

4 ***Subject Matter Jurisdiction***

5 1. The Court has subject matter diversity jurisdiction of the case or
6 controversy herein pursuant to 28 U.S.C. § 1332 and on the grounds that this is a
7 civil action where the matter in controversy exceeds the sum of \$75,000 exclusive
8 of interests and costs, and is between citizens of a State and citizens or subjects of a
9 foreign state.

10 2. PLAINTIFF Alcon Entertainment, LLC is a limited liability company
11 organized under the laws of the State of Delaware and with its principal place of
12 business in the State of California, at 10390 Santa Monica Blvd. #250, Los
13 Angeles, California 90025. For purposes of diversity jurisdiction, ALCON as a
14 limited liability company is treated as having the citizenship of each of its
15 members, and is further not treated as a citizen of its State of organization, unless
16 one of its members is a citizen of that State. *See, e.g., Johnson v. Columbia*
17 *Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006); *Siloam Springs*
18 *Hotel, L.L.C. v. Century Sur. Co.*, 781 F.3d 1233, 1237-1238 (10th Cir. 2015).
19 ALCON’s sole member is Alcon Media Group, LLC, whose members are
20 Frederick W. Smith, Andrew Kosove and Broderick Johnson. Smith is a citizen of
21 the State of Tennessee. Kosove and Johnson are citizens of the State of California.
22 Thus, none of ALCON’S members are citizens of any foreign state. For purposes
23 of diversity jurisdiction, ALCON is thus a citizen of the States of California and
24 Tennessee, and not a citizen of any foreign state.

25 3. Defendant AUTOMOBILES PEUGEOT SA (“PEUGEOT”) is a
26 French societe anonyme, which for purposes of diversity jurisdiction is best treated
27 as the equivalent of a corporation organized under the laws of France and thus as a
28 citizen or subject of France pursuant to 28 U.S.C. § 1332(c)(1). *See, e.g., Bank*

1 *Brussels Lambert v. Chase Manhattan Bank, N.A.*, 1996 WL 609439 (S.D.N.Y.
2 1996); *Rolland v. Smithkline Beckman Corp.*, 1990 WL 69007 (E.D. Pa. 1990);
3 *White Pearl Inversiones S.A. (Uruguay) v. Cemusa, Inc.*, 647 F.3d 684 (7th Cir.
4 2011); *Macartney*, 253 F.2d 529 (9th Cir. 1958). PEUGEOT does not have its
5 principal place of business within any State of the United States, and in any event
6 does not have its principal place of business in the States of California, Delaware,
7 or Tennessee, as PEUGEOT’S principal place of business is at 7 Rue Henri
8 Sainte-Claire Devi, Rueil Malmaison, 92500, France.

9 4. Defendant ISABEL SALAS MENDEZ (“MENDEZ”) is an individual
10 who at all times relevant to the subject matter of this Complaint was a citizen and
11 resident of France, for the purpose of diversity jurisdiction.

12 5. To the extent supplemental jurisdiction is required with respect to any
13 claim for relief, the Court has supplemental jurisdiction pursuant to 28 U.S.C. §
14 1367 over all such claims. All of PLAINTIFF’S claims for relief arise from a
15 common nucleus of operative facts, such that the claims form part of the same case
16 or controversy under Article III of the United States Constitution.

17 ***Personal Jurisdiction***

18 6. California’s personal jurisdictional long arm statute, Cal. Code Civ.
19 Pro. § 410.10, allows courts in the State to exercise personal jurisdiction over
20 parties to the full extent permissible under the United States Constitution, meaning
21 personal jurisdiction is permissible if it comports with due process. The Court’s
22 exercise of personal jurisdiction over each of the Defendants here comports with
23 due process, because each of the Defendants has minimum contacts with the State
24 of California such that maintenance of the suit does not offend traditional notions
25 of fair play and substantial justice.

26 7. The Court has at least specific or limited personal jurisdiction over
27 PEUGEOT in that PEUGEOT directed its activities toward PLAINTIFF, who
28 PEUGEOT knew to be a citizen and resident of the State of California; PEUGEOT

1 purposefully availed itself of the rights, privileges and protections of doing
2 business in California, and PEUGEOT participated in directing false statements
3 and other intentionally tortious conduct toward PLAINTIFF and others, whom
4 PEUGEOT knew to be citizens and residents of the State of California. PEUGEOT
5 knew that the harm caused by its intentionally tortious conduct would be felt by
6 PLAINTIFF and others in California. PLAINTIFF’S claims arise out of
7 PEUGEOT’S acts of purposeful availment, and the exercise of personal jurisdiction
8 over PEUGEOT is reasonable and fair.

9 8. Among other specific factors demonstrating the Court’s specific
10 personal jurisdiction over PEUGEOT with respect to PLAINTIFF’S claims:

11 a. PEUGEOT signed contracts agreeing that the parties’ communications
12 and negotiations regarding the motion picture *Blade Runner 2049* (the
13 “Picture” or “BR2049”) would be governed by the laws of the State of
14 California, demonstrating PEUGEOT’S purposeful availment of the
15 benefits and privileges of conducting activities in California.

16 b. PEUGEOT has a history of extensive purposeful availment of doing
17 business in California, and PEUGEOT is actively in the process of re-
18 establishing continuous and systematic contacts with the California
19 market. For several decades, from at least as early as the 1970s until
20 in or about 1991, PEUGEOT caused American corporate subsidiaries
21 of PEUGEOT to market and sell PEUGEOT-manufactured
22 automobiles in the United States and in California specifically.

23 PEUGEOT left the United States and California automotive markets
24 in or about 1991. However, PLAINTIFF is informed and believes on
25 that basis alleges that by no later than about May 2016, PEUGEOT
26 was actively planning a return to selling PEUGEOT-manufactured
27 automobiles in the United States and California markets. By on or
28 about July 19, 2018, PEUGEOT announced to United States press

1 publications that PEUGEOT was targeting four Canadian provinces
2 and 15 states for new PEUGEOT automobile sales, specifically
3 identifying California as one of the targeted states.

4 c. PEUGEOT purposefully solicited, negotiated and agreed to a contract
5 and relationship between PLAINTIFF and PEUGEOT regarding
6 BR2049 produced by PLAINTIFF. Substantial portions of pre-
7 production, production, editing, marketing, advertising and
8 distribution of the Picture would be and were done in California.
9 PUBLICIS thus knew that the subject of the contract would have
10 continuing and extensive involvement with California.

11 d. PEUGEOT, through its agent and employee MENDEZ and other
12 representatives, made intentionally tortious false statements to
13 PLAINTIFF, including by sending emails to PLAINTIFF and
14 PLAINTIFF'S representatives that PEUGEOT knew would be
15 received in California. Beyond emails, some of the intentionally
16 tortious and false statements or other statements creating liability were
17 made by MENDEZ and PEUGEOT'S other representatives to
18 PLAINTIFF's representatives in person, while all such persons were
19 physically present in California, and together in the same room at
20 PLAINTIFF'S Los Angeles offices, for the purpose of the transactions
21 that are the subject matter of this Complaint.

22 9. The Court has at least specific or limited personal jurisdiction over
23 MENDEZ in that MENDEZ directed her activities toward PLAINTIFF, who
24 MENDEZ knew to be a citizen and resident of the State of California; MENDEZ
25 purposefully availed herself of the rights, privileges and protections of doing
26 business in California, and MENDEZ herself intentionally made and directed
27 tortiously false statements and conduct toward PLAINTIFF, whom MENDEZ
28 knew to be a citizen and resident of the State of California. MENDEZ made at

1 least some of the intentionally tortiously false statements while MENDEZ was
2 personally present in California, including at PLAINTIFF'S Los Angeles offices
3 for the purpose of the transactions that are the subject matter of this Complaint,
4 including MENDEZ'S own personal schemes. MENDEZ knew that the harm from
5 her tortious conduct would be felt by PLAINTIFF in California. PLAINTIFF'S
6 claims arise out of MENDEZ'S foregoing acts of purposeful availment, and the
7 exercise of personal jurisdiction over MENDEZ is also reasonable and fair.

8 10. Among other specific factors demonstrating the Court's specific
9 personal jurisdiction over MENDEZ with respect to PLAINTIFF'S claims:

- 10 a. MENDEZ signed contracts in both her individual and corporate
11 capacities agreeing that the law governing the communications and
12 negotiations between the parties would be and was the law of the State
13 of California, demonstrating MENDEZ'S purposeful availment of the
14 benefits and privileges of conducting activities in California
- 15 b. MENDEZ personally traveled to California and attended meetings at
16 PLAINTIFF'S offices in California for the purpose of negotiating and
17 carrying out the contract and relationship between the parties
18 regarding BR2049, and for the intentional purpose of defrauding
19 PLAINTIFF or otherwise causing PLAINTIFF harm.
- 20 c. During these meetings in Los Angeles, MENDEZ made intentionally
21 false statements and/or misleading material omissions to
22 PLAINTIFF'S representatives in person, for the intended purpose of
23 defrauding PLAINTIFF regarding the BR2049 opportunity and
24 PEUGEOT'S and MENDEZ'S intent and authority, and other material
25 facts relevant to PLAINTIFF'S decision making.
- 26 d. MENDEZ personally sent multiple emails to PLAINTIFF and
27 PLAINTIFF'S representatives whom MENDEZ understood to be in
28 California, for the intended purpose of transacting with PLAINTIFF

1 regarding BR2049, any resulting contract about which MENDEZ
2 knew and understood would require substantial performance in
3 California, and thus an ongoing relationship with California. In the
4 course of these email communications, MENDEZ herself intentionally
5 and tortiously made false statements to PLAINTIFF and
6 PLAINTIFF'S representatives, for the purpose of defrauding
7 PLAINTIFF and/or causing PLAINTIFF detrimentally to change its
8 position in reliance on MENDEZ'S statements.

9 ***Venue***

10 11. Venue is proper in this district pursuant to 28 U.S.C. § 1391(a)(1),
11 (b)(2), (b)(3), and (c)(3) and on the grounds that a substantial part of the events and
12 omissions giving rise to the claims herein occurred in this district, or a substantial
13 part of the property that is the subject of the action is situated here; there is no
14 district in which the action may otherwise be brought as provided in section 1391,
15 and the defendants are subject to the court's personal jurisdiction with respect to
16 the action; and each of the defendants is not resident in the United States and so
17 may be sued in any judicial district.

18 **PARTIES**

19 ***Plaintiff***

20 12. **Alcon Entertainment, LLC**: ALCON is a limited liability
21 company organized under the laws of the State of Delaware, with its principal
22 place of business located at 10390 Santa Monica Blvd, Suite 250, Los Angeles,
23 California 90025.

24 13. ALCON is an independent motion picture and television production
25 studio. Its film and television products are distributed worldwide. ALCON has
26 produced more than thirty major motion pictures, including, among many others,
27 *The Blind Side* (which won the 2009 Academy Award for Best Actress), *Dolphin*
28 *Tale*, *Sisterhood of the Traveling Pants*, *Book of Eli*, *The Wicker Man (2006)*, *P.S. I*

1 *Love You, My Dog Skip, Beautiful Creatures, Prisoners, Transcendence, and Point*
2 *Break (2015)*. ALCON also produces the critically acclaimed television series *The*
3 *Expanse*.

4 14. ALCON is also the assignee of all claims and potential claims that
5 might be made by Columbia TriStar Marketing Group, Inc. (“CTMG”) against any
6 of the defendants to this Complaint with respect to BR2049.

7 *Named Defendants*

8 15. **Automobiles Peugeot SA**: PEUGEOT is a societe anonyme,
9 organized under the laws of France, with its principal place of business at 7
10 Rue Henri Sainte-Claire Devi, Rueil Malmaison, 92500, France. A French
11 societe anonyme is legally equivalent to a corporation under the laws of the
12 United States for purposes of diversity jurisdiction.

13 16. PEUGEOT is one of the world’s most venerated (but troubled)
14 automotive brands. PEUGEOT or its corporate predecessors-in-interest have been
15 manufacturing and selling automobiles under its famous lion trademark since the
16 late 19th Century. By the mid- to late-twentieth century, PEUGEOT was a
17 significant seller of automobiles in most major automotive markets around the
18 world, including the United States and California specifically.

19 17. PLAINTIFF is informed and believes and on that basis alleges that
20 for several decades (from at least the early 1970s until about 1991), PEUGEOT
21 or a corporate predecessor-in-interest of PEUGEOT owned and operated one or
22 more United States subsidiaries, including Peugeot, Inc. (a corporation
23 organized under the laws of the State of New York) and Peugeot Motors of
24 America, Inc. (a corporation organized under the laws of Delaware), for the
25 purpose of PEUGEOT marketing and selling automobiles throughout the
26 United States, including in California.

27 18. However, by the early 1990s, PEUGEOT’S North American sales had
28 faltered. PLAINTIFF is informed and believes and on that basis alleges that in or

1 about 1991, PEUGEOT directed and caused its American corporate subsidiaries to
2 cease to sell automobiles in the United States, including California. PLAINTIFF is
3 informed and believes and on that basis alleges that from approximately 1991 to
4 shortly before the present, PEUGEOT sold a sharply reduced number of
5 automobiles in California or the United States, possibly none.

6 19. For years or even decades, PEUGEOT experienced a series of
7 financial and other business challenges, making a return to the lucrative North
8 American automotive market beyond PEUGEOT'S practical reach.

9 20. However, PLAINTIFF is informed and believes and on that basis
10 alleges that by early 2016, PEUGEOT had turned a corner and was ready to engage
11 in the active re-building of its brand around the world and in the United States and
12 California in particular.

13 21. PLAINTIFF is informed and believes and on that basis alleges that by
14 no later than May 2016, PEUGEOT was actively considering a return to the
15 California and United States automobile markets, and looking for ways to jump
16 start and/or re-establish the PEUGEOT brand with a new generation of consumers
17 worldwide, but also specifically with California and United States consumers.
18 Indeed, in or about January 2018, PEUGEOT announced that it was establishing a
19 new United States headquarters in Atlanta, Georgia. By on or about July 19, 2018,
20 PEUGEOT caused a new American corporate subsidiary (PSA Group North
21 America) to announce to United States press publications that PEUGEOT had
22 specifically targeted 15 states of the United States and four Canadian provinces for
23 the imminent resumption of PEUGEOT automobile sales in North America.
24 PEUGEOT specifically identified California as one of the 15 states that PEUGEOT
25 is now actively targeting.

26 22. PLAINTIFF is informed and believes and on that basis alleges that
27 PEUGEOT had begun to formulate its plans and intention to target the California
28 market at least as early as January 2016, and had those plans in its mind when it

1 targeted PLAINTIFF on the subject matter of this Complaint.

2 23. PLAINTIFF is informed and believes and on that basis alleges that
3 whether or not some of the current California-directed automobile sales efforts of
4 PEUGEOT are being carried out in part by American corporate subsidiaries,
5 PEUGEOT'S plans imminently to resume marketing and selling PEUGEOT-
6 manufactured automobiles in the California market are being actively planned and
7 directed by PEUGEOT itself; that they were so planned by PEUGEOT at all times
8 relevant to the subject matter of this Complaint; and are thus attributable to
9 PEUGEOT.

10 24. **Isabel Salas Mendez**: MENDEZ is an individual who at all times
11 relevant to the subject matter of this Complaint was a citizen and resident of
12 France. MENDEZ is a senior executive, officer and employee of PEUGEOT, with
13 actual authority, job duties and responsibilities in the areas of marketing and
14 communications management, including sponsorships, co-promotional
15 partnerships, and product placements. MENDEZ generally had and has the actual
16 authority from and within PEUGEOT to communicate with parties like ALCON
17 for the purpose of binding PEUGEOT to product placement and co-promotional
18 contractual and other business relationships, including with respect to major motion
19 pictures (potentially subject to certain internal PEUGEOT approvals, some or all of
20 which MENDEZ may have concealed or affirmatively misrepresented to
21 PLAINTIFF or PLAINTIFF'S representatives).

22 25. In the alternative, PLAINTIFF pleads that MENDEZ does not have
23 such actual authority, but that PEUGEOT and MENDEZ both engaged in conduct
24 such that, as to PLAINTIFF, MENDEZ had at least ostensible authority to bind
25 PEUGEOT to product placement and co-promotional contractual and other
26 business relationships, including with respect to major motion pictures.

27 26. PLAINTIFF is informed and believes on that basis alleges that
28 MENDEZ also had either the actual or ostensible authority within PEUGEOT to

1 designate agents, including PUBLICIS, to negotiate for and otherwise to bind
2 PEUGEOT to product placement and co-promotional contracts and other business
3 relationships and transactions, including regarding major motion pictures.

4 *Non-Party Persons or Entities of Interest*

5 27. **Publicis Groupe, S.A. and Publicis Media France, S.A.**: Non-
6 party Publicis Groupe, S.A. (“PUBLICIS GROUPE”) is a French societe anonyme,
7 with its principal place of business at 133 avenue de Champs de Elysees, 75008
8 Paris, France and/or at 30-34 rue de Chemin vert, 75011 Paris, France. Non-
9 party Publicis Media France, S.A. (“PUBLICIS MEDIA FRANCE”) is a
10 French societe anonyme with its principal place of business at 17/19 rue Breguet –
11 30-34 rue de Chemin vert, 75011 Paris, France. Plaintiff is informed and
12 believes and on that basis alleges that PUBLICIS MEDIA FRANCE is directly or
13 indirectly wholly owned and controlled by PUBLICIS GROUPE. For purposes of
14 this Complaint, the term “PUBLICIS” includes both PUBLICIS MEDIA
15 FRANCE and PUBLICIS GROUPE.

16 28. PLAINTIFF is informed and believes and on that basis alleges that
17 PUBLICIS (most specifically, PUBLICIS MEDIA FRANCE) is the successor-in-
18 interest to The Casablanca Agency (“Casablanca”). As used in this Complaint, the
19 defined terms “PUBLICIS MEDIA FRANCE” and “PUBLICIS” each includes
20 Casablanca.

21 29. PLAINTIFF is informed and believes and on that basis alleges that
22 “Publicis Media” is a division of PUBLICIS, not organized as formal separate
23 legal entity, and with the principal place of business of Publicis Media also at
24 the address or addresses stated for PUBLICIS. For purposes of this Complaint,
25 the term “PUBLICIS” also includes Publicis Media.

26 30. PUBLICIS (certainly PUBLICIS GROUPE specifically) is a global
27 advertising and public relations company, sometimes identified as the oldest
28 communications company in the world, and unquestionably one of the largest.

1 PUBLICIS regularly represents PEUGEOT, other automotive clients, and a wide
2 range of other businesses with respect to almost all types of marketing and
3 advertising opportunities. PUBLICIS regularly does business with Hollywood film
4 and television studios regarding product placement and co-promotional
5 opportunities in connection with major motion pictures and television products.
6 PUBLICIS is highly familiar with the customs and practices of product placement
7 and co-promotional transactions in both the automotive industries worldwide, and
8 in connection with major Hollywood motion picture and television projects.

9 31. PUBLICIS’S knowledge of these business areas and their customs and
10 practices was and is imputed to PUBLICIS’S principal, PEUGEOT.

11 ***Doe Defendants***

12 32. The true names and capacities, whether individual, corporate,
13 partnership, associate or otherwise, of Defendants sued herein as DOES 1
14 through 10, inclusive, are currently unknown to PLAINTIFF, who therefore
15 sues said Defendants by such fictitious names. PLAINTIFF is informed and
16 believes, and on that basis alleges, that each of the Defendants designated
17 herein as a DOE is legally responsible in some manner for the events and
18 happenings referred to herein, and caused injury and damage proximately
19 thereby to PLAINTIFF as hereinafter alleged. PLAINTIFF will seek leave to
20 amend this Complaint to show the true names and capacities of the Defendants
21 designated herein as DOES when the same have been ascertained. Whenever
22 in this complaint reference is made to “Defendants,” such allegation shall be
23 deemed to mean the acts of Defendants acting individually, jointly, and/or
24 severally. PLAINTIFF is informed and believes and on that basis alleges that
25 none of the DOES is a citizen or resident of the States of Delaware, Tennessee
26 or California, for purposes of diversity jurisdiction.

27 33. PLAINTIFF is informed and believes and on that basis alleges that
28 DOES 1 through 5 are entities which PEUGEOT may contend are PEUGEOT-

1 controlled or PEUGEOT-affiliated entities which should be treated as the
2 contracting party or parties with PLAINTIFF, either in addition to or instead of
3 PEUGEOT, or otherwise as PEUGEOT-controlled or PEUGEOT-affiliated entities
4 on behalf of which MENDEZ, PUBLICIS and/or other agents or representatives
5 for defendants were interacting with PLAINTIFF and PLAINTIFF'S
6 representatives.

7 34. PLAINTIFF is informed and believes and on that basis alleges that
8 DOES 6 through 10 are entities that may otherwise have liability for the conduct at
9 issue.

10 *Agency*

11 35. Except as hereinafter specifically described, at all times relevant
12 hereto, PUBLICIS and DOES 1 through 10 were the agent or agents of
13 PEUGEOT. Except as specifically alleged herein to the contrary, including on
14 certain alternative pleading theories, PUBLICIS and DOES 1 through 10 were
15 at all times acting with the scope of its or their agency and authority in
16 PUBLICIS'S dealings with PLAINTIFF, and with the permission, consent,
17 authorization, ratification, whether express or implied, of PEUGEOT, and/or
18 with PEUGEOT'S knowing acceptance of the benefits of the conduct of
19 PUBLICIS.

20 36. Except as hereinafter specifically described, at all times relevant
21 hereto, MENDEZ was an employee, officer and agent of PEUGEOT and
22 (except as specifically alleged herein to the contrary), MENDEZ was at all
23 times acting with the scope of her employment, agency and authority in
24 MENDEZ'S dealings with PLAINTIFF, and with the permission, consent,
25 authorization, ratification, whether express or implied, of PEUGEOT, and/or
26 with PEUGEOT'S knowing acceptance of the benefits of the improper conduct
27 of MENDEZ.

28 ///

1 *Aiding and Abetting*

2 37. Except as herein specifically described, PLAINTIFF is informed and
3 believes and on that basis alleges that each of the Defendants aided and abetted the
4 tortious conduct of the other Defendants, in that each of the Defendants either
5 knew the other Defendants' conduct constituted a breach of duty to PLAINTIFF
6 and gave substantial assistance or encouragement to said Defendants to so act,
7 and/or gave substantial assistance to the other Defendants in accomplishing a
8 tortious result and said aiding and abetting Defendant's conduct constituted a
9 breach of duty to PLAINTIFF. Thus, each of the Defendants is liable for the
10 tortious conduct of each of the other Defendants that they so aided and abetted, as
11 if said aiding and abetting Defendants had engaged in said conduct themselves.

12 **FACTS COMMON TO ALL CAUSES OF ACTION**

13 *1982: Blade Runner*

14 38. In 1982, ALCON'S predecessors-in-interest in chain of title produced
15 and released the seminal motion picture *Blade Runner* (sometimes referred to
16 herein as the "Original Picture"). *Blade Runner* is widely recognized as one of the
17 most significant motion pictures ever produced. It is regularly voted by critics,
18 fans and even scientists, as the Number 1 science fiction movie of all time (*see,*
19 *e.g., 2004 Guardian* poll of 60 scientists), and regularly recognized as one of the
20 greatest movies of all time across all genres (*see, e.g., 2014 Empire* magazine
21 ranking *Blade Runner* #11 on list of The 301 Greatest Movies of All Time).

22 39. Among other well-known and highly regarded aspects of the Original
23 Picture are the exceptional quality of its production design elements, resulting from
24 the unique collaboration and chemistry among the creative giants that worked on
25 the Original Picture, including Ridley Scott and Syd Mead. Indeed, Mead alone is
26 regarded as one of the world's greatest product and industrial designers and
27 concept artists, both for real-world works (including in the automotive industry),
28 and for his futuristic visions that have graced major cinema for decades. *Blade*

1 *Runner* is often considered Mead’s *magnum opus*. It is among the most
2 comprehensive, impactful and enduring cinematic production design works of all
3 time. For example, in 2007 the Visual Effects Society named *Blade Runner* the #2
4 Most Influential VFX Films of All Time (second only to *Star Wars* as #1).

5 40. Among the Original Picture’s most notable and resonant design
6 elements were and are the flying cars, or “spinners,” that feature prominently in its
7 detailed and stunningly coherent futuristic world. It is no exaggeration to say that
8 the *Blade Runner* spinners are among the most famous and recognizable
9 automobiles in the history of film.

10 41. *Blade Runner* has been in continuous distribution worldwide through
11 various distribution channels since 1982. Even now, thirty-six years after its initial
12 theatrical release, it remains a culturally relevant film with an active and
13 appreciative audience. It is a piece of permanent art that transcends ephemeral
14 popular culture. In 1993 it was selected for preservation in the United States
15 National Film Registry by the Library of Congress as “culturally, historically, or
16 aesthetically significant.”

17 42. The *Blade Runner* spinners themselves, including the real-world
18 physical model versions used in filming the Original Picture, are also enduring
19 pieces of art in their own right. For example, one of the original *Blade Runner*
20 spinners is on permanent exhibit at the Science Fiction Museum and Hall of Fame
21 in Seattle, Washington.

22 43. The *Blade Runner* property also holds a special place in film history
23 with respect to product placements, marketing and advertising. Among other
24 themes, *Blade Runner* delved into the social and cultural effects of advanced
25 consumerism and is notable for integrating real world brands such as Coca-Cola
26 and Pan Am into the film’s dystopian future vision. As much or more than any
27 other film, product placements are an integral part of the *Blade Runner* property
28 and milieu. This means that product placements are an artistically organic aspect

1 of the *Blade Runner* world. Further, inclusion of a brand onscreen in a *Blade*
2 *Runner* story can give a brand an almost mystical and timeless quality, and in any
3 event clearly enhances the brand's legacy, for generations, if not forever.

4 44. In 2016 and 2017, *Blade Runner* was also a rare property in that it had
5 remained fallow for more than thirty years, with no additional pictures created:
6 from 1982 until 2017, there were no *Blade Runner* sequels, prequels, television
7 series, or any other motion picture or television extensions of the story. Among
8 other factors, the chain of title to the *Blade Runner* property became complex,
9 tangled and divided, dissuading and obstructing the creation of further pictures.

10 ***2010 to 2016: Alcon Solves the Rights Tangle and Develops a Sequel***

11 45. Beginning in or about 2010, ALCON took on the substantial
12 challenge of identifying, negotiating for, and acquiring all rights necessary to
13 develop and produce a sequel to the Original Picture.

14 46. By in or about 2011, and as further enhanced by subsequent
15 transactions, ALCON had acquired all relevant sequel rights to the Original Picture
16 and all other rights relevant to the subject matter of this Complaint. ALCON
17 became and remains the ultimate rights holder for all rights relevant to develop,
18 produce and exploit sequels to the Original Picture, including the right to contract
19 for product placements and co-promotional opportunities for such sequels.

20 47. ALCON invested massive resources in the development and
21 production of the sequel Picture, BR2049. The development and production of the
22 Picture took more than half a decade, not least because ALCON painstakingly
23 devoted itself to creating a work as striking and impactful as the Original Picture,
24 particularly with respect to production design.

25 48. Even in its development prior to production, the Picture represented a
26 creative achievement that brought together and forward the work of the original
27 visionaries including Mead and Scott (an Executive Producer on the Picture),
28 channeled through the lens of one of the industry's most critically-acclaimed

1 contemporary directors, Denis Villeneuve (a native French speaker born and raised
2 in Quebec).

3 ***Early 2016: Sony Pictures Entertainment Inc.***

4 49. By no later than January 2016, ALCON entered into a co-production
5 and distribution agreement and relationship with Columbia Pictures Industries, Inc.
6 (“CPII”), a direct or indirect corporate subsidiary of Sony Pictures Entertainment
7 Inc. (together herein, “Sony”) regarding certain aspects of financing, production,
8 distribution, promotion and marketing of BR2049, among other aspects. Relevant
9 here, as part of and related to that contractual and business relationship with Sony,
10 executives of CTMG, Sony’s and CPII’S product placement, co-promotion and
11 marketing arm, were authorized to and did communicate with and negotiate with
12 potential business partners on the BR2049 project, including with respect to
13 product placement and co-promotional opportunities, including with both
14 PEUGEOT and PUBLICIS.

15 50. At least some of the parties’ communications regarding BR2049
16 contemplated or referenced CTMG as a party to the product placement and co-
17 promotion agreement that is partially the subject matter of this Complaint. As
18 referenced earlier, to the extent that CTMG is or was a party to any of the
19 agreements discussed herein, or otherwise has or might have claims against any of
20 the defendants with respect to BR2049, those claims have been assigned by CTMG
21 to ALCON.

22 ***Logistics of Film Production, Product Placement and Co-Promotions***

23 51. PLAINTIFF planned for and achieved a “day-and-date” global
24 theatrical release of BR2049, meaning that the Picture was theatrically released for
25 the first time in substantially all major theatrical markets around the world on the
26 same day – October 6, 2017.

27 52. The initial theatrical release of any major motion picture requires
28 intensive logistical planning. Strict adherence to schedules for months or even

1 years in advance is critical. For a major motion picture intended for a global day-
2 and-date release, as was true for BR2049, planning and scheduling rigor takes on
3 even greater significance. The rigor amplifies further the larger the marketing and
4 promotional push planned for the Picture, and the larger the number of total screens
5 on which the Picture is planned for exhibition. For BR2049, all of these factors
6 were near the highest end that occurs in the industry. BR2049 was intended for
7 release on several thousand screens around the world all on the same day: October
8 6, 2017 (over four thousand screens in the U.S. alone). Once set, the October 6,
9 2017 day-and-date global release quickly became effectively immutable, such that
10 all pre-production, production, post-production, promotion and marketing
11 schedules associated with the Picture had to adhere strictly to timelines driven by
12 the release date.

13 53. Where a major motion picture with a global day-and-date release will
14 be supported by a co-promotion with a brand partner who has a product placement
15 in the film, the deal-making and preparation to perform must take place months or
16 even years in advance. The co-promotion itself must be planned and prepared at
17 least several months before the initial theatrical release date.

18 54. All business actors that transact and work in the product placement
19 and co-promotional spaces involving major motion pictures all know and
20 understand that these factors mean that business opportunities with respect to a
21 major motion picture product placement or co-promotion, especially one with a
22 planned global day-and-date release on thousands of screens around the world –
23 like BR2049 – are exceptionally time sensitive. PEUGEOT, PUBLICIS,
24 MENDEZ and DOES 1 through 10 all knew that this was true for BR2049.

25 55. For a major product placement and co-promotion integrated into the
26 overall story – like branding the main character’s vehicle with a co-promotional
27 partner’s logo and trade dress – the deals must be negotiated and closed on the key
28 terms as much as a year or even longer before the release date, or the opportunity

1 will quickly become smaller and will be effectively lost altogether many months
2 before the release date, if execution fails – or if a party reneges.

3 56. Relevant to major motion picture brand partnering and what happened
4 between the parties here, certain industry terms and realities are worth discussing
5 for background.

6 57. “Pre-production” refers to the time between the greenlighting of the
7 picture (funding of production) and the commencement of “Principal
8 Photography.” Pre-production includes a wide range of preparations for actual
9 production, including the creation of concept art and physical props and models,
10 including of things like vehicles that will appear onscreen in the picture.

11 58. “Principal Photography” is the time during which the cameras are
12 actually rolling to create the film or video footage capturing substantially all the
13 scenes that will be used to create the final picture. After Principal Photography is
14 completed, it is possible to shoot additional scenes or footage (for example, to re-
15 shoot a scene if the editing process reveals that additional footage is required), and
16 it does sometimes happen. However, shooting additional footage after the close of
17 Principal Photography is exceedingly expensive, as at least some aspects of
18 production that have been closed or shut down must be at least partially re-opened;
19 actors might need to be brought back in from other places or projects, including
20 potentially at higher cost; and similarly expensive factors of such a “do-over.”

21 59. If a motion picture, like BR2049, has a narrative where the main
22 character spends much of the story traveling in and with a particular vehicle, any
23 idea that the vehicle’s fundamental look and design could be totally changed after
24 the completion of Principal Photography is commercially unrealistic and would be
25 enormously expensive, in addition to jeopardizing the intended release date.

26 60. “Picture Lock” refers to the stage of post-production where the timing
27 and sequence of all of the scenes in the picture have been set. Many substantial
28 changes to a motion picture occur after Picture Lock, including sound mixing,

1 color timing, and many forms of visual effects and visual editing. However, after
2 Picture Lock, to add a scene, change the order of scenes, or the number of seconds
3 or minutes a scene runs, is not possible without starting over on many aspects of
4 post-production of the picture. In addition to being cost prohibitive, the time
5 required also jeopardizes the release date. Thus, after Picture Lock, changes can be
6 made to, for example, how an image (like a brand logo) looks (indeed, logos can
7 even be added after Picture Lock) in a scene or scenes, but scenes cannot be added
8 or cut or modified as to the length of time the scene runs onscreen.

9 61. “Picture Delivery” refers to when the final digital and film print
10 versions of the film that will be shown in theaters around world are sent out to
11 theaters. Picture Delivery is the ultimate deadline for any changes to film – after
12 Picture Delivery, no changes to the film as it will appear onscreen in theaters can
13 be made at all.

14 62. All professionals who work and transact in the product placement and
15 co-promotional field in connection with motion pictures know these time
16 sensitivities and restrictions. The greater the role of the placement and co-
17 promotion in connection with the film’s story, the greater the stakes and time
18 sensitivities.

19 ***The BR2049 Spinner Product Placement and Co-Promotion Opportunity***

20 63. BR2049 presented an exceptionally rare and highly valuable
21 automotive product placement and co-promotional opportunity.

22 64. BR2049’s protagonist is “K,” whom by early 2016 had already been
23 cast to be played by the highly charismatic star actor Ryan Gosling. K is a blade
24 runner, or hunter of rogue replicants (synthetic humans). He is also a replicant
25 himself. BR2049 centers around K’s Holy Grail-like quest to discover the truth
26 about a human-replicant sexual union that produced a hybrid child against all
27 known scientific possibility, and the truth of K’s own origins and identity.

28 ///

1 65. K has two loyal companions in his journey – his lover, Joi, who is a
2 hologram, and his vehicle, a spinner, evolved from the flying cars of the Original
3 Picture. K’s quest takes him to far flung and forbidden places across BR2049’s
4 dystopian Southern California futurescape. K’s spinner accompanies and assists
5 him almost everywhere K goes. K’s spinner has a semi-intelligence making it
6 nearly sentient itself. K’s spinner responds to his voice commands, protects K, and
7 assists K in his tasks beyond mere transportation, serving as sentry and scout in
8 addition to flying steed. More than just a car, the spinner is almost a character unto
9 itself in the Picture, and one strongly associated with the charismatic Gosling.

10 66. BR2049 thus presented a generational opportunity for an automotive
11 product placement and co-promotional partnership. For K’s spinner to be branded
12 as made by a real-world manufacturer would be artistically organic and creatively
13 true to the Original Picture’s legacy and themes, which weaved and morphed real-
14 world brands into the *Blade Runner* alternate future history. Making K’s spinner a
15 real-world brand thus served the art of the Picture, while also clearly being of
16 extremely high value to an automotive brand.

17 67. With even only several seconds of on-screen association of an
18 automotive brand’s logo and trade dress with K’s spinner, an automotive brand
19 could establish itself as almost another character in the Picture, closely and
20 positively associated with a marketable movie star. The brand would have a
21 presence throughout the storyline of a major motion picture that would not only be
22 seen by tens of millions of people around the world in its initial theatrical release
23 alone, but had real prospects to be an enduring piece of human art that would
24 remain relevant, viewed and revered for decades. It was a rare opportunity for an
25 automotive brand to enshrine itself in cinema and pop culture history.

26 68. An automotive product placement on K’s spinner in BR2049 could
27 thus immediately globally lift, revitalize and even potentially cinematically
28 immortalize a brand.

- 1 69. BR2049 was subject to the following specific schedule:
- 2 a. Pre-production had commenced and was well under way by no later
- 3 than January 2016.
- 4 b. By January 2016, production offices had been opened in Budapest,
- 5 Hungary.
- 6 c. Principal Photography was scheduled to commence and actually
- 7 commenced on July 11, 2016.
- 8 d. Principal Photography completed on November 22, 2016.
- 9 e. Picture Lock was targeted for June 8, 2017 (but did not actually occur
- 10 as things played out until July 5, 2017).
- 11 f. Picture Delivery was planned for and actually occurred between
- 12 September 25 and September 30, 2017.
- 13 g. October 6, 2017 was the planned and actually executed global day-
- 14 and-date release of the Picture (“Release Date”).

15 70. Among other things, the above schedule meant that for BR2049, with

16 respect to product placement and co-promotional opportunities, any product

17 placement and co-promotion that was planned as an integral part of the story had to

18 be completed by Picture Lock, meaning by June 8, 2017, as the schedule was

19 originally planned. As things actually occurred, Picture Lock on BR2049 was

20 extended, such that a placement could have had some pre-Picture Lock changes

21 through as late as July 5, 2017. Visual enhancements or adjustments to a particular

22 product placement within the film already integrated into the story could

23 potentially occur even into late August 2017 or possibly even later, in an extreme

24 emergency. However, the closer in time any changes to (or renegeing on) a product

25 placement and co-promotional deal were to get to the above dates, the more and

26 more remote any ability to mitigate a breach and/or substitute a placement and co-

27 promotional partner would become.

28 ///

1 71. By as early as January 2016, ALCON was looking for automotive
2 product placement and co-promotional partners.

3 72. By no later than April 2016, the automotive product placement and co-
4 promotional business community knew of the BR2049 opportunity. ALCON had
5 received interest from multiple global automotive brands, and was effectively
6 running an auction.

7 73. By about early May 2016, this practical auction was down to two
8 highly interested bidders: a major global luxury automotive brand referred to herein
9 as “Automotive Brand Z,” and PEUGEOT. Both bid richly. However, PEUGEOT
10 was intent on controlling the opportunity, and bid the most richly, so that it would.

11 ***Peugeot Intentionally Puts in the Richest Bid to Take Control***
12 ***of the BR2049 Opportunity for Itself***

13 74. Product placement and co-promotional relationships between motion
14 picture studios and brands can take different forms, along a spectrum of
15 integration, relationship and value.

16 75. At the simple end of the spectrum, in a pure product placement only, a
17 brand might pay a studio a relatively limited single lump sum fee in exchange for
18 the brand to appear onscreen in a single sequence in a motion picture or television
19 episode. In this simplest of product placement transactions, there may be no
20 accompanying co-promotional marketing campaign and no agreement on any
21 minimum dollar spend for one (indeed, in such circumstances, a co-promotional
22 campaign, where the brand advertises both itself and the motion picture within a
23 single ad or ad campaign, may not even be permitted by the studio, even for free).

24 76. However, many product placement relationships are more involved
25 and include a co-promotional element. The brand appears in the film itself for
26 typically no more than several seconds in a small number of sequences. However,
27 beyond this, in the lead up to the film’s release and surrounding it, the brand and
28 studio also work together on a co-promotional campaign. In such a campaign, both

1 the brand and the film are marketed together in blended advertisements in a range
2 of media, possibly including, without limitation, television spots, radio ads, and
3 digital media advertising.

4 77. Familiar examples of product placement and co-promotional
5 executions include recent James Bond films where the Audi brand is prominently
6 placed in the film itself. Television advertisements for Audi that include footage of
7 Daniel Craig as James Bond driving an Audi vehicle are telecast during prime
8 television programming, such as a popular primetime television series or the
9 telecast of a major sporting event, like a major college or professional football or
10 basketball game. In ALCON'S own recent history, with the 2015 remake of *Point*
11 *Break*, Jeep vehicles were placed in the story of the film itself. To support the
12 release of the film and also to advertise brand, Jeep ran television and online video
13 advertisements for Jeep that included footage from the film showing the stars of the
14 film engaged in various daring outdoor activities, including with Jeep vehicles. In
15 both the Audi/James Bond and Jeep/*Point Break* examples, the television and other
16 advertisements serve to promote both the automotive brand and the motion picture,
17 in the same advertisement and overall co-promotional media campaign.

18 78. For relationships involving both a product placement and a co-
19 promotion, the pricing of the deal between the brand and the studio may be
20 structured in two parts: a single product placement fee, which is cash paid directly
21 from the brand (or the brand's representative) to the studio, and an agreed
22 minimum "media spend." The media spend is typically magnitudes larger than the
23 product placement fee, and is not paid by the brand directly to the studio. Rather,
24 the media spend's dollar figure represents the guaranteed minimum dollar value of
25 the paid media (television advertisements, radio advertisements, digital
26 advertisements, and the like) that the brand commits to produce and put into the
27 stream of commerce to market the film (and the brand at the same time).

28 ///

1 79. Although the media spend does not go directly to the studio, a
2 guaranteed co-promotional media spend has high value to a film and once
3 committed, the studio relies on it. The marketing and promotional effort required
4 to make a global audience aware of the day-and-date release of a major motion
5 picture and give the release the best chance to succeed requires in the tens of
6 millions of dollars, and can exceed a hundred million dollars. That a brand has
7 committed to a guaranteed co-promotional media spend thus bolsters the marketing
8 and advertising of the film, increasing its chances for success, and also reduces the
9 marketing and advertising burden that the studio otherwise must finance directly
10 out of its own pocket. The more marketing and advertising expenses that the studio
11 has to pay for itself (versus through a co-promotional media spend by a brand), the
12 greater the hurdle for the film to be a financial success, because the greater the
13 amount of money the film must generate from audiences and licensees before it can
14 overcome distribution expenses, and then production costs, to hopefully at some
15 point become profitable. Co-promotional media spends thus have high value to the
16 studio, even though the media spend is not itself paid directly to the studio.

17 80. Product placements and co-promotional media spends, and creativity
18 in implementing them, have become even more valuable to both brands and studios
19 as the world continues to move further into the Information Age. Today's
20 consumer audiences have many more choices of what, when, where and how they
21 watch media than prior generations. Born and raised in a saturated marketing and
22 advertising environment, many modern consumers are also increasingly more
23 sophisticated about and desensitized to overt marketing and advertising. For
24 example, a millennial consumer in the market for an automobile might never even
25 see a television advertisement that runs on a broadcast television network, even if
26 the advertisement runs extremely frequently, because the millennial consumer
27 might very well never watch any broadcast network television at all, except
28 possibly on a streaming service where the ads have been stripped out. Even if the

1 millennial sees the traditional broadcast television ad, they are less likely to be as
2 influenced by it than past generations, as they have grown up more constantly
3 bombarded by commercial advertising.

4 81. The best executed, most valuable and most effective product
5 placement and co-promotional media spend experiences for brands, studios and
6 consumers are those where the brand can organically be part of the story of the film
7 or television episode itself, and where the co-promotional campaign also helps
8 support, advance or enrich the film's story at the same time that it increases brand
9 awareness with audiences. For example, the co-promotional advertisements might
10 be used to tell short "off screen" stories that might serve as a pre-amble to and pre-
11 education of the audience about the film's story, even before the film's release.

12 82. The best co-promotional campaigns might also include event
13 marketing, where audiences have the opportunity to interact directly in an
14 experiential way with the brand and the film's story or world – for example, a real-
15 world physically immersive event at a fan convention or other venue (like an auto
16 show), where audiences might get to see or even touch physical props from the film
17 featuring the placed branding.

18 83. The BR2049 K spinner placement opportunity was at the far high end
19 of the spectrum in terms of what it offered, both in possibilities for the brand and
20 the expectations for ALCON. It was no mere single sequence placement. Indeed,
21 inevitably, any meaningful association of an automotive brand with K's spinner,
22 even in a single sequence, would effectively place the brand indelibly into the
23 entire story of the film and strongly associate the brand with Gosling, too, given the
24 spinner's role in the BR2049 story.

25 84. Moreover, especially given that more than thirty-five years had passed
26 since the release of the Original Picture, the marketing and promotional plan for
27 BR2049 already contemplated the pre-release generation and distribution of short-
28 form video content, released through YouTube and other publicly accessible

1 platforms, and designed to “pre-tell” to the audience some of what had happened in
2 the *Blade Runner* world between the time of the Original Picture and BR2049,
3 which takes place thirty years later. Thus, the opportunity was also especially
4 primed for a brand to work with the studio to pre-establish to audiences that K’s
5 spinner was a particular automotive make, through the use of either short-form
6 video content, or traditional advertising, or other hybrid marketing and storytelling
7 methods, even before the film’s release.

8 85. The *Blade Runner* fan base is a fervent one, and it was desperately
9 hungry in the months and even years prior to BR2049’s release for any and all
10 information about BR2049 and what surprises it might hold. A release of even a
11 single photograph of K’s spinner as, for example, Peugeot-branded, in the months
12 leading up to BR2049’s release would almost certainly have been virally circulated
13 and discussed on the Internet and elsewhere by hundreds of thousands or even
14 millions of consumers, and in entertainment media magazines and programs, even
15 without any paid media at all.

16 86. Finally, like the Original Picture, physical props of K’s spinner,
17 including full-size physical versions of the vehicle, including with branding, would
18 be made. This presented the opportunity to have a physical vehicle that could
19 actually travel and appear at experiential marketing events like auto shows and
20 entertainment fan conventions (for decades), and that had the realistic prospect of
21 permanent placement for ongoing public exhibition in venues like Seattle’s Science
22 Fiction Museum and Hall of Fame, as indeed happened for the Original Picture’s
23 life-size spinner model.

24 87. Automotive Brand Z, PEUGEOT, and all other bidders understood
25 that, given all of the above factors and the exceptionally high value of the
26 opportunity, ALCON would never accept a deal for a product placement without a
27 media spend. A bid by an auto partner to pay ALCON only a product placement
28 fee of only several hundred thousand dollars, without a commitment to a major

1 media spend, would never win the bid or even be seen as serious. To have any
2 chance of winning the opportunity, all bidders and their representatives knew that
3 the bids and deal had to be for a product placement fee of at least several hundred
4 thousand dollars coupled with a guaranteed media spend in at least the tens of
5 millions of dollars. In the alternative, although no bidders took this unusual route,
6 if a bidder had wanted to bid on the placement only, without a guaranteed media
7 spend commitment, then the product placement fee would have had to be
8 magnitudes higher, and at a minimum several million dollars, and might have
9 needed to approach or exceed \$10 million, paid directly to ALCON.

10 88. PLAINTIFF is informed and believes and on that basis alleges that
11 MENDEZ, PEUGEOT and PUBLICIS were all well aware of these bidding
12 realities.

13 89. PLAINTIFF is informed and believes and on that basis alleges that the
14 BR2049 opportunity also had a unique value to PEUGEOT relative to other
15 automotive partners. ALCON had communicated to the bid market that ALCON
16 would accept, and potentially preferred, an automotive partner more interested in
17 an international media spend than a domestic one, to best facilitate ALCON'S
18 global release strategy. The onscreen placement, though, would be the same in all
19 theaters around the world, including in the U.S. It was thus known in the bid
20 market that on BR2049, a brand partner could get the benefit of an onscreen
21 placement that would be seen in every major theatrical market around the world,
22 including the United States and Canada domestic market, but where the media
23 spend could be substantially or even entirely directed to international markets.

24 90. This was a particularly good fit for PEUGEOT. As noted in prior
25 paragraphs, in early 2016 when the BR2049 opportunity was in play, PEUGEOT
26 had been out of the United States auto market for about 35 years, but was eyeing a
27 return. PEUGEOT was not yet ready to begin running paid media advertisements
28 to U.S. consumers, but it was very interested in re-introducing its brand to them. A

1 major motion picture planned for release on thousands of U.S. movie screens and
2 that would almost certainly be seen by tens of millions of U.S. consumers
3 theatrically and in subsequent windows, but that could be effectively paid for with
4 international media spend dollars, meshed unusually well with PEUGEOT'S needs
5 and interests.

6 91. To engage with ALCON on this opportunity, PEUGEOT employed at
7 least three different agencies: PUBLICIS, BETC and Branded Entertainment
8 Network ("BEN"). BETC is a French advertising agency founded in Paris in 1995
9 and is a globally acclaimed creative agency. PLAINTIFF is informed and believes
10 and on that basis alleges that in the 2016 to 2017 time frame, BETC already had a
11 significant, continuous and systematic California presence, and actually opened a
12 physical office in Los Angeles on or about October 9, 2017.

13 92. PUBLICIS'S representation of PEUGEOT regarding BR2049 was
14 handled with PUBLICIS'S Casablanca division or agency serving as the day-to-
15 day point for PEUGEOT, with Casablanca's personnel actively supported and
16 backed by the larger PUBLICIS organization, including the PUBLICIS legal team.

17 93. BEN is a Los Angeles-based advertising agency. BEN'S
18 communications with ALCON regarding the BR2049 opportunity on behalf of
19 PEUGEOT were handled primarily by Reiko Porter, at the time a BEN Manager,
20 who resides and works in the greater Los Angeles area.

21 94. PLAINTIFF is informed and believes and on that basis alleges that
22 PEUGEOT, MENDEZ, PUBLICIS, BEN and/or BETC all knew that ALCON had
23 multiple competing bids for the opportunity, and that there was at least one other
24 competing bidder that was likely to win the bid unless PEUGEOT put in a rich bid.

25 95. Automotive Brand Z's bid to ALCON for this opportunity was priced
26 as a several hundred thousand dollar product placement fee to be made directly to
27 the studio, and a guaranteed minimum media spend commitment of about \$16
28 million.

1 96. The automotive product placement and co-promotional world is
2 relatively small, and while bids are confidential, PLAINTIFF is informed and
3 believes and on that basis alleges that PEUGEOT, MENDEZ, PUBLICIS, BEN
4 and/or BETC all knew or suspected that ALCON had a competing bid of at least
5 this magnitude. PEUGEOT thus knew that it had to beat at least these numbers to
6 eliminate competing bidders and win the opportunity. Indeed, PLAINTIFF is
7 informed and believes and thereon alleges that PEUGEOT and MENDEZ believed
8 that the Automotive Brand Z bid or other bids were even higher than they were.

9 97. PLAINTIFF is informed and believes and thereon alleges that
10 PEUGEOT and MENDEZ specifically and expressly directed and authorized
11 PUBLICIS and/or BEN to make a large bid that would take out all other competing
12 bidders – to make ALCON an offer that ALCON would be unable to refuse.

13 98. By early May 2016, PEUGEOT had submitted at least one bid, but
14 one that had clearly not won the bidding. PEUGEOT’S bid had to be sweetened to
15 win.

16 99. As the number of bidders narrows and the remaining bidders become
17 more and more likely to be the ultimate potential partner, more information about
18 the project is often shared, and, for a closely guarded project like BR2049, on a
19 confidential basis.

20 100. By on or about May 18, 2016, Reiko Porter for BEN, in representation
21 of PEUGEOT with respect to BR2049, had signed a confidentiality agreement with
22 ALCON pursuant to which BEN agreed that it and its principals, including
23 PEUGEOT, not only would treat all BR2049 information as confidential, but also
24 that the parties’ relationship and the communications about it would be governed
25 by the laws of the State of California. PLAINTIFF is informed and believes and on
26 that basis alleges that this confidentiality agreement was signed by Porter while
27 Porter was in California (where he works and resides), and was delivered to
28 ALCON in California by Porter on behalf of BEN and PEUGEOT. PLAINTIFF is

1 informed and believes and on that basis alleges that PEUGEOT and MENDEZ
2 knew and understood the content of the confidentiality agreement and authorized
3 Porter to execute it and/or later ratified his execution of it. PLAINTIFF is thus
4 informed and believes and thereon alleges that not only did PEUGEOT and
5 MENDEZ expressly authorize BEN's bidding for PEUGEOT on the BR2049
6 opportunity, PEUGEOT and MENDEZ both knew and understood at the time of
7 bidding that the deal and the parties' communications would be governed by
8 California law.

9 101. On May 19, 2016, at PEUGEOT'S and MENDEZ'S direction, and/or
10 with PEUGEOT'S and MENDEZ'S approval and authority and/or subsequent
11 ratification, Porter sent an email to Joshua Ravetch, ALCON'S product placement
12 lead, specifically sweetening PEUGEOT'S prior bid by adding a massive
13 guaranteed media spend.

14 102. Ravetch, who received the email from Porter, works and resides in
15 California, as Porter, BEN, PEUGEOT, MENDEZ, and PUBLICIS all knew.

16 103. The May 19, 2016 Porter-to-Ravetch email, and related
17 communications, relayed a proposal from PEUGEOT for a product placement and
18 co-promotional deal where PEUGEOT would pay ALCON directly a product
19 placement fee of \$750,000, and commit to a guaranteed media spend of a minimum
20 \$20 million to \$35 million, followed by, in bold letters, "**with potential to rise to**
21 **\$40 million.**" PEUGEOT and BEN also laid out a possible plan for specific media
22 spends by territory.

23 104. By its May 19, 2016 bid, PEUGEOT clearly specifically intended that
24 it was the *promotional spend proposal* (not any mere several hundred thousand
25 dollar product placement fee) that should induce ALCON to deal with PEUGEOT
26 rather than other bidders. Indeed, after laying out the details of the up to \$40
27 million co-promotion that PEUGEOT envisioned and dangled, Porter specifically
28 wrote: "Peugeot is excited about the possibility of partnering on Blade Runner and

1 *that this new promotional insight* will be key to moving forward with
2 negotiations.” (Emphasis added.)

3 105. What Porter meant by this, and what all involved understood, was that
4 PEUGEOT knew that PEUGEOT’S previous offers had not been enough clearly to
5 win the bid for PEUGEOT over other competing bidders and PEUGEOT was
6 trying to sweeten its bid to eliminate the competition in a clear and decisive way.
7 Further, PEUGEOT was specifically proposing to do this by a specific bidding
8 lever: a large up to \$40 million co-promotion media spend. **Thus, Porter was**
9 **specifically saying that PEUGEOT proposed the massive media spend in order**
10 **to win the bidding, as PEUGEOT and MENDEZ fully intended him to say.**

11 106. The May 19, 2016 Porter-to-Ravetch email and related
12 communications also relayed that, with respect to the on-screen product placement
13 itself, PEUGEOT proposed two types of placements: 1) multiple scenes showing
14 PEUGEOT brand badging on K’s spinner, and 2) a smaller number of scenes
15 where the PEUGEOT logo would appear onscreen as a feature of the BR2049
16 world, such as in a wall ad or skyscraper ad in the background (also sometimes
17 called by the parties a “holographic advertisement”).

18 107. From the May 19, 2016 communication forward (until approximately
19 a year later when PEUGEOT tried to fabricate justifications for breach),
20 PEUGEOT consistently communicated that, while PEUGEOT desired both types
21 of integrations, of the two types, the vehicle integrations were far more important
22 to PEUGEOT than the wall ad integrations.

23 108. PLAINTIFF cannot be aware of what precisely was in PEUGEOT’S
24 and MENDEZ’S minds at the time, but based on how things played out,
25 PLAINTIFF alleges and pleads here alternative sets of facts with respect to
26 PEUGEOT’S and MENDEZ’S intent in causing Porter and BEN to ramp up
27 PEUGEOT’S bidding position radically in this way.

28 ///

1 109. In one alternative, PLAINTIFF is informed and believes and on that
2 basis alleges that PEUGEOT and MENDEZ fully intended to attempt to close and
3 perform an agreement with ALCON on the above terms, but that circumstances,
4 such as a change in PEUGEOT’S financial situation or otherwise, later caused
5 PEUGEOT and MENDEZ to deny even the basic facts of the negotiations and the
6 terms of the parties’ soon-to-be-reached agreement.

7 110. In a second alternative, PLAINTIFF is informed and believes and on
8 that basis alleges that MENDEZ wanted personally as an executive to have her
9 cake and eat it too: MENDEZ wanted to secure control of the BR2049 opportunity
10 for PEUGEOT by eliminating other competing bidders with a larger bid
11 specifically involving a large guaranteed media spend. However, MENDEZ also
12 did not want to risk her own internal corporate political capital by asking her
13 superiors for the budget commitment necessary to fulfill the spend, until and unless
14 MENDEZ felt the internal corporate tea leaves would lead to a “yes” from her
15 superiors – she wanted to do the corporate equivalent of putting a very expensive
16 present for her corporate superiors on reserve, without paying anything for it, until
17 she knew the present would make her bosses happy.

18 111. Therefore, MENDEZ intentionally caused and directed BEN to dangle
19 the large media spend proposal, with MENDEZ specifically and secretly intending
20 that it would never be fulfilled unless MENDEZ felt comfortable presenting it to
21 her corporate superiors; if she never did, then MENDEZ would simply cause
22 PEUGEOT to deny or throttle the deal through bad faith manipulations.
23 PLAINTIFF is informed and believes that MENDEZ withheld her bad faith
24 intentions from PUBLICIS and BEN, and that to the extent that these agencies
25 were used as tools to carry out MENDEZ’S fraud, they did so without knowing
26 they were doing so, at least initially.

27 112. In a third alternative, PLAINTIFF is informed and believes and
28 thereon alleges that the above fraudulent scheme was not MENDEZ’S alone within

1 PEUGEOT, but that MENDEZ’S superiors directed MENDEZ to execute it from
2 the outset (with PEUGEOT in that scenario putting a present for itself on hold
3 without any intention of paying for it later, unless PEUGEOT later decided it felt
4 like doing so, for its own expediciencies, as the future developed).

5 113. PEUGEOT and MENDEZ knew that the scheme was in bad faith and
6 a fraudulent one, and further knew that if in fact PEUGEOT entered into a deal
7 with ALCON on the dangled terms, and then PEUGEOT did not fulfill the deal in
8 bad faith, it would mean that ALCON would suffer an immense loss of opportunity
9 in the form of the other bidders, including Automotive Brand Z’s good faith, \$16
10 million-plus bid (which PLAINTIFF is informed and believes and thereon alleges
11 that PEUGEOT and MENDEZ believed to be even higher than it actually was).
12 PEUGEOT and MENDEZ intentionally went forward with the fraudulent scheme
13 anyway, even though they knew that the potential damage to ALCON would be
14 massive if they carried the scheme all the way to fruition and backed out of the deal
15 in bad faith.

16 114. The May 19, 2016 Porter-to-Ravetch proposal from PEUGEOT, and
17 PEUGEOT’S related communications to ALCON at this time, soon had the
18 intended effect.

19 115. ALCON expressed strong interest in PEUGEOT’S dangled up-to\$40
20 million media spend. ALCON sent PEUGEOT additional confidential information
21 regarding the BR2049 opportunity that PEUGEOT had requested, so that
22 discussions could proceed in earnest.

23 116. By on or about May 24, 2016, PEUGEOT had brought PUBLICIS
24 into the discussions (through Casablanca). By on or about May 24, 2016, Mamou
25 Sissoko (at Casablanca, which is now PUBLICIS), in representation of PEUGEOT
26 with respect to BR2049, had signed a confidentiality agreement with ALCON
27 pursuant to which PUBLICIS agreed that it and its principals, including
28 PEUGEOT, not only would treat all BR2049 information as confidential, but also

1 that the parties' relationship and communications about it would be governed by
2 the laws of the State of California. PLAINTIFF is informed and believes and on
3 that basis alleges that Sissoko works and resides in France, but knew that he was
4 delivering his signature on the confidentiality agreement to ALCON in California,
5 and did so, and PUBLICIS, PEUGEOT and MENDEZ knew and understood this as
6 well.

7 117. PLAINTIFF is informed and believes and thereon alleges that
8 PEUGEOT and MENDEZ knew and understood the content of the confidentiality
9 agreement and authorized Sissoko to execute it and/or later ratified his execution of
10 it. PLAINTIFF is thus informed and believes and thereon alleges that PEUGEOT,
11 MENDEZ and PUBLICIS all knew and understood that the business in which they
12 were engaging with ALCON, and the communications about it, would be governed
13 by California law.

14 ***Peugeot Binds Itself to Contractual and Other Duties to Alcon***

15 118. Between May 19, 2016 and early July 2016, PEUGEOT and ALCON
16 (with CTMG executives), including through their respective representatives,
17 continued to discuss and negotiate about the BR2049 opportunity.

18 119. On or about July 12, 2016, Herve Montron, a Casablanca (PUBLICIS)
19 executive, transmitted a two-page document entitled "Blade Runner II --
20 Agreement in Principle" from Paris, to ALCON and/or ALCON'S representatives
21 in California, on behalf of PEUGEOT. The parties sometimes refer to this
22 document as the "July 12, 2016 Letter of Intent" or "July 12, 2016 LOI."

23 120. PLAINTIFF is informed and believes and on that basis alleges that
24 PEUGEOT and MENDEZ expressly approved Montron's transmission of the July
25 12, 2016 LOI to ALCON and/or ALCON'S representatives, and/or ratified it.
26 Consistent with ALCON'S alternative pleading theories on MENDEZ'S and
27 PEUGEOT'S intent as articulated in prior paragraphs, ALCON pleads as one
28 factual alternative that MENDEZ, either with or without the knowledge of her

1 superiors within PEUGEOT, caused the July 12, 2016 LOI to be transmitted to
2 ALCON for the purpose of furthering her fraudulent and bad faith scheme to keep
3 control of the BR2049 opportunity, including her planned intention not to go
4 forward with the deal if MENDEZ and/or PEUGEOT chose not to do so for their
5 own undisclosed expediencies, either personal or corporate.

6 121. The July 12, 2016 LOI and related contemporaneous communication
7 between the parties evidences and reflects that, by on or about July 12, 2016,
8 PEUGEOT and ALCON had agreed at a bare minimum to negotiate in good faith
9 for a binding contract that would include at least the following terms:

- 10 a. PLAINTIFF and PEUGEOT would work in close collaboration to
11 integrate PEUGEOT badging and other trade dress into the design of
12 K's spinner.
- 13 b. Once the K Spinner badging and feature designs were approved by
14 PEUGEOT, they would be locked and PEUGEOT would not be able to
15 change or disapprove them later.
- 16 c. The finished BR2049 film would include at least several seconds of
17 footage in which PEUGEOT'S logo and badging would be clearly
18 visible to the audience, with PEUGEOT asking (but with the following
19 points still subject to discussion) that the visibility occur across three
20 (3) scenes of four (4) seconds each (for a PEUGEOT-requested total of
21 twelve (12) seconds), with 2 of the scenes being of K's spinner badging
22 and the third scene being the Peugeot logo in an external
23 advertisement/wall ad (sometimes called a "holographic
24 advertisement").
- 25 d. The execution of the placement footage was subject to PEUGEOT'S
26 review and approval, which meant review and approval within industry
27 customary parameters, meaning *inter alia*, review was to be prompt,
28 and to PEUGEOT'S reasonable and good faith approval and

1 satisfaction, and within the creative and artistic parameters of the film,
2 and which review and approval was to be conducted by PEUGEOT
3 without unreasonable disruption of the film's schedule, including
4 Picture Lock, Film Delivery and Release Date.

5 e. The Peugeot spinner badging would be associated with Ryan Gosling's
6 character, K.

7 f. Ryan Gosling's character, K, would not be associated with any rival
8 automobile brand.

9 g. The Peugeot brand would not be presented in a perjorative context.

10 h. Including both pursuant to industry custom and practice and the parties'
11 express and implicit discussions, if upon review, PEUGEOT was not
12 reasonably and in good faith satisfied with a proposed execution of the
13 footage placement, then PEUGEOT was to engage with ALCON
14 reasonably and in good faith on changes or enhancements such that
15 PEUGEOT would be able to give its reasonable and good faith
16 approval, also again within the creative and artistic parameters of the
17 film. Further, this process was to be conducted by PEUGEOT without
18 unreasonable disruption of the film's schedule, including Picture Lock,
19 Film Delivery and Release Date.

20 i. If ALCON delivered a satisfactory placement under the above
21 parameters, then PEUGEOT would be obligated to pay \$500,000
22 directly to ALCON as a product placement fee, and would also be
23 obligated to work with ALCON to plan, finance and execute a global
24 co-promotion media campaign (which could exclude the U.S.) to
25 support the October 6, 2017 day-and-date global theatrical release of
26 the Picture, with PEUGEOT obligated to deliver at least \$30 million of
27 paid media.

28 ///

1 j. If ALCON failed to deliver a satisfactory placement even after
2 reasonable and good faith engagement between the parties to attempt to
3 cure reasonable and good faith placement dissatisfactions of
4 PEUGEOT, then the parties would negotiate in good faith about
5 alternative terms that would be fair and reasonable to both sides.

6 k. The parties would continue to work together and negotiate together in
7 good faith on any additional terms, including without limitation the
8 then still-to-be-agreed number of seconds of placement footage and
9 their allocation across sequences.

10 122. The July 12, 2016 LOI also included an attachment further detailing
11 and reaffirming PEUGEOT'S proposal, intention and promise to a minimum co-
12 promotion media spend of at least \$30 million, and outlining specific elements of
13 the potential co-promotion.

14 123. ALCON moved forward to negotiate with PEUGEOT to the exclusion
15 of other bidders, in reliance that all of the above communications from PEUGEOT
16 were in good faith. ALCON was unaware of undisclosed and bad faith intentions
17 by MENDEZ and/or PEUGEOT to kill or deny any deal if it suited their own
18 personal or corporate expediency, and that MENDEZ and/or PEUGEOT intended
19 intentionally to stall or frustrate the triggering of any events that would cause them
20 to be required to pay any meaningful money to ALCON or for any media spend,
21 unless they decided for their own external reasons to do so. ALCON was also
22 unaware of any lack of ability of PEUGEOT itself to finance a media spend – there
23 was no communication from PEUGEOT or PUBLICIS, for example, that a media
24 spend would have to come from PEUGEOT'S retail dealers in local territories who
25 were not under PEUGEOT'S control. Unaware of MENDEZ'S and/or
26 PEUGEOT'S bad faith and any such undisclosed highly material information, by
27 no later than approximately July 12, 2016, ALCON had foregone the opportunity
28 to enter into deals with other bidders, including without limitation the \$16 million-

1 plus deal proposed by Automotive Brand Z (all exactly as MENDEZ and
2 PEUGEOT intended).

3 124. At a bare minimum, in addition to other binding promises and
4 obligations, by the above communications and conduct, by no later than July 12,
5 2016, pursuant to the governing California law, PEUGEOT was under a duty to
6 negotiate in good faith with ALCON to close any more binding contractual
7 agreement that might have been necessary for the parties to have a fully binding
8 contractual agreement on a PEUGEOT product placement and minimum \$30
9 million media spend on BR2049 with substantially the terms above.

10 125. PLAINTIFF is informed and believes and on that basis alleges that,
11 under at least one alternative as to what was in PEUGEOT'S and MENDEZ'S
12 minds, over approximately the next year, PEUGEOT, primarily through MENDEZ,
13 was never negotiating in good faith with ALCON. Rather, PEUGEOT and
14 MENDEZ were intentionally leading ALCON further and further down a road
15 where it would be more and more difficult for ALCON ever to partner on the
16 BR2049 opportunity with any other automotive brand. PEUGEOT and MENDEZ
17 fraudulently and in bad faith withheld and concealed from ALCON what was
18 actually in PEUGEOT'S and MENDEZ'S minds: if at any point PEUGEOT or
19 MENDEZ decided for their own personal or corporate expediencies not to go
20 forward with the deal or any part of it, they would take the position that there never
21 was a binding contract of any kind and/or they would claim arbitrary dissatisfaction
22 with ALCON'S performance to avoid their own obligations, even if it was too late
23 for ALCON to recover from MENDEZ'S and/or PEUGEOT'S bad faith and fraud.

24 ***Alcon Performs and Proceeds in Good Faith***

25 126. With the July 12, 2016 LOI in place, in or about the latter half of July
26 2016, PEUGEOT, PUBLICIS and ALCON all worked together to facilitate an in-
27 person visit by PEUGEOT and PUBLICIS to BR2049's production offices and sets
28 in Budapest, Hungary.

1 127. On or about July 26, 2016, as an ALCON condition to the Budapest
2 set visit, MENDEZ, in representation of PEUGEOT with respect to BR2049, and
3 also binding herself as an individual, signed a confidentiality agreement with
4 ALCON pursuant to which MENDEZ herself and PEUGEOT agreed and
5 reaffirmed that both MENDEZ as an individual and PEUGEOT as a company,
6 would treat all BR2049 information as confidential, and that the parties’
7 relationship and communications about it would be governed by the laws of the
8 State of California. PLAINTIFF is thus informed and believes and thereon alleges
9 that although MENDEZ was traveling to Budapest, MENDEZ again understood
10 and had it reinforced to her that the business in which she was engaging with
11 ALCON would be governed by California law, and that ALCON was a California
12 entity.

13 128. The PEUGEOT representatives attending the Budapest production
14 visit included Yang Cai (“Cai”), one of PEUGEOT’S leading production designers.
15 On or about July 26, 2016, as an ALCON condition to the Budapest set visit, Cai,
16 in representation of PEUGEOT with respect to BR2049, signed a confidentiality
17 agreement with ALCON pursuant to which Cai himself and PEUGEOT agreed and
18 reaffirmed that both Cai as an individual, and PEUGEOT as a company, would
19 treat all BR2049 information as confidential, and that the parties’ relationship
20 would be governed by the laws of the State of California. PLAINTIFF is informed
21 and believes and on that basis alleges that Cai signed and delivered the
22 confidentiality agreement to ALCON at MENDEZ’S direction and/or with her
23 knowledge, approval or subsequent ratification. PLAINTIFF is thus informed and
24 believes and thereon alleges that although Cai was traveling to Budapest,
25 MENDEZ and PEUGEOT again understood and had it reinforced to them that the
26 business in which they were engaging with ALCON would be governed by
27 California law, and that ALCON was a California entity.

28 ///

1 129. On or about July 27 and July 28, 2016, MENDEZ, Cai and
2 PUBLICIS’S Sissoko all traveled to Budapest and spent approximately a full day
3 or more meeting with PEUGEOT’S production leads, including Director Denis
4 Villeneuve, Production Designer Dennis Gassner, Supervising Art Director Paul
5 Inglis, Executive Producer Bill Carraro, and numerous others. MENDEZ, Cai and
6 Sissoko were all shown both physical and computer models of K’s spinner itself,
7 and were given intimate insights into the creative vision for not only K’s spinner,
8 but for the overall BR2049 film and its look, feel and tone. MENDEZ, Cai (and
9 possibly also Sissoko) also shared PEUGEOT’S creative and business needs and
10 wish lists.

11 130. It bears noting that for a major motion picture production to devote
12 substantial resources during principal photography to a visit of this type is itself
13 quite expensive for the studio. Every day – indeed, every hour – of production
14 time on a major motion picture is tracked, accounted for, and affects the budget of
15 the Picture. This is common knowledge in the industry, and PEUGEOT,
16 PUBLICIS and MENDEZ all knew that ALCON was incurring substantial expense
17 to work with PEUGEOT and PUBLICIS, including in performing and preparing to
18 perform ALCON’S part of the deal.

19 131. During and after the set visit, PEUGEOT, PUBLICIS, MENDEZ, Cai
20 and Sissoko all consistently communicated their high level of enthusiasm for the
21 project to ALCON and ALCON’S representatives, along with PEUGEOT’S
22 commitment and desire to move forward. At no time during the set visit did
23 MENDEZ ever communicate anything to ALCON that PUBLICIS, or Sissoko
24 specifically, were not authorized to act on PEUGEOT’S behalf with respect to the
25 BR2049 deal. Indeed, by her statements and conduct, MENDEZ and PEUGEOT
26 instead reaffirmed that PUBLICIS and Sissoko specifically were expressly
27 authorized agents for PEUGEOT, with full authority to communicate PEUGEOT’S
28 positions and to bind PEUGEOT.

1 132. Close in time to the above-referenced set visit (either shortly before or
2 shortly after the visit or both), PEUGEOT designer Cai transmitted proposed
3 designs of his own for the K spinner to ALCON. PLAINTIFF is informed and
4 believes and on that basis alleges that Cai did so with the knowledge of MENDEZ.
5 Some of Cai's drawings for a re-design of the K spinner are attached to this
6 Complaint as **Exhibit A** and incorporated herein by reference.

7 133. ALCON and the production's creative team reviewed Cai's drawings
8 in good faith. Cai's first set of drawings and designs (Exhibit A) are high quality
9 and interesting. However, after due consideration, ALCON communicated to
10 PEUGEOT, including with the knowledge and awareness of MENDEZ, that Cai's
11 proposed wholesale re-design of K's spinner was farther than the production was
12 going to go both creatively and from a cost standpoint. ALCON communicated in
13 late July 2016 or early August 2016 that Cai's proposed designs were thus rejected,
14 and asked PEUGEOT to submit alternatives.

15 134. PEUGEOT, MENDEZ and Cai all accepted that ALCON had
16 considered Cai's proposed re-designs in good faith. PEUGEOT and MENDEZ
17 communicated to ALCON that the deal was still a go. PEUGEOT, MENDEZ and
18 Cai went back to the drawing board to come up with alternative design notes.

19 135. In late July and/or early August 2016, Cai transmitted four pages of
20 alternative design notes on K's spinner to ALCON, on behalf of PEUGEOT and,
21 PLAINTIFF is informed and believes and on that basis alleges, with the knowledge
22 and approval of MENDEZ. A copy of this Cai second set of design notes are
23 attached to this Complaint as **Exhibit B**. The annotations on the design notes are
24 Cai's, on behalf of PEUGEOT.

25 136. By Cai's notes and in related communications between PEUGEOT'S
26 representatives and ALCON'S representatives, PEUGEOT proposed and requested
27 that the following design changes be made to K's spinner:

- 28 a. The word logo "PEUGEOT" appear on the front grill.

- 1 b. The word logo “PEUGEOT” appear across the rear hood.
- 2 c. The word logo “PEUGEOT” appear (in subtle black lettering) on the
- 3 dashboard directly ahead of the driver’s seat.
- 4 d. The driver’s display be two square screens (where the logo could
- 5 appear in one or more sequences of the movie, on, for example, a start
- 6 or re-start of the vehicle).
- 7 e. The modern chrome Peugeot roaring lion logo be placed on the center
- 8 console rather than an alternative Peugeot “coat of arms” logo.
- 9 f. PEUGEOT’S trademark “three claws” brake lighting be added to the
- 10 rear of the vehicle.
- 11 g. The vehicle’s front headlighting and running lights track specific
- 12 positioning as drawn by Cai.

13 137. In communications between their representatives, PEUGEOT and
14 ALCON also discussed PEUGEOT’S desire to feature its current actual logos in
15 the year 2049 onscreen world of BR2049, including on K’s spinner, rather than a
16 fictional futuristic version of the logo. PEUGEOT even provided a narrative
17 explanation for the anachronism, consistent with the BR2049 story.

18 138. In these same and related communications in this late July and early
19 August 2016 time frame, ALCON and PEUGEOT also discussed an idea by
20 PEUGEOT to have a large holographic PEUGEOT logo emanate from the exterior
21 of K’s spinner (for example, on ignition of the vehicle or unlocking it). ALCON
22 and PEUGEOT together discussed that it would be better to have an in-cockpit
23 onscreen dashboard logo on startup, and PEUGEOT agreed.

24 139. By about the first week of August 2016, PEUGEOT and ALCON had
25 agreed that **all** of Cai’s proposed design changes in his second set of notes (Exhibit
26 B) would be made to K’s spinner. This included and required making the changes
27 to the actual life-size physical versions of the spinner. The changes were not
28 merely computer graphics image changes, for example – they involved actually

1 making physical changes to real-world vehicles or models thereof, including full
2 life-size versions. The cost of making PEUGEOT’S changes just to the physical
3 versions of the models exceeded \$50,000 – these were expensive changes to make
4 and ALCON never would have made them, but for its understanding that the
5 parties were working together on a product placement and co-promotion with a
6 guaranteed media spend in the tens of millions of dollars. PEUGEOT, MENDEZ
7 and PUBLICIS all knew this.

8 140. By about this same time, PEUGEOT and ALCON had further agreed
9 to all of the following specific design and placement implementations:

- 10 a. PEUGEOT’S current logos would be used (rather than futuristic
11 versions of the logos), with PEUGEOT providing links to approved
12 versions of the logo.
- 13 b. ALCON demonstrated specific onscreen dashboard animations of the
14 Peugeot logo. PEUGEOT not only agreed to them, but affirmed that
15 they were “great.”
- 16 c. ALCON demonstrated and PEUGEOT specifically approved the
17 subtleness of the recessed black “Peugeot” dashboard lettering as valid
18 and approved on-screen Peugeot vehicle badging.

19 141. In or about early August 2016, ALCON’S and PEUGEOT’S
20 representatives also discussed and agreed that ALCON only had to provide a total
21 of ten (10) seconds of visibility branding footage. They further agreed that both
22 types of visibility footage (meaning both 1) vehicle branding visibility footage and
23 2) outdoor/wall ad Peugeot logos in the BR2049 world background but not on the
24 vehicle) would count toward satisfaction of the ten (10) second agreed minimum.
25 Further, PEUGEOT continuously made clear that of the two types of visibility
26 footage, the vehicle branding visibility footage was more important than the
27 outdoor/wall ad visibility footage and should take primacy.

28 ///

1 142. By in or about August 2016 (and no later than September 2016),
2 ALCON and PEUGEOT, through representatives, also expressly discussed and
3 agreed that while PEUGEOT had requested an ALCON promise that motion
4 picture soundtrack rights would be granted for use in PEUGEOT co-promotional
5 spots, ALCON was declining to make this a contractual promise or obligation
6 (largely because the soundtrack would not be finalized until too close to the
7 Picture's planned release for PEUGEOT'S request to be a contractual commitment
8 from ALCON). PEUGEOT agreed to give up the soundtrack ask as a term.

9 143. In the course of all of the above communications and conduct, it was
10 also reaffirmed and made clear to MENDEZ, PEUGEOT and PUBLICIS (and
11 custom and practice in the industry also dictates) that while it was agreed that
12 PEUGEOT had a right of review and approval of the specific implementation of
13 the ten (10) seconds of branding visibility footage as it would actually appear on
14 screen, PEUGEOT'S review and approval process was to be prompt, and subject to
15 reasonableness and good faith by PEUGEOT. PEUGEOT'S review and approval
16 also had to be within the creative and artistic parameters of the film, which were in
17 the control of ALCON and not PEUGEOT. Furthermore, review and approval was
18 to be conducted by PEUGEOT without unreasonable disruption of the film's
19 schedule, including Picture Lock, Picture Delivery and Release Date, and also such
20 that the co-promotion could be planned and executed.

21 144. Including because the planning of a substantial near-worldwide co-
22 promotion of the type the parties agreed to here requires several months of advance
23 planning, all concerned clearly knew and understood that it was not expected, nor
24 would it even be possible, for PEUGEOT to wait to conduct (or withhold) its
25 review and approval of the visibility footage until and unless PEUGEOT could
26 view the entire theater-ready release version of the film. At no time during the
27 parties' negotiations prior to reaching agreement did PEUGEOT ever request such
28 an exceedingly unusual (and indeed, impossible) condition, nor would ALCON

1 have ever agreed to it, and ALCON did not do so (nor would any major motion
2 picture company – the idea is nonsensical, as the co-promotion planning is for the
3 purpose of supporting the release and thus must precede the film’s release by
4 several months).

5 145. Further, by no later than about August 2016, PEUGEOT, MENDEZ
6 and PUBLICIS all understood (including without limitation by custom and practice
7 in the industry), if upon review, PEUGEOT was not reasonably and in good faith
8 satisfied with a proposed execution of the footage placement, then PEUGEOT was
9 to engage with ALCON reasonably and in good faith on changes or enhancements
10 such that PEUGEOT would be able to give its reasonable and good faith approval,
11 also again within the creative and artistic parameters of the film. And this process,
12 too, was to be conducted by PEUGEOT without unreasonable disruption of the
13 film’s schedule, including Picture Lock, Film Delivery and Release Date, and also
14 such that the co-promotion could be planned and executed.

15 146. By no later than early August 2016, with the knowledge and approval
16 of PEUGEOT and MENDEZ, and in reliance that all of the above terms were
17 agreed, ALCON proceeded to execute the above agreed specific implementations
18 of the spinner design and to incorporate them into the film’s production, including
19 in principal photography. For ALCON to so proceed required ALCON to commit
20 and expend substantial financial resources, time resources and creative resources
21 that had no other purpose except performing the placement for PEUGEOT. From
22 about August 2016 and forward, the PEUGEOT placement began to be
23 incorporated into the BR2049 film in ways that would have been exceedingly
24 expensive to undo or change.

25 147. ALCON would never have incurred any of these expenses or actions if
26 ALCON had known that PEUGEOT would ever take the position that the parties
27 had no enforceable agreement of any kind, or that PEUGEOT and MENDEZ were
28 secretly reserving a purported unilateral right to back out of any PEUGEOT

1 performances if they ever determined it to be personally or corporately expedient
2 for them to do so, or that PEUGEOT had not firmly committed to at least a \$30
3 million media spend upon a satisfactory placement, or that PEUGEOT had no
4 budget of its own to make such a spend.

5 148. PEUGEOT and MENDEZ knew all of this and that all such
6 misrepresentations and omissions were highly material to ALCON'S decision
7 making. PLAINTIFF is informed and believes and on that basis alleges that at
8 least under one alternative set of facts, PEUGEOT and MENDEZ knowingly,
9 intentionally, fraudulently and in bad faith allowed ALCON to proceed to its
10 detriment, with PEUGEOT and MENDEZ essentially secretly holding in their
11 metaphorical pocket that they would claim that they had a "get out of jail free" card
12 that they intended to play arbitrarily not to perform their obligations under the deal,
13 if it was personally or corporately expedient for them to not to perform.

14 149. PLAINTIFF is informed and believes and on that basis alleges that
15 among other bad faith strategies, MENDEZ had a (mistaken) belief and intent that
16 if she could stall or avoid putting any PEUGEOT signature on any written contract
17 (including in bad faith), that PEUGEOT could walk away from the entire deal with
18 no consequences at all.

19 *September 2016 to January 2017*

20 150. Product placement and media spend agreements do not need to be in
21 formal signed contracts in order to be enforceable under California or United States
22 law. Indeed, it is relatively common in the industry for such agreements to be
23 documented informally, and for major performances under such agreements to be
24 undertaken based on emails only or even on close to a handshake basis, especially
25 where the parties or their representatives (like PUBLICIS) are known and respected
26 industry players. Furthermore, even where the parties do negotiate a long form, as
27 with many forms of industry contracts, it may or may not ever be fully signed.

28 ///

1 151. Here, although they did not necessarily need to do so, ALCON, with
2 CTMG'S participation, assistance and representation, and PEUGEOT and
3 PUBLICIS, all proceeded together to work on a longer, more formal written
4 documentation of the parties' agreement. As part of that process, the parties
5 continued to negotiate additional terms and refinements to terms.

6 152. CTMG executives sent an initial draft of a longer, more formal
7 agreement to PUBLICIS on or about September 24, 2016, and the parties'
8 respective representatives exchanged multiple drafts, comments and emails about it
9 into early January 2017.

10 153. In parallel during this same period (September 2016 to January 2017),
11 ALCON and PEUGEOT continued to communicate together to effectuate the
12 placement creatively, and to plan for the co-promotion.

13 154. Between August 2016 and through December 2016, and afterward,
14 creative personnel for ALCON and the BR2049 production remained in contact
15 with PEUGEOT creatives, including regarding execution of the Cai design changes
16 to K's spinner. In particular, PLAINTIFF is informed and believes and on that
17 basis alleges that Supervising Art Director Paul Inglis continued in this period to
18 communicate from time to time with Cai regarding the spinner, how it looked and
19 related issues. ALCON and PEUGEOT communications during this approximate
20 time frame (late 2016) also included another visit to the BR2049 set, at the request
21 of PEUGEOT and BETC, for the express purpose of preparation for planning the
22 co-promotion. PLAINTIFF is informed and believes and on that basis alleges that
23 MENDEZ was aware of the ongoing communications between Cai and/or other
24 PEUGEOT representatives, including BETC, and the production; MENDEZ and
25 PEUGEOT knew that ALCON was relying on the deal between the parties and that
26 it was a go; and MENDEZ and PEUGEOT knew that ALCON had no awareness or
27 suspicion that MENDEZ and/or PEUGEOT were fraudulently and in bad faith still
28 planning to deny or pull out of the deal if it suited them.

1 155. PLAINTIFF is also informed and believes and on that basis alleges
2 that MENDEZ was also aware of and expressly authorized PUBLICIS to continue
3 to negotiate refinements to the deal with ALCON, and knew that PUBLICIS was
4 doing so.

5 156. Among other communications, in an email exchange between
6 PUBLICIS and CTMG executives on or about October 4 and 5, 2016 (and with
7 principal photography well under way, with the Peugeot branding incorporated into
8 K's spinner), the parties agreed on a mutually acceptable allocation of the agreed
9 ten (10) seconds of branding visibility footage: six (6) seconds to spinner branding
10 footage across no more than two (2) sequences, and four (4) seconds to the
11 outdoor/wall ad (or "holographic advertisement"). However, it was clear at this
12 time and at all times, that, subject to knowing what the allocation target was with
13 enough time to meet the target without undue prejudice, ALCON was widely
14 flexible as to how the agreed ten (10) seconds of visibility footage be allocated as
15 between spinner and outdoor/wall ad sequences.

16 157. Principal photography closed on November 22, 2016, with numerous
17 scenes prominently featuring the now Peugeot-badged-and-branded K spinner,
18 including with Gosling in and around it. ALCON was thus fully ready, willing and
19 able to include the placement in the finished Picture, and had every intention of
20 doing so, and never had any intention not to do so. Indeed, ALCON was prepared
21 to go above and beyond any contractual minimum visibility timing targets, and
22 generally to engage actively and cooperatively with PEUGEOT, to achieve
23 PEUGEOT'S reasonable and good faith approval of the placement and thereby
24 insure the media spend (and ALCON in fact did all of these things).

25 158. PEUGEOT and MENDEZ continued to lead ALCON actively down
26 the road that the co-promotion was agreed and that there were no obstacles to
27 PEUGEOT financing it or otherwise fulfilling it when the time came. PLAINTIFF
28 is informed and believes and on that basis alleges, including due to PEUGEOT'S

1 and MENDEZ’S later express admissions and under one alternative set of facts,
2 that PEUGEOT’S and MENDEZ’S representations to ALCON about this were
3 false and in bad faith – in fact, there was no funding within PEUGEOT for any
4 media spend, whether or not the placement was satisfactory. Worse, MENDEZ
5 had not yet even asked her corporate superiors for any, nor did she intend ever to
6 do so, unless she believed that it would favor her politically within PEUGEOT to
7 present BR2049 to her superiors as a possible deal.

8 159. By no later than December 16, 2016, PEUGEOT had informed
9 ALCON that it had hired BETC to help plan and execute the co-promotion and its
10 \$30 million media spend. Indeed, on or about December 16, 2016, Vincent
11 Behaeghel, Marina Sokolowsky, Olivier Aumard and Henri Tripard, all affiliated
12 with BETC, all signed and delivered to ALCON confidentiality agreements
13 pursuant to which all of them agreed on behalf of themselves and BETC (and
14 PEUGEOT) to treat all BR2049 information as confidential and that the parties’
15 relationship and communications about BR2049 (in which BETC was serving as an
16 agent for PEUGEOT, specifically as to the co-promotion) would be governed by
17 the laws of the State of California. PLAINTIFF is informed and believes and on
18 that basis alleges that BETC signed and delivered the confidentiality agreements to
19 ALCON at MENDEZ’S and PEUGEOT’S direction and/or with MENDEZ’S and
20 PEUGEOT’S knowledge, approval or subsequent ratification.

21 160. By in or about early January 2017, ALCON, PUBLICIS, PEUGEOT,
22 MENDEZ, executives from CTMG, and BETC had all made plans to attend a
23 meeting at ALCON’S offices in Los Angeles, scheduled for January 24, 2017. The
24 meeting’s intended purpose was for ALCON to show the placement and other
25 creative materials to PEUGEOT, PUBLICIS and BETC, and otherwise take steps
26 so that work could commence in earnest on planning for and beginning to execute
27 the co-promotion – indeed, all parties understood the January 24, 2017 meeting to
28 be a “kickoff” meeting **for the co-promotion.**

1 161. On or about January 10, 2017, CTMG executives transmitted a
2 proposed execution version of the long-form written documentation of the
3 placement and co-promotion agreement to PUBLICIS. On or about January 18,
4 2017, PUBLICIS’S Sissoko emailed back to CTMG executives located in
5 California that same version of the proposed long-form bearing Montron’s
6 signature for PUBLICIS, on behalf of PEUGEOT. Sissoko actually or effectively
7 represented and intended by his transmission of the signed draft (and Sissoko was
8 saying “final”) long form back to ALCON and CTMG, that ALCON and CTMG
9 rely on the signed document as attached to Sissoko’s email as fully authorized by
10 PEUGEOT, and that PEUGEOT agreed to all terms and language in that particular
11 writing.

12 162. But, Sissoko copied no PEUGEOT executives on the transmission.

13 163. ALCON and CTMG discussed the matter internally and decided for
14 the sake of caution to ask for confirmation that the particular draft signed by
15 PUBLICIS had indeed been shown to PEUGEOT and approved by it. Thus, on or
16 about January 23, 2017, ALCON and CTMG requested that PUBLICIS so confirm,
17 preferably by having a PEUGEOT executive sign the particular draft directly that
18 PUBLICIS was representing to be the PEUGEOT-approved final long form.

19 164. PUBLICIS resisted in an email response on or about January 23, 2017.
20 PUBLICIS’S resistance to obtaining PEUGEOT’S direct signature did not raise
21 flags to ALCON and CTMG as to whether the parties had any deal at all. They
22 unquestionably did: PEUGEOT had been directly involved in numerous
23 communications and had used multiple agencies other than PUBLICIS to
24 communicate about and affirm the deal. However, PUBLICIS’S resistance to
25 obtaining a PEUGEOT signature on a particular document did raise questions for
26 ALCON and CTMG, not as to whether ALCON and PEUGEOT had a deal on the
27 material terms, or whether PUBLICIS was PEUGEOT’S authorized agent, but
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1 rather whether PEUGEOT had seen and fully approved the particular written draft
2 in question.

3 165. That PEUGEOT was directly aware that parties had a deal for a
4 guaranteed co-promotion, and that PUBLICIS was representing PEUGEOT about
5 it as to the negotiation of terms, was beyond question. For example, the January
6 24, 2017 BR2049-PEUGEOT co-promotional kickoff meeting took place at
7 ALCON'S offices in Los Angeles, attended in person by MENDEZ and Sissoko.
8 In the meeting, MENDEZ and Sissoko, by their statements and conduct, sitting
9 next to each other in person, clearly communicated and reaffirmed to ALCON and
10 CTMG that the deal was still on as to both the placement and co-promotion, and
11 that PUBLICIS continued to be PEUGEOT'S expressly authorized agent.
12 Moreover, BETC executives were also present at the same meeting, in person in
13 the presence of MENDEZ, and were there for the express purpose of representing
14 PEUGEOT with respect to execution of the agreed co-promotion (*i.e.*, PUBLICIS
15 had negotiated and was authorized to negotiate the terms of the co-promotion, but
16 BETC was actually to carry out the agreed co-promotion, or help PEUGEOT do
17 so).

18 166. Further, during the January 24, 2017 meeting, ALCON distributed a
19 creative deck (PowerPoint or Keynote presentation) laying out visuals from the
20 film and story elements, and specifically including multiple images of K's spinner
21 tracked to show compliance with PEUGEOT-designer Yang Cai's requested and
22 agreed design modifications to the vehicle. A copy of this January 24, 2017
23 Creative Deck is attached to this Complaint as **Exhibit C** and incorporated herein
24 by reference.

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1 167. During the January 24, 2017 meeting, MENDEZ, PEUGEOT and
2 PUBLICIS, and BETC all saw and reviewed the deck. All of them communicated
3 PEUGEOT'S approval of the K spinner badging design execution, and commenced
4 moving forward with discussion of the planned co-promotion, all in the January 24,
5 2017 meeting.

6 168. Under at least one alternative set of facts regarding MENDEZ'S and
7 PEUGEOT'S intent at this time, PLAINTIFF is informed and believes and on that
8 basis alleges that at the January 24, 2017 meeting, MENDEZ and/or PEUGEOT
9 knowingly and intentionally made false statements and/or omissions to ALCON for
10 the intended purpose of continuing to keep the BR2049 opportunity moving
11 forward so that MENDEZ could claim for it PEUGEOT if she decided to do so, but
12 also secretly planning and intending that if it were personally or corporately
13 expedient for her and/or PEUGEOT to do so, that PEUGEOT would deny any
14 obligation and refuse to perform. PLAINTIFF is informed and believes and on that
15 basis alleges that MENDEZ and/or PEUGEOT made these false statements and/or
16 omissions knowing that ALCON had changed and was continuing to change its
17 position to its extreme detriment in reliance on them.

18 169. Lingering for ALCON and CTMG, though, was what they believed to
19 be the relatively limited issue of whether PEUGEOT and PUBLICIS were
20 adequately communicating between themselves about the finality of the particular
21 draft that Montron had signed and Sissoko had transmitted.

22 170. Thus, in late January and early February 2017, ALCON and CTMG
23 representatives continued to communicate with Sissoko about pinning down this
24 seemingly limited issue.

25 171. As a result, not long after MENDEZ'S Los Angeles visit, Sissoko and
26 PUBLICIS suggested that the PEUGEOT signature issue could be clarified by
27 PEUGEOT simply providing a signed confirmation of PUBLICIS'S authority to
28 negotiate and sign BR2049 contracts on PEUGEOT'S behalf. Accordingly,

1 PUBLICIS and PEUGEOT caused to be transmitted to ALCON and CTMG, in
2 California, a document entitled “Delegation of Signature Authority.” The
3 document was signed by MENDEZ for PEUGEOT, and expressly affirmed that “I,
4 the undersigned Isabel Salas Mendez, as Peugeot Marketing and Communication
5 Manager, authorize The Casablanca Agency – Herve Montron and/or Mamou
6 Sissoko [*i.e.*, PUBLICIS, as that defined term is used in this Complaint], to sign
7 any document related to the *Blade Runner 2049* project, on behalf of Peugeot. [¶]
8 For this purpose, those persons may sign for Peugeot on its behalf, any form of
9 document required. They may also require any necessary documents for Peugeot.”
10 Indeed, MENDEZ signed and transmitted the “Delegation of Signature Authority”
11 document twice.

12 172. The first version of the confirmation of PUBLICIS signature authority
13 signed by MENDEZ was dated effective as of December 7, 2016. The parties all
14 considered their fundamental deal as having been made no later than August 2016.
15 Thus, ALCON and CTMG expressly requested that MENDEZ re-sign the effective
16 date of the “Delegation of Signature Authority” to go back as early as August 16,
17 2016, and expressly because that was about the time that ALCON and PEUGEOT
18 had reached agreement on material terms.

19 173. MENDEZ complied with ALCON and CTMG’S request and executed
20 the “Delegation of Signature Authority” a second time, with the August 16, 2016
21 effective date. PUBLICIS and/or PEUGEOT caused it to be transmitted to
22 ALCON and CTMG, and ALCON received it (in California, as understood and
23 intended by PUBLICIS, PEUGEOT and MENDEZ) on or about February 8, 2017.

24 174. As described in detail in subsequent paragraphs, despite MENDEZ’S
25 clear signature (twice) on the “Delegation of Signature Authority” documents,
26 MENDEZ and PEUGEOT ultimately denied in bad faith (under at least one factual
27 alternative) that PUBLICIS had been authorized to negotiate on behalf of
28 PEUGEOT or had exceeded its authority. PEUGEOT and MENDEZ further

1 asserted that they had never become obligated to ALCON or Sony under any
2 contractual or other duty of any kind with respect to any co-promotion and did not
3 even know such discussions were even occurring (despite MENDEZ’S personal
4 physical presence and participation in, for example, the January 24, 2017 co-
5 promotion kickoff meeting).

6 175. As described in further detail in subsequent sections of this Complaint,
7 even though PEUGEOT had expressly induced ALCON to stop considering other
8 bidders by specifically sweetening PEUGEOT’S own bid with an “up to \$40
9 million co-promotion;” and even though MENDEZ had signed the signature
10 delegation documents twice; and even though MENDEZ herself had personally
11 communicated with both ALCON and CTMG and herself affirmed that the deal
12 was for both a placement and a co-promotion; and even though MENDEZ herself
13 personally attended and participated at ALCON’S Los Angeles offices in the co-
14 promotion “kickoff” meeting; MENDEZ nonetheless ultimately flatly refused to
15 have any PEUGEOT executive sign *any* version of the multiple written drafts that
16 the parties’ exchanged of a more formal written agreement documenting the co-
17 promotion; and (amazingly) MENDEZ even sent emails denying that she or
18 PEUGEOT had ever agreed to any co-promotion; and further denied that
19 PEUGEOT *had even ever discussed one* with ALCON.

20 176. The history of communications, including the negotiations and the
21 drafting history, clearly show (including as things played out subsequently with
22 additional PEUGEOT drafting and signature-withholding shenanigans described
23 further below), that by no later than January 18, 2017, ALCON and PEUGEOT had
24 reached a valid and enforceable agreement that included all of the following
25 mutually agreed terms (which include some further refinements to and additions to
26 the terms agreed in or about August 2016):

- 27 a. PLAINTIFF and PEUGEOT would work in close collaboration to
28 integrate PEUGEOT badging and other trade dress into the design of

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- K’s spinner.
- b. Once the K Spinner badging and feature designs were approved by PEUGEOT, they would be locked and PEUGEOT would not be able to change or disapprove them later (and the badging and feature designs were actually approved by PEUGEOT no later than January 24, 2017).
 - c. The finished BR2049 film would include at least ten (10) seconds of footage in which PEUGEOT’S logo and badging would be clearly visible to the audience (although if ALCON for creative or other reasons did not include a PEUGEOT placement, then this was not necessarily a breach by ALCON, but the parties were expected and obligated to negotiate with each other in good faith about what to do in such event).
 - d. The at least ten (10) seconds of footage was to be apportioned across multiple sequences in the movie (with a clear record that PEUGEOT had it explained to them that a sequence or scene could include more than one camera shot – ALCON and CTMG expressly declined to be bound by measuring timing by single shots, but rather would only agree to “sequences” or “scenes”, meaning aggregations of related shots).
 - e. The at least ten (10) seconds of footage was to be apportioned across two types of sequences: 1) badging on K’s spinner, and 2) at least one sequence where the Peugeot logo would appear in the BR2049 world, such as in an outdoor advertisement in the background.
 - f. Of the two types of sequences, the K spinner badging sequences were more important to PEUGEOT, and the outdoor/wall ad sequences (or “holographic advertisements”) were of secondary importance (including meaning that of the ten (10) seconds, more of the time would go to the K spinner badging sequences).
 - g. At least one mutually acceptable allocation of the ten (10) seconds was

1 about six (6) seconds of visibility footage in two spinner sequences and
2 about (4) seconds to at least one outdoor/wall ad sequence. It was also
3 clear that ALCON was widely flexible and ready, willing and able to
4 perform a different allocation, as long as PEUGEOT communicated its
5 desires clearly with enough time for ALCON to meet them without
6 undue prejudice. Indeed, ALCON was prepared to over-perform on the
7 visibility deliveries if it had to (and in fact, it did so).

- 8 h. The execution of the ten (10) seconds of placement footage was subject
9 to PEUGEOT'S commercially reasonable and good faith review and
10 approval, which was to be prompt, and within the creative and artistic
11 parameters of the film, which were understood not to be in
12 PEUGEOT'S purview. PEUGEOT'S review and approval was to be
13 conducted by PEUGEOT without unreasonable disruption of the film's
14 schedule, including Picture Lock, Film Delivery and Release Date, and
15 also early enough such that the co-promotion could be planned and
16 executed.
- 17 i. The Peugeot spinner badging would be associated with Ryan Gosling's
18 character, K.
- 19 j. Ryan Gosling's character, K, would not be associated with any rival
20 automobile brand.
- 21 k. The Peugeot brand would not be presented in a perjorative context.
22 PEUGEOT acknowledged that it had reviewed the BR2049 script and
23 knew, understood and agreed that the BR2049 involved one or more
24 crashes of K's spinner, and that these crashes were agreed as not
25 violative of any term of the parties' agreement.
- 26 l. If upon review, PEUGEOT was not reasonably and in good faith
27 satisfied with a proposed execution of the footage placement, then
28 PEUGEOT was to engage with ALCON reasonably and in good faith

1 on changes or enhancements such that PEUGEOT would be able to
2 give its reasonable and good faith approval, also again within the
3 creative and artistic parameters of the film, and which was to be
4 conducted by PEUGEOT without unreasonable disruption of the film's
5 schedule, including Picture Lock, Film Delivery and Release Date.

6 m. PEUGEOT expressly acknowledged that it had been provided with the
7 opportunity to review the visual depictions of the placement items and
8 had approved them.

9 n. If ALCON delivered satisfactory placement footage, then PEUGEOT
10 was obligated to pay \$500,000 directly to ALCON as a product
11 placement fee, and was also obligated to work with ALCON to plan,
12 finance and execute a global co-promotion media campaign (which
13 could exclude the U.S.) to support the October 6, 2017 day-and-date
14 global theatrical release of the Picture, with PEUGEOT obligated to
15 deliver at least \$30 million of paid media.

16 o. If ALCON failed to deliver satisfactory placement footage even after
17 reasonable and good faith engagement between the parties to attempt to
18 cure reasonable and good faith placement dissatisfactions of
19 PEUGEOT, then the parties would negotiate in good faith about
20 alternative terms that would be fair and reasonable to both sides.

21 p. Of the \$500,000 placement fee, \$400,000 was allocated to the spinner
22 placements and \$100,000 to the outdoor/wall ad placement. The
23 parties further agreed and intended that the purpose of setting forth an
24 allocation was to provide a yardstick for potential reduction of the
25 placement fee if an element of the placements was not satisfactory after
26 good faith cooperative attempts to cure were exhausted.

27 q. The \$500,000 placement fee was earned by ALCON and owed by
28 PEUGEOT no later than upon ALCON'S written confirmation to

1 PEUGEOT that the placements would be in the final Picture – while
2 the placement fee could be paid by PEUGEOT after release of the
3 Picture, it was earned by ALCON and owed by PEUGEOT earlier, on
4 ALCON’S confirmation that ALCON intended to perform the
5 placement.

- 6 r. The agreed co-promotional period (the time during which the co-
7 promotion would actually be licensed to run) would be from
8 September 1, 2017 to November 30, 2017 (or sixty days after the
9 initial theatrical release date of the Picture, if ALCON had to change
10 the release date of the Picture for any reason).
- 11 s. The defined co-promotional territory was the entire world, excluding
12 the United States and Canada and their related territories (but it was
13 understood that PEUGEOT would nonetheless receive the branding
14 and goodwill benefits of the U.S. and Canada release of BR2049, as
15 the PEUGEOT placements would be and were in all versions of the
16 film in all territories).
- 17 t. The agreed \$30 million guaranteed minimum media spend was to be
18 divided \$27 million in Above-The-Line (“ATL”) Spend and \$3
19 million in Below-The-Line (“BTL”) Spend (with it understood and
20 agreed that the ATL and BTL definitions were the advertising industry
21 standard definitions of these terms – very generally, ATL Spend refers
22 to media that mass targets large audiences, like television and radio
23 and many forms of Internet media; BTL Spend refers to media that
24 more specifically targets a limited set of consumers, like flyers
25 distributed from a particular retail store, or most forms of event
26 marketing, like a fan convention or auto show).
- 27 u. ALCON had a review and approval right over the co-promotion’s
28 specific executions, on a case-by-case basis.

- 1 v. The co-promotion was to include a dedicated presence on
- 2 PEUGEOT'S website (www.peugeot.fr).
- 3 w. PEUGEOT was obligated to create, and the co-promotion was to
- 4 include, at least one thirty-second television spot, unless Gosling
- 5 refused to approve use of his likeness in the spot, in which case
- 6 PEUGEOT was relieved of the television spot obligation (but not of
- 7 the entire co-promotion). (Gosling agreed in principal to potential use
- 8 of his likeness in a television spot for PEUGEOT, and PEUGEOT
- 9 never sought Gosling's review or approval of any proposed spot,
- 10 including because PEUGEOT never created one.)
- 11 x. PEUGEOT was to create and produce Below-The-Line spend spots.
- 12 y. PEUGEOT was to create and issue a press release to the media
- 13 regarding the co-promotion.

14 *February 2017 to May 2017*

15 177. With these terms all clearly agreed, ALCON continued to move
16 forward with its performances, believing that the PUBLICIS-PEUGEOT signature
17 communication oddities were simply about whether the particular draft that
18 Sissoko had signed was indeed agreed by PEUGEOT as the final written
19 documentation of the deal.

20 178. On or about February 11, 2017 and continuing through February 24,
21 2017, desiring to eliminate any uncertainty whatsoever as to whether a particular
22 draft long form had been agreed to or not by PEUGEOT, and with MENDEZ
23 clearly available to review and execute documents directly as the Delegation of
24 Signature Authority documents evidenced, ALCON and CTMG asked PUBLICIS
25 to have PEUGEOT executives directly execute the draft version of the long form
26 agreement. PUBLICIS continued repeatedly to represent the document as
27 approved and agreed by PEUGEOT. PUBLICIS in particular repeatedly
28 reaffirmed to ALCON, including through CTMG, that there was no problem with

1 the fundamental deal or PUBLICIS'S and PEUGEOT'S principal-agent
2 relationship, but at most an issue about what level of review of specific drafts was
3 appropriate internally as between PUBLICIS and PEUGEOT. However, after
4 some back and forth, PUBLICIS agreed to obtain PEUGEOT'S direct signature, or
5 at least to consider doing so.

6 179. The following PEUGEOT and PUBLICIS acrobatics then occurred
7 between late February 2017 and early May 2017, as MENDEZ and/or PEUGEOT
8 sought to continue to cling to their undisclosed intention to withdraw or deny the
9 deal arbitrarily if it suited their personal and/or corporate expediencies. This
10 involved PUBLICIS disclosing some embarrassing internal conduct not the fault of
11 ALCON or CTMG.

12 180. Over a series of tortured communications in late February and into
13 mid-May 2017, PUBLICIS and PEUGEOT eventually disclosed to ALCON and
14 CTMG that (through no fault of ALCON or CTMG) a fee dispute had arisen
15 between PUBLICIS and PEUGEOT regarding the BR2049 deal (apparently arising
16 sometime in or about late 2016 or early 2017). PUBLICIS and PEUGEOT
17 communicated, as ALCON and CTMG understood them (and as ALCON believes
18 under at least one set of alternative facts pled here is actually true), that the fee
19 dispute was resolved between PUBLICIS and PEUGEOT somewhere during the
20 approximately February to March 2017 time frame.

21 181. However, there was at least a possibility that the existence of the
22 dispute (or other factors not the fault of ALCON or CTMG) might have meant that
23 PEUGEOT executives had not seen some of the long-form draft agreements in
24 December 2016 and January 2017. Furthermore, the internal legal team of the
25 larger PUBLICIS entity became involved and expressed regret that (through no
26 fault of ALCON or CTMG), Montron had signed what he had represented to be the
27 PEUGEOT- and PUBLICIS-approved version of the draft long-form agreement,
28 but without running it by any PUBLICIS lawyers. The PUBLICIS internal legal

1 team thus desired an opportunity to review the document and potentially make
2 some limited comments, including in consultation with PEUGEOT -- PUBLICIS
3 legal wanted a limited Mulligan on the long form (not the fundamental deal).

4 182. At no point prior to May 4, 2017 did PUBLICIS or PEUGEOT ever
5 communicate to ALCON or CTMG that PEUGEOT was denying the existence of a
6 deal, and one that included a placement and guaranteed \$30 million co-promotion,
7 or that PEUGEOT was claiming an arbitrary unilateral right not to go forward with
8 the deal if it chose. Furthermore, at no point prior to May 4, 2017 did PEUGEOT
9 ever communicate to ALCON or CTMG that PUBLICIS was negotiating for
10 PEUGEOT regarding BR2049 without PEUGEOT'S authorization. Indeed, during
11 February 2017 and into May 2017, PUBLICIS and PEUGEOT both continued to
12 allow and encourage ALCON to continue to move forward with performance of the
13 placement and preparations for the co-promotion. ALCON in fact did so, in full
14 and heavy reliance on the existence of agreement on all material terms, with the
15 only potential issue between about mid-February 2017 and up to May 4, 2017
16 being whether PUBLICIS and PEUGEOT should be allowed some limited
17 additional tinkering with specific language in the proposed long form.

18 183. Having no need or desire to force any specific draft of the long form
19 agreement upon PEUGEOT if PUBLICIS and PEUGEOT wanted to make limited
20 additional comments on non-material terms, and where it seemed that there was at
21 least some possibility that PUBLICIS and PEUGEOT had had some limited
22 moment of disconnection around whether the final draft long form was fully final,
23 ALCON and CTMG agreed potentially to consider additional comments from
24 PUBLICIS and PEUGEOT, and to engage with PUBLICIS'S internal legal team
25 about what they might be.

26 184. ALCON and CTMG marketing executives continued to communicate
27 with PEUGEOT about various specific co-promotional opportunities, including
28 opportunities that PEUGEOT could take advantage of if it wanted to do so. For

1 example, on or around March 30, 2017, ALCON and CTMG executives inquired
2 about what PEUGEOT wanted to do about its branding in connection with
3 consumer products models of K's spinner – whether PEUGEOT wanted to have its
4 branding on them or not. In these communications and similar such
5 communications, continuing through at least March 30, 2017 and even afterward,
6 PEUGEOT never communicated to ALCON that the deal was off or had never
7 been made, or did not include a co-promotion.

8 185. On or about April 13, 2017, almost three months after Montron's
9 signature on the January 18, 2017 writing, PUBLICIS'S internal legal team
10 emailed a proposed revised draft to ALCON and CTMG executives in California,
11 with PUBLICIS'S and PEUGEOT'S requested additional comments. PUBLICIS
12 represented by its express statements and implied conduct that the April 13, 2017
13 draft had now with full certainty been reviewed directly by PEUGEOT and
14 approved by PEUGEOT.

15 186. PLAINTIFF is informed and believes and on that basis alleges that the
16 April 13, 2017 draft from PUBLICIS'S internal legal team was in fact reviewed
17 and approved by PEUGEOT, and specifically MENDEZ, prior to its transmission
18 to ALCON and CTMG.

19 187. ALCON and CTMG executives reviewed the April 13, 2017 draft and
20 comments in good faith. They were disconcerted and concerned by the nature of
21 some of the comments and whether they were being made in good faith by
22 PEUGEOT. At least some of the requested changes appeared to be in bad faith and
23 could not possibly be explained by any internal miscommunication between
24 PUBLICIS and PEUGEOT or any lack of PUBLICIS internal legal review. As one
25 example, the April 13, 2017 draft asked to eliminate language acknowledging that
26 PEUGEOT had reviewed and approved the K spinner badging design
27 implementations, even though MENDEZ herself had personally reviewed and
28 approved them while sitting in front of ALCON and CTMG executives, and while

1 sitting next to PUBLICIS'S Sissoko and BETC executives, in the January 24, 2017
2 meeting. Any drafting miscommunication between PUBLICIS and PEUGEOT
3 could not possibly justify not acknowledging MENDEZ'S and PEUGEOT'S
4 communicated approvals, especially after ALCON had relied on them for another
5 three months and the Release Date was three months closer.

6 188. Moreover, comparison of the drafts made it clear that the parties had
7 substantial agreement on all material terms, with the possible exception of
8 PEUGEOT in bad faith attempting in the drafting to build in moving targets
9 regarding what would or would not satisfy the placement conditions and fully
10 obligate PEUGEOT to the make the placement payment and guaranteed media
11 spend. The attempt to undo acknowledgement of previously given approvals was
12 one example. As another example, although ALCON and CTMG did not
13 understand that PEUGEOT was doing so in bad faith at the time, PEUGEOT
14 appears in hindsight intentionally to have been creating a moving target with
15 respect to exactly how PEUGEOT wanted the agreed ten (10) seconds of brand
16 visibility footage apportioned across the spinner and outdoor/wall ad sequences, so
17 that PEUGEOT could claim lack of compliance and a purported justification for
18 non-performance, no matter what allocation ALCON actually delivered.

19 189. For example, as detailed above, prior to the completion of principal
20 photography, PEUGEOT had clearly communicated that an allocation of six (6)
21 seconds across up to two (2) spinner sequences, and four (4) seconds to an
22 outdoor/wall ad sequence or sequences was acceptable, and the parties mutually
23 agreed to it, including in October 2016 emails. However, in at least some
24 subsequent drafts, PEUGEOT appeared to be requesting that all ten (10) seconds
25 go to spinner sequences. Then, in yet another radical change, as detailed further
26 below, for the purpose of frustrating ALCON satisfying any timing allocation
27 target, MENDEZ later appeared to state (falsely) in emails that PEUGEOT placed
28 higher priority on the outdoor/wall ad sequences, over spinner badging, coupled

1 with statements that the numerous design changes that PEUGEOT had requested
2 (including in the Cai drawings, Exhibit B) and that ALCON had irrevocably
3 implemented as significant expense, were not important and of no value to
4 PEUGEOT.

5 190. As PEUGEOT well knew, and as ALCON'S conduct consistently
6 clearly demonstrates, ALCON was widely flexible as to how PEUGEOT wanted
7 the agreed ten (10) seconds allocated across spinner and outdoor/wall ad
8 sequences, as long as ALCON knew the target reasonably with enough time to
9 meet it. ALCON would have agreed to any reasonable allocation, and even a
10 change to allocation, as long as ALCON had enough time to implement it without
11 undue cost, unfair benefit to PEUGEOT, or undue risk to the production and
12 release date schedule. Indeed, ALCON was prepared to (and actually did) over-
13 perform on the allocation, including giving PEUGEOT substantially more than ten
14 (10) seconds of visibility to avoid any disputes about ALCON'S performance of
15 the placement. Thus, to the extent that there was any uncertainty about the
16 allocation of the agreed ten (10) seconds, it was entirely created by PEUGEOT, and
17 ALCON is informed and believes and on that basis alleges that PEUGEOT
18 intentionally did so for the purpose of claiming in bad faith that there was no deal
19 or that ALCON had not performed based on some moving target technicality of the
20 allocation terms.

21 191. Thus, the negotiation and drafting history of the proposed long form
22 agreement and its versions all show and confirm, as further affirmed by the parties'
23 course of performance and conduct prior to PEUGEOT'S express reneging on the
24 deal on May 4, 2017, that 1) there was in fact an agreement between ALCON and
25 PEUGEOT on all material terms that ALCON seeks to enforce by this Complaint,
26 and 2) that agreement on all terms as stated above was reached no later than
27 January 18, 2017 (with many terms agreed well before that, as early as August
28 2016).

1 192. In addition to concerns about the scope and substance of PEUGEOT’S
2 additional comments transmitted April 13, 2017, ALCON and CTMG were also
3 concerned about timing. For much of the fall of 2016, PUBLICIS had
4 communicated that PEUGEOT might claim difficulties in performing the co-
5 promotion if the parties were not adequately synchronized about its specific
6 execution by March or April 2017. And now PEUGEOT had wasted almost three
7 months, between January 18, 2017 and April 13, 2017, stalling on putting its own
8 corporate signature on a long form that PEUGEOT and its agents had previously
9 spent about five months negotiating with ALCON and CTMG.

10 193. After considering the April 13, 2017 PUBLICIS-PEUGEOT draft and
11 considering all of the circumstances, ALCON and CTMG communicated to
12 PUBLICIS and PEUGEOT (through PUBLICIS’S internal legal team), that
13 ALCON and CTMG preferred not to re-open the drafting discussions on the
14 proposed long form to the extent that PUBLICIS and PEUGEOT appeared to be
15 asking, and that the parties needed to move on to actual further execution of
16 performances.

17 194. ALCON and CTMG requested that PEUGEOT simply sign the
18 January 18, 2017 Montron draft. PEUGEOT never did, and indeed refused to put
19 the signature of any PEUGEOT executive on any draft of the long form
20 documentation. PLAINTIFF is informed and believes and on that basis alleges that
21 no version of a long form agreement ever came into existence bearing the signature
22 of a PEUGEOT executive, because MENDEZ and/or PEUGEOT always intended
23 to withhold any such signature out of a bad faith, fraudulent (and mistaken) view
24 that if PEUGEOT avoided putting its signature on a long form, then PEUGEOT
25 would be able to walk away from the deal at any time with no consequences to
26 PEUGEOT, regardless of what MENDEZ and PEUGEOT had actually promised
27 and represented, and how much it might cost ALCON for PEUGEOT to abandon
28 the film.

1 *May 4, 2017: Peugeot Communicates Material Breach*
2 *And Begins to Reveal Its Bad Faith*

3 195. By late April 2017 (and well before that), it was abundantly clear that
4 ALCON intended to make the full placement in full compliance with the intent of
5 the deal, and would work with PEUGEOT until PEUGEOT was reasonably and in
6 good faith satisfied with the placement, even if that meant overperforming on the
7 number of seconds of onscreen badging visibility. Indeed, ALCON'S internal
8 documents show that as of May 2017, ALCON was prepared and actually able to
9 deliver as many as sixteen (16) seconds of branding visibility (where the parties
10 had clearly agreed that ten (10) seconds were sufficient).

11 196. On or about April 28, 2017, with just over five months remaining
12 before the October 6, 2017 release of the Picture, and with PEUGEOT still yet to
13 send its more detailed co-promotion plan, and still hemming and hawing about
14 providing a long form signature, a CTMG executive simply telephoned MENDEZ
15 directly and had a conversation with her. He asked MENDEZ to deliver
16 PEUGEOT'S more specific co-promotion plans and communicated that ALCON
17 and CTMG were all anxious and looking forward to seeing them.

18 197. Amazingly, MENDEZ asked the CTMG executive for any
19 documentation he might have for any such deal. The CTMG executive promptly
20 emailed MENDEZ one or more documents, including the July 12, 2016 LOI and
21 the Delegation of Signature Authority documents that MENDEZ had personally
22 executed.

23 198. MENDEZ responded essentially that she would get back to him.

24 199. The CTMG executive followed up on or about May 3, 2017 with an
25 email directly to MENDEZ, this time asking MENDEZ in writing (politely but
26 firmly) to deliver PEUGEOT'S more specific co-promotion plans. He
27 communicated that ALCON and CTMG were all anxious and looking forward to
28 seeing them.

1 200. MENDEZ was cornered.

2 201. With no further stalling on signatures available, with ALCON ready,
3 willing and able to meet all of its obligations, and with ALCON and CTMG asking
4 for PEUGEOT’S more specific co-promotion plans, MENDEZ simply went with
5 blatant falsehoods and bad faith denials to further stall and avoid any PEUGEOT
6 performances. PLAINTIFF is informed and believes and on that basis alleges, that
7 MENDEZ did so to guard her own corporate career and internal political position
8 at PEUGEOT against her own exceedingly poor judgment in her bad faith dealings
9 on BR2049, and also knowing that for her to continue to conduct herself in this
10 manner would be to ALCON’S further extreme prejudice and detriment.

11 202. On May 4, 2017, MENDEZ emailed back.

12 203. In her May 4, 2017 email to CTMG, MENDEZ took the following
13 stunning positions and made the following admissions:

14 a. False Denial of July 12, 2016 LOI. MENDEZ denied that she had ever
15 had any knowledge (prior to CTMG sending it to her directly on or
16 about April 28, 2017) that the July 12, 2016 LOI or the deal described
17 in it ever existed: “I was extremely surprised when I found out the
18 existence of this document, you called LOI, entitled ‘Blade Runner II
19 – Agreement in principle’ since It [sic] was the first time that I ever
20 saw this document.” By this false denial, and as clear from the rest of
21 her email, PLAINTIFF is informed and believes and on that basis
22 alleges that MENDEZ also implicitly meant that neither she nor
23 anyone else at PEUGEOT had ever authorized any agency even to
24 make a BR2049 *bid* that included a co-promotion proposal. She so
25 communicated, even though by this point, MENDEZ herself had been
26 personally interacting from time to time with ALCON and CTMG
27 executives specifically about a placement AND co-promotion for
28 almost ten months.

1 b. False Denial that Mendez or Peugeot Had Granted Negotiating and
2 Contracting Authority to Publicis. MENDEZ denied that the late
3 January 2017/early February 2017 Delegation of Signature Authority
4 that she had personally signed (twice), confirming PUBLICIS’S
5 authority to bind PEUGEOT, had given or confirmed any actual
6 authority by PUBLICIS to bind PEUGEOT to anything. Even further,
7 MENDEZ denied that PUBLICIS had any authority to make any
8 commitments for PEUGEOT on any subject. In an explanation
9 bearing no relationship at all to any language in the Delegation of
10 Signature Authority, MENDEZ falsely characterized the document as
11 only confirming that PEUGEOT was not working with any agencies
12 other than PUBLICIS on the product placement: “The other document
13 that CASABLANCA [PUBLICIS] asked us to sign, giving them a
14 mandate to be our exclusive interlocutor for the Blade Runner 2
15 product placement project, was only to assure them that we only
16 worked with them on BLADE RUNNER product placement and not
17 with any others agencies. We never gave them the right to take any
18 commitment on our behalf, and never intended to do so through
19 this document.” (Emphasis added.) This explanation is especially
20 clearly false and in bad faith where everyone knew that PEUGEOT
21 was also working with BETC on BR2049, and not solely with
22 PUBLICIS.

23 c. False Denial that MENDEZ or PEUGEOT had ever even discussed a
24 co-promotional aspect to the BR2049 Deal. “[T]he LOI doesn’t
25 reflect at all our discussions with CASABLANCA [PUBLICIS]. For
26 us, we agreed only on a product placement for a certain amount that
27 obviously is much higher than the one written in the LOI.”
28 PLAINTIFF is informed and believes and on that basis alleges that by

1 this last reference, MENDEZ meant that PEUGEOT had agreed to pay
2 \$700,000 to PUBLICIS for the placement, of which PUBLICIS would
3 retain \$200,000 as a fee and transmit the remaining \$500,000 to
4 ALCON [an arrangement to which ALCON and CTMG were entirely
5 indifferent; that the placement fee paid directly to ALCON was to be
6 \$500,000 was agreed and not in dispute]. Again, MENDEZ’S
7 statements represent an utterly false denial of MENDEZ or anyone at
8 PEUGEOT even having any awareness of any co-promotional aspect
9 of the deal, or that PUBLICIS was involved in the communications
10 about it. This was and is against all objective reality. MENDEZ
11 herself had been personally interacting from time to time with
12 ALCON and CTMG executives specifically about a placement and co-
13 promotion for almost ten months, **including MENDEZ interacting**
14 **directly with PUBLICIS executives about the co-promotion while**
15 **representatives from ALCON, CTMG, PEUGEOT (beyond just**
16 **MENDEZ), PUBLICIS and BETC were all physically together in**
17 **the same room at ALCON’S Los Angeles offices.**

- 18 d. MENDEZ admitted that ALCON had performed to PEUGEOT’S
19 satisfaction on the placement and that PUBLICIS had even partially
20 paid PUBLICIS for it. “[W]e have already paid [to PUBLICIS] last
21 year 40% of the full amount [of the placement fee]. We were waiting
22 to see the proof of the placement during the release of the movie in
23 theaters in order to pay the rest.” The clear implication of this
24 admission by MENDEZ was that PEUGEOT was satisfied with
25 ALCON’S performance on the placement (as PEUGEOT and
26 MENDEZ herself had affirmed to ALCON numerous times, including
27 at the January 24, 2017 co-promotion kickoff meeting in Los
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1 Angeles). That the placement would in fact be in the Picture was not
2 in any doubt – ALCON had been performing, and had repeatedly
3 affirmed to PEUGEOT that ALCON intended to continue to perform
4 and was ready, willing and able to do so, including across a relatively
5 wide spectrum of PEUGEOT’S additional specific implementation
6 input. For example, as noted in previous paragraphs, ALCON
7 internally was prepared and ready, able, and willing, if necessary, to
8 go above and beyond the contract terms on seconds of visibility
9 footage (even as many as 16 seconds if necessary to avoid any time
10 counting disputes). Moreover, as PEUGEOT and MENDEZ well
11 knew, ALCON was by this time deeply and for all commercially
12 practical purposes irrevocably committed to K’s spinner appearing
13 throughout the entire film as a Peugeot. This meant that PEUGEOT’S
14 satisfaction on the placement was not in any way an obstacle to
15 continuing to move forward with the co-promotion, on any reasonable
16 or good faith measure. While ALCON was willing to wait until
17 release of the Picture actually to receive the \$500,000 placement fee,
18 no motion picture can wait until after the release of the picture to plan
19 and execute a co-promotion – the purpose of the co-promotion is to
20 precede and support the release of the Picture. Thus, the actual
21 payment timing of the placement fee and commencement of the co-
22 promotion were distinct issues with little bearing on each other, as all
23 professionals that work in the motion picture product placement and
24 co-promotion field, including MENDEZ, were and are well aware.
25 What MENDEZ clearly meant by her statement (as other portions of
26 her email make clear) was to suggest, nonsensically and in egregious
27 bad faith, that the parties should only begin to discuss a co-promotion
28 after the release of the picture had occurred – when the co-promotion

1 would be too late and have little or no value to ALCON.

2 e. False Denial that PEUGEOT Had Won the Bidding Specifically by
3 Offering a Large Co-Promotion, and that MENDEZ had been
4 Involved in Doing So. “If I had known a year ago (at the beginning of
5 our discussions) that Sony [*sic*, ALCON] was expecting a minimum
6 investment on a promotion campaign to sign a deal, I would had [*sic*]
7 never agreed with it.” MENDEZ meant by this that PUBLICIS had
8 gone rogue and exceeded its authority by ever discussing PEUGEOT
9 proposals that included a co-promotion with a guaranteed media
10 spend. This was again another nonsensical statement, and in many
11 ways was nonsensical regardless of what PUBLICIS’S authority
12 actually was or was not. As detailed in prior paragraphs, PEUGEOT
13 had won the bidding a year earlier by voluntarily sweetening its own
14 bid to include an “up to \$40 million” guaranteed media spend. That
15 proposal had been initially communicated by BEN for PEUGEOT –
16 not PUBLICIS. PUBLICIS had never been the initiator of
17 PEUGEOT’S discussions with ALCON about PEUGEOT’S clear and
18 intentionally enticing proposal for a large, guaranteed media spend.
19 Thus, to blame any lack of authority by PUBLICIS for PEUGEOT
20 purportedly not understanding that PEUGEOT had proposed the
21 guaranteed media spend and that it was part of the deal (and indeed
22 the only reason ALCON had been working with PEUGEOT for the
23 better part of a year rather than other automotive partners) was and is
24 against all objective reality, and clearly demonstrates MENDEZ’S and
25 PEUGEOT’S extreme bad faith.

26 f. Admission and/or False Denial that No PEUGEOT Budget for a
27 Media Spend Ever Existed: “I was very clear with Casablanca, I
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1 CANNOT commit on any budget on Peugeot subsidiaries' behalves
2 because they are free to manage their own media budgets.” (All caps
3 emphasis in original.) PLAINTIFF is informed and believes and on
4 that basis alleges that by this statement, MENDEZ meant that even
5 when PEUGEOT made its sweetened, winning bid on or about May
6 19, 2016, PEUGEOT never actually had money available to put
7 toward a media spend and in any event MENDEZ had never sought
8 any within PEUGEOT. Rather, MENDEZ and/or PEUGEOT had
9 always had a secret intent, never disclosed to ALCON, that the most
10 MENDEZ and PEUGEOT intended ever to do on a media spend was
11 to wait until the Picture was released with the placement in it, and then
12 if the Picture and placement were well received by audiences and
13 PEUGEOT’S retail dealers around the world, only then PEUGEOT
14 might put together a media campaign where the PEUGEOT brand
15 rode off the established success of the Picture. MENDEZ also meant
16 that she was not even going to start the process within PEUGEOT that
17 might be required for any co-promotion until the release of the Picture
18 had actually occurred. PLAINTIFF is informed and believes and on
19 that basis alleges (under at least one factual alternative) that
20 MENDEZ’S motivation and plan was in part to eliminate all personal
21 and corporate political risk to herself of having committed PEUGEOT
22 to a media campaign around a motion picture that might or might not
23 be well received by audiences. If the Picture was well-received,
24 MENDEZ intended to claim it as her personal corporate victory and
25 have PEUGEOT ride off it; if the Picture was not well-received, then
26 PEUGEOT would only be out the 40% of the placement fee that had
27 been paid to PUBLICIS and MENDEZ would blame others even for
28 that. All of this was fraudulent and egregious bad faith by MENDEZ

1 and PEUGEOT, and completely contrary to the fundamental substance
2 of all communications between ALCON and PEUGEOT, from the
3 time of PEUGEOT'S May 19, 2016 sweetened bid forward. ALCON
4 would never have agreed to any such business relationship with
5 PEUGEOT on the terms that MENDEZ was now laying out (nor
6 would any major motion picture studio ever do so).

7 204. Now only about five months away from the Picture's release date and
8 with ALCON completely unable for all commercially practical purposes to find an
9 alternative automotive partner, or even easily remove PEUGEOT'S branding from
10 the Picture, MENDEZ went on in her May 4, 2017 email to propose a complete re-
11 negotiation of terms, entirely in bad faith:

12 "What we would like today is to stick to our discussions with
13 CASABLANCA:

14 - first an agreement on the product placement,

15 - and then, if we are satisfied by this product placement, we will
16 review the possibility to work on a promotional campaign if the
17 creative campaign proposed by our ad agency is validated by
18 our CEO and no commitments on any budget or figures on any
19 of our subsidiaries' media campaign.

20 We are still very interested to work with you on this project as
21 long as the product placement is satisfying. There is no interest
22 for us to invest in a promotional campaign if the placement is
23 not satisfying. The decision to take part in the campaign has to
24 be made by our CEO.

25 In this regard, we need the proofs of the placement to be able to
26 judge if it is satisfying. We also need to know your terms and
27 conditions for the promotional campaign given that we cannot
28 commit on any budget regarding this campaign.

29 We are open to discussion and to receive your proposals to find
30 a solution.

31 Looking forward to continuing working with you

32 Best Regards,

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Isabel”

205. By the above, among other things, MENDEZ clearly declared on behalf of PEUGEOT that 1) PEUGEOT might not acknowledge its satisfaction with the placement until after the Picture’s theatrical release, and was denying the parties even had a binding placement agreement yet, let alone a co-promotion agreement; and 2) regardless, and even if the placement were satisfactory (as ALCON’S placement performance clearly had been up to the time of MENDEZ’S May 4, 2017 email), PEUGEOT would *never* itself fund a co-promotion media spend for BR2049. MENDEZ thus clearly declared on behalf of PEUGEOT that PEUGEOT was *never* going to perform the media spend as promised – a material term of PEUGEOT’S May 19, 2016 sweetened and winning bid; a material term of the July 12, 2016 LOI; a material term of the parties’ placement and co-promotion agreement, and every refinement of it; and a material term of every single draft version of the proposed long form documentation of that agreement proposed by either side.

206. Furthermore, with the parties about five months away from the Release Date, and with ALCON clearly performing on the placement and intending to continue to do so, PEUGEOT was under a duty to continue to move forward with preparations to execute the co-promotion. This specifically meant, among other things, sending specific proposed plans to ALCON and CTMG for review and approval. MENDEZ’S May 4, 2017 email also clearly declared that PEUGEOT refused to do so, and instead insisted that the obligations on that point be reversed and that ALCON and CTMG instead make the media spend plans for PEUGEOT to review and approve (and which plans PEUGEOT made clear it would not be paying for any part of itself, even if it approved them). This refusal was itself a material breach.

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1 207. MENDEZ overall made clear by her May 4, 2017 email that from the
2 point of PEUGEOT'S May 19, 2016 sweetened bid to ALCON and forward after
3 that, PEUGEOT had at all times been negotiating in bad faith and fraudulently with
4 respect to the media spend that was the single most material term of the entire deal.
5 Worse, PEUGEOT was now proposing to renegotiate the deal to be radically more
6 favorable to PEUGEOT, after PEUGEOT'S own bad faith had sharply reduced
7 ALCON'S leverage.

8 208. All of these communications by MENDEZ on behalf of PEUGEOT
9 constituted actual and/or anticipatory material breaches of the parties' agreements
10 and PEUGEOT'S negotiating duties toward ALCON and CTMG. Thus, under
11 clear California law, from MENDEZ'S May 4, 2017 email forward (if not earlier),
12 ALCON (and CTMG) were relieved of making any further performances to
13 PEUGEOT or making any further satisfaction of any conditions of PEUGEOT
14 performances – and could still fully enforce the deal terms against PEUGEOT.

15 209. As just one example, from the time of MENDEZ'S May 4, 2017 email
16 forward, ALCON was no longer bound to perform, for instance, the allocation of
17 the visibility footage down to any strict measure of seconds between spinner
18 sequences and outdoor/wall ad sequences. Indeed, although ALCON did so
19 regardless, and in the utmost good faith, from MENDEZ'S May 4, 2017 email
20 forward, ALCON was no longer bound to include any PEUGEOT branding
21 visibility sequences at all. And, as long as ALCON did not act in bad faith or
22 commercially unreasonably, ALCON could make no further performances to
23 PEUGEOT whatsoever – including having no branding visibility footage at all in
24 the Picture -- and could still fully enforce the agreement against PEUGEOT.

25 210. Neither ALCON nor CTMG ever waived any of PEUGEOT'S actual
26 and anticipatory breaches in MENDEZ'S May 4, 2017 email or any others. And
27 MENDEZ'S and PEUGEOT'S conduct was beyond egregious.

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1 211. However, ALCON and CTMG are highly professional and reputable
2 companies. They were also in a position where it was impossible for all
3 commercially practical purposes to scrub PEUGEOT entirely from BR2049. They
4 had spent substantial resources on what was shaping up to be an excellent
5 placement for everyone, and they wanted to try to see it through. Indeed,
6 PEUGEOT as a company inexplicably seemed to be shooting itself in its own foot,
7 as there was already strong interest building by third parties who knew of the
8 PEUGEOT branding to include it in various BR2049 promotional opportunities,
9 which would have been at minimal or no cost to PEUGEOT. For instance, close in
10 time to MENDEZ’S May 4, 2017 email, on or about May 8, 2017, ALCON’S
11 marketing team and CTMG presented PEUGEOT with the opportunity to include
12 PEUGEOT branding in an immersive VR experience involving K’s spinner that
13 was highly attractive to consumers, but PEUGEOT simply did not act on it.

14 212. Thus, ALCON and CTMG continued to perform reasonably and in
15 good faith (but without waiver of PEUGEOT’S breaches) and further engaged with
16 PEUGEOT to try to change its mind.

17 ***Alcon and CTMG Go to Extraordinary Lengths to Attempt to Please Peugeot,***
18 ***Even After Peugeot’s Egregious and Bad Faith Material Breaches***

19 213. After MENDEZ’S May 4, 2017 email, ALCON and/or CTMG made
20 clear to PEUGEOT in various communications that MENDEZ’S statements were
21 inaccurate and deeply troubling, that there was indeed a binding agreement,
22 including for a media spend, and that PEUGEOT was not performing it.

23 214. Nonetheless, while reserving rights, rather than sue immediately or
24 stop dealing with PEUGEOT, CTMG proposed a specific potential alternative
25 accord. On May 11, 2017, CTMG executives emailed MENDEZ and proposed that
26 the parties explore the possibility of moving forward with a separate product
27 placement agreement and separate media spend agreement, conditioned on at least
28 the following (as further explained by telephonic communications between and

1 among CTMG, PUBLICIS, PEUGEOT and MENDEZ):

2 a. That MENDEZ confirm that PEUGEOT agreed that the terms of the
3 placement were as follows:

4 i. That the Peugeot spinner branding would have at least ten (10)
5 seconds of visibility footage across no more than two (2)
6 scenes.

7 ii. That there additionally be a scene with a holographic
8 advertisement with Peugeot branding or products in a
9 background scene in the movie.

10 iii. That the placement fee be \$500,000.

11 iv. That the placement fee be allocated \$400,000 to the spinner
12 scenes and \$100,000 to the holographic advertisement.

13 v. That if the spinner visibility footage did not meet the ten (10)
14 second minimum, that the \$400,000 portion of the placement
15 fee would be reduced by \$40,000 per second under ten (10)
16 seconds.

17 vi. Further, if the spinner visibility footage totaled less than ten
18 (10) seconds, then in addition Peugeot would be relieved of its
19 media spend obligations.

20 vii. Further, if Ryan Gosling did not approve use of his likeness in
21 any footage for use in television advertisements for PEUGEOT,
22 then PEUGEOT would also be relieved of television ad
23 commitment obligations.

24 b. If MENDEZ confirmed that the above terms were agreed as to the
25 placement, then ALCON and CTMG would provide rough proposed
26 visibility footage to PEUGEOT for its review and approval as soon as
27 possible;

28 c. If, upon review of such footage, including after a period for good faith

1 back and forth comments and efforts to cure any PEUGEOT good
2 faith and commercially reasonable dissatisfaction, PEUGEOT was
3 satisfied with the placement, then PEUGEOT would commit to a
4 minimum \$30 million media spend.

5 215. The above placement terms were at least as favorable to PEUGEOT as
6 any language in either the January 18, 2017 draft long form signed by Montron, or
7 the April 13, 2017 revised draft long form proposed by PUBLICIS'S internal legal
8 team, even under a very generous-to-PEUGEOT interpretation of the drafts'
9 language.

10 216. On May 17, 2017, MENDEZ emailed back to CTMG, copying
11 PUBLICIS executives. In her May 17 email, MENDEZ rejected the above
12 proposed accord on behalf of PEUGEOT, and instead proceeded to attempt to
13 renegotiate the deal almost entirely, using PEUGEOT'S by now extreme leverage.

14 217. In her May 17, 2017 email, MENDEZ again denied every having seen
15 or been aware of any draft of the long form agreement, or even that PUBLICIS had
16 been negotiating one for PEUGEOT, prior to CTMG'S May 3, 2017 transmission
17 of the January 18, 2017 draft signed by Montron directly to MENDEZ.
18 PLAINTIFF is informed and believes that this denial by MENDEZ was blatantly
19 false, and that at a bare minimum, by no later than April 2017, PUBLICIS'S
20 internal legal team had shared and discussed both the January 18, 2017 draft and
21 what became the April 13, 2017 draft with MENDEZ. (As a second alternative,
22 because PEUGEOT asserts as much, and at least some of the facts are not known
23 or reasonably knowable by ALCON without discovery, PLAINTIFF reserves the
24 right to allege that PUBLICIS'S representations to ALCON and CTMG that such
25 had occurred were not accurate and either intentionally false or negligently made
26 by PUBLICIS. ALCON similarly reserves that PUBLICIS, particularly
27 Casablanca, may have engaged in other conduct detrimental to PLAINTIFF,
28 possibly throughout the course of the parties' dealings, and for which PUBLICIS

1 might have its own liability; however, at present, although PEUGEOT contends
2 this, PEUGEOT has to date declined to deliver to ALCON any support for such
3 contentions, and ALCON’S understanding is that PUBLICIS denies PEUGEOT’S
4 contentions. ALCON reserves all positions as to what may or may not have
5 occurred between PUBLICIS and PEUGEOT, including without limitation the
6 right to plead additional facts, including alternative facts, about such matters.)

7 218. In her May 17, 2017 email, MENDEZ further denied again that
8 PUBLICIS had any authority to negotiate the placement terms that it negotiated in
9 the draft long forms or as proposed by CTMG’S May 11, 2017 potential accord, or
10 any authority to negotiate any media spend at all.

11 219. MENDEZ then proposed the following specific renegotiated terms:

- 12 a. That ALCON afford at least three (3) spinner branding visibility
13 scenes, running at least four (4) seconds each;
- 14 b. That the spinner visibility scenes had to include at least three views of
15 the spinner, including all PEUGEOT branding on it (“FRONT, REAR
16 and INSIDE, the animated one on the inside board you showed us”);
- 17 c. That in addition to the above minimum twelve (12) seconds of spinner
18 branding visibility, that ALCON also still afford PEUGEOT an
19 additional holographic advertisement in a background scene;
- 20 d. That the \$500,000 placement fee be allocated \$125,000 each to all
21 four (4) above visibility scenes;
- 22 e. That if PEUGEOT approved the placement after review, that
23 PEUGEOT’S CEO would then consider approving a co-promotion
24 campaign;
- 25 f. But that even if PEUGEOT’S CEO was fully satisfied with both the
26 placement and the planned co-promotion, PEUGEOT would still not
27 ever make any binding commitment to fund any co-promotion at all;
- 28 g. At most, PEUGEOT would present the possibility of a co-promotion

1 campaign to its local dealerships by territory, and even as to that
2 PEUGEOT declined to agree even to propose any specific amount of
3 media spend to the local dealerships.

4 220. Clearly knowing that MENDEZ’S May 17 email would be (and was)
5 shocking to CTMG, on May 18, 2017 Montron emailed the same group back
6 (copying MENDEZ), and attempted to smooth or “clarify” MENDEZ’S positions.
7 Montron attempted to clarify two points:

8 a. That ALCON and CTMG were fully committed to BR2049 featuring
9 the PEUGEOT brand, and that it would be a high-value placement to
10 PEUGEOT.

11 b. That MENDEZ and PEUGEOT meant that if PEUGEOT was satisfied
12 with the placement, then “Peugeot is ready to launch a promotional
13 campaign if Peugeot approves the product(/brand) placement.”

14 221. The same day, May 18, 2017, MENDEZ responded and corrected
15 Montron:

16 a. “We do want to continue the logo placement but we need to agree on
17 terms” and

18 b. “We intend to push a co-promotional campaign **but we do not**
19 **guarantee it all even if the LOGO placement is confirmed.**”
20 (Emphasis added.)

21 222. It was thus crystal clear that MENDEZ and PEUGEOT were
22 reaffirming their actual and/or anticipatory material breach of the agreement that
23 had been negotiated for over ten months, and further were rejecting even CTMG’S
24 proposed specific accord.

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1 223. Knowing her leverage was extreme at this point, MENDEZ thus
2 proceeded to encourage CTMG to come to Paris and present in person to
3 PEUGEOT'S CEO (so that maybe PEUGEOT would at least do something on the
4 co-promotion campaign, if it felt like it after the CEO viewed rough cut visibility
5 footage).

6 224. Without waiving PEUGEOT'S breaches, but with little choice but to
7 try their best to mitigate the situation, ALCON and CTMG worked together to
8 prepare a presentation, including rough cut actual footage from the Picture as it
9 stood in progress with Peugeot branding, for the express purpose of CTMG
10 executives personally presenting it in Paris to PEUGEOT'S CEO.

11 225. With the active participation and involvement of MENDEZ, and her
12 clear knowledge and awareness of the purpose and intent of the trip, an
13 exceptionally high-level team of CTMG executives, including a President-level
14 promotions and marketing executive within the Sony organization, traveled in
15 person to PEUGEOT'S Paris offices. Again, the express purpose of the trip was to
16 meet with PEUGEOT'S CEO. PEUGEOT, including through MENDEZ, had
17 agreed to and participated in the planning and finalization of the trip, and
18 specifically that the meeting would be with the PEUGEOT CEO.

19 226. Accordingly, on or about June 1, 2017 – the planned and agreed date
20 for PEUGEOT and its CEO to receive the CTMG team -- the CTMG team arrived
21 at PEUGEOT'S Paris offices (with some of them having traveled from California
22 for the specific purpose of the meeting) with the presentation materials, including
23 Picture footage.

24 227. By this time, the originally planned Picture Lock deadline of June 8,
25 2017 was only seven (7) days away, and in any event was imminent. The Release
26 Date was just over four months away. PEUGEOT was well aware of these
27 deadlines and that timing was critical.

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1 228. MENDEZ met the CTMG team and informed them that PEUGEOT'S
2 CEO was not in PEUGEOT'S offices that day and would not be meeting with the
3 CTMG team or otherwise reviewing the presentation. But, MENDEZ said that she
4 and other executives who worked under MENDEZ would meet with CTMG, and if
5 appropriate, communicate later themselves with the CEO about BR2049, without
6 CTMG present. This was stunning. The CTMG trip was an extraordinary one,
7 across continents, that had been planned with PEUGEOT (through MENDEZ) for
8 the express purpose of CTMG meeting with and presenting directly to the CEO.

9 229. Based on the circumstances and on facts and goings on that the CTMG
10 team observed while at PEUGEOT'S offices, PLAINTIFF is informed and believes
11 and on that basis alleges that MENDEZ'S statements that the PEUGEOT CEO was
12 not in PEUGEOT'S Paris office and was unavailable for the meeting were false,
13 and that in fact PEUGEOT'S CEO was physically at the offices that day, and could
14 have met with CTMG. PLAINTIFF is informed and believes and on that basis
15 alleges that MENDEZ in fact still was withholding from her CEO substantially the
16 entire BR2049 situation, and that MENDEZ had fraudulently and in bad faith
17 induced CTMG into the June 1, 2017 Paris meeting knowing and intending from
18 the outset that MENDEZ would never allow the CTMG team to meet with or
19 present directly to PEUGEOT'S CEO. In the alternative, PLAINTIFF is informed
20 and believes and on that basis alleges that the PEUGEOT CEO was aware of the
21 situation and himself participated and coordinated with MENDEZ in having
22 CTMG travel halfway across the world for the meeting, and always intended to
23 have MENDEZ take it in his stead (or to cancel or otherwise frustrate it).

24 230. The CTMG team objected, but had little ability to compel the CEO to
25 come out of his office, and proceeded in good faith as best they could. At
26 MENDEZ'S behest, the CTMG made their presentation to a group of more junior
27 PEUGEOT executives led (and, PLAINTIFF is informed and believes and on that
28 basis alleges, controlled) by MENDEZ. This included showing rough cut footage

1 from the still-in-progress Picture that demonstrated proposed visibility footage
2 sequences with PEUGEOT branding on the spinner and in at least one outdoor/wall
3 ad. The footage was all consistent at the very least with PEUGEOT'S inputs on
4 placement requirements and desires up to that time, and completely or at the very
5 least substantially true to the Cai design notes.

6 231. CTMG'S team also expressly discussed with MENDEZ that although
7 the agreement only called for ten (10) seconds of visibility footage, ALCON was
8 prepared to deliver 12 (twelve) seconds, with no additional asks from PEUGEOT,
9 except that PEUGEOT actually move forward with the deal as previously agreed
10 (in fact, as already noted, ALCON was ready, able and willing if necessary to
11 deliver as many as sixteen (16) seconds). CTMG'S team also expressly explained
12 that the footage presented could still be modified if PEUGEOT desired, especially
13 with respect to visibility. Indeed, ALCON was prepared to be and would have
14 been highly flexible with and accommodating to PEUGEOT as to almost any
15 commercially reasonable adjustments to the placement that PEUGEOT might have
16 requested in good faith, both to satisfy PEUGEOT as a partner, and to get the
17 media spend – but not if PEUGEOT refused to acknowledge that the media spend
18 was guaranteed or refused to do it.

19 232. During the June 1, 2017 meeting, while MENDEZ and her team made
20 comments to the placement footage, they did not express any general
21 dissatisfaction with the placement. Indeed, instead, they expressed a generally
22 positive reaction, with industry-ordinary requests and comments for enhanced
23 visibility (for example, better lighting on logos in particular sequences, which were
24 relatively easy things to address).

25 233. Indeed, far from rejecting the placement or asking it to be redone,
26 MENDEZ thanked the CTMG team and told them that she would make the
27 presentation to her CEO promptly and get back to CTMG right away. The
28 MENDEZ-PEUGEOT team also said that they would provide some additional

1 PEUGEOT logo samples for possible insertion and/or substitution in the placement
2 (which ALCON was, in fact prepared and able to do if PEUGEOT had indeed
3 desired it). Further, MENDEZ even promised that she would direct BETC
4 (PEUGEOT'S agency for planning and carrying out the co-promotion) to send over
5 a deck (PowerPoint or Keynote presentation) with a more specific and updated co-
6 promotion plan.

7 234. CTMG returned to the United States optimistically, and both CTMG
8 and ALCON remained ready, willing, able and anxious to perform.

9 235. On or about June 5, 2017, one of MENDEZ'S subordinates (Mylene
10 Poncet) emailed the promised additional logo samples to CTMG. But nothing else.
11 No BETC deck came.

12 236. On June 9, 2017, with more than a week having passed since the June
13 1, 2017 meeting and MENDEZ'S promises from it (and with the Picture now past
14 the originally planned Picture Lock), CTMG emailed MENDEZ again:

15 "We assume you have now shared the campaign ideas with
16 your CEO as promised and urgently need to know his reaction
and feedback.

17 As mentioned in the meeting, we **urgently** need to share these
18 ideas internally next week in order to meet deadlines and would
19 like to know when to expect the revised deck from BETC."
(Emphasis in original.)

20
21 237. On June 9, 2017, PEUGEOT finally surfaced again and responded, in
22 an email from MENDEZ'S subordinate, Poncet. MENDEZ is openly copied on
23 Poncet's June 9, 2017 email, and PLAINTIFF is informed and believes and on that
24 basis alleges that MENDEZ either substantially drafted or dictated the email herself
25 and had Poncet send it, or that MENDEZ reviewed it and approved it prior to
26 Poncet transmitting it, and indeed directed Poncet to send it. In her June 9, 2017
27 email response, Poncet (for MENDEZ) declined to say that the placement met
28 PEUGEOT'S satisfaction and instead communicated that it did not, and directed

1 that ALCON re-do it. Some of the Poncet comments related to such things as
2 lighting on a particular logo and requests that it be improved – which were both
3 ordinary kinds of comments in placement review generally, and which MENDEZ
4 had had explained to her were not a problem and could easily be done. In the
5 industry, these would not be valid reasons to declare that a placement was
6 unsatisfactory.

7 238. Other comments from Poncet (for MENDEZ) were even more clearly
8 in bad faith, and even directly contrary to prior approvals that PEUGEOT and
9 MENDEZ had already given ALCON and upon which ALCON had relied. The
10 Poncet email even included comments that were undeniably objectively false and
11 ridiculous. For example, by the Poncet email, MENDEZ purported to reject the
12 placement on the grounds that the spinner design did not incorporate the Cai design
13 notes, even though the spinner clearly incorporates them essentially exactly as
14 drawn by Cai, and MENDEZ had previously seen them and approved them
15 (including at the January 24, 2017 co-promotion kickoff meeting). As another
16 example, stunningly, via the Poncet email, MENDEZ purported to reject the
17 placement on the grounds that the affiliation between Gosling’s character K and the
18 Peugeot-branded spinner was not strong enough – even though it would be difficult
19 and potentially impossible to come up with a motion picture example where a
20 character is more strongly affiliated with a vehicle throughout the story of a Picture
21 than K with the spinner.

22 239. Worst of all, at the same time that MENDEZ (via the Poncet email)
23 directed ALCON to re-do the placement, she doubled down on her May 4, 2017
24 denials that there had ever been any deal for a co-promotion, or even any
25 discussion of one. She also expressly reaffirmed her most devastating revelation --
26 that all attempts to satisfy PEUGEOT on the placement were futile in any event,
27 because PEUGEOT had no intention of funding a co-promotion, and never did,
28 even if the placement were absolutely perfect: “Regarding, this potential

1 promotional campaign, **I need to reiterate our position that even if the placement**
2 **was satisfying we cannot commit on the promotional campaign and/or any**
3 **figures regarding the campaign.**” (Emphasis added.)

4 240. Further, the June 9, 2017 Poncet email also disclosed that MENDEZ
5 actually had not yet shown the placement presentation to her CEO or even, as
6 PLAINTIFF understands her communication, to any of her corporate superiors.
7 Rather, the statements of dissatisfaction on behalf of PEUGEOT with the
8 placement were entirely from MENDEZ herself (via Poncet), and not from the
9 CEO. Indeed, MENDEZ disclosed (via the Poncet email) that she would not even
10 be meeting with anyone above her in the PEUGEOT “hierarchy” about the BR2049
11 opportunity and issues until June 14, 2017.

12 241. Further, knowing that she had succeeded in destroying all ALCON
13 negotiating leverage with her repeated delays, bad faith negotiation tactics and
14 outright false statements over the course of now more than year, MENDEZ boldly
15 asked that CTMG send over one of its France-based executives to present (again)
16 to PEUGEOT on June 14.

17 242. CTMG’s President-level executive who had personally attended the
18 extraordinary June 1, 2017 (non-CEO) meeting in Paris responded to MENDEZ
19 directly on June 14, 2017 regarding her subordinate’s stunning June 9, 2017 email.
20 The CTMG executive pointed out to MENDEZ that her expression of overall
21 dissatisfaction with the placement was completely contrary to her comments in the
22 June 1, 2017 meeting. He also explained how many of MENDEZ’S June 9
23 complaints about the placement were completely untenable objectively. He
24 communicated that it appeared that PEUGEOT and MENDEZ were simply
25 stalling, and in the face of critical urgency on timing, if any co-promotion was ever
26 going to happen. He told MENDEZ that the matter would have to be turned over
27 to the lawyers at this point.

28 ///

1 243. ALCON and CTMG conferred and decided to do their best to address
2 things they reasonably could, including MENDEZ’S inexplicable denials that any
3 co-promotion deal had ever even been under negotiation. On or about June 16-19,
4 2017, ALCON and CTMG executives affixed signatures for ALCON and CTMG
5 to the written long form version that had been signed and delivered by Montron on
6 January 18, 2017, and prepared to send a fully executed copy of it to MENDEZ.

7 244. Before they actually did, on June 19, 2017, MENDEZ finally
8 responded to CTMG’S June 14, 2017 email, and repeated yet again all of her bad
9 faith and false denials. In her June 19, 2017 email MENDEZ did the following:

- 10 a. Falsely denied again that PEUGEOT had ever given any negotiating
11 or contracting authority to PUBLICIS at all, and falsely denied that the
12 “Delegation of Signature Authority” documents that she had signed
13 twice herself gave PUBLICIS any authority at all on anything.
- 14 b. Falsely denied ever being aware of the July 12, 2016 LOI.
- 15 c. Falsely denied that PEUGEOT had ever signed any contract, even
16 though PUBLICIS had signed both the July 12, 2016 LOI and the
17 January 18, 2017 draft of the proposed long form, both times
18 expressly on PEUGEOT’S behalf.
- 19 d. Reiterated that regardless of any solution that might be found as to the
20 placement, PEUGEOT would never finance a co-promotion media
21 spend itself, and that all PEUGEOT would ever pay would be the
22 placement fee (even though PEUGEOT had won the bidding in May
23 2016 specifically by sweetening its bid with the co-promotion
24 commitment, and even though the bid had been transmitted for
25 PEUGEOT by BEN, not PUBLICIS).
- 26 e. MENDEZ Repeated that even as to the placement, the CEO’S review
27 and approval was required, and further revealed that (stunningly)
28 MENDEZ had again delayed that -- MENDEZ had cancelled the June

1 14, 2017 meeting referenced in Poncet’s June 9, 2017 email.

2 f. Like Charles Schultz’s Lucy teeing up the football for a placekick to
3 see if Charlie Brown would be gullible enough to let her pull it away
4 from him at the last moment yet again, MENDEZ asked CTMG to
5 send a team over again for her CEO to be afforded yet another chance
6 to review the placement footage. At the same time and in the very
7 next sentence MENDEZ also made crystal clear that such an effort
8 would be futile regardless: **“I also reiterate our position that even if**
9 **the product placement is approved it does not mean that there will**
10 **be a promotional campaign.”** (Emphasis added.)

11 245. On June 20, 2017, a CTMG lawyer responded to MENDEZ via email.
12 CTMG’S June 20, 2017 lawyer email attached the January 18, 2017 version of the
13 long form as signed by Montron, and now with signatures affixed for ALCON and
14 CTMG, with a clear statement that although ALCON and CTMG were reserving
15 all rights, they both remained ready, willing and able to move forward with the
16 partnership, including if required in satisfaction of all terms as stated in the January
17 18, 2017 long form – if PEUGEOT would withdraw its renegeing on the co-
18 promotion and commit to actually start doing it. By this communication, ALCON
19 and CTMG both meant, and MENDEZ and PEUGEOT both clearly understood
20 and knew, that among other things, regardless of PEUGEOT’S egregious conduct
21 to this point, ALCON was still ready and willing to effect the placement in almost
22 any manner that PEUGEOT reasonably and in good faith desired that ALCON
23 could actually accomplish without jeopardizing the release date of the film or
24 unreasonably compromising the art of the film. This included granting PEUGEOT
25 additional seconds of visibility beyond the ten (10) seconds that had been long
26 agreed, or even allocating all ten (10) seconds entirely to two spinner sequences if
27 that is what PEUGEOT actually wanted, or more visibility footage to outdoor/wall
28 ads – but all only if PEUGEOT would re-commit to and actually commence

1 moving forward with the co-promotion, as had been long agreed and relied on by
2 ALCON to its extreme detriment.

3 246. The next day, June 21, 2017, MENDEZ responded. MENDEZ denied
4 ever having seen the January 18, 2017 document signed by Montron, or any other
5 draft of the long form agreement. Further, MENDEZ asserted essentially that she
6 was entirely unaware that PUBLICIS was even negotiating such a document on
7 PEUGEOT'S behalf. PLAINTIFF is informed and believes and on that basis
8 alleges (under at least one factual alternative) that this was blatantly false on all
9 points. Indeed, PLAINTIFF is informed and believes and on that basis alleges that,
10 at a bare minimum, in connection with the PUBLICIS-PEUGEOT fee dispute in
11 the first few months of 2017, PUBLICIS'S internal legal team had shown
12 MENDEZ the January 18, 2017 draft signed by Montron, and had sought and
13 received MENDEZ'S review and explicit approval of the proposed April 13, 2017
14 revised draft of the long form sent to ALCON by PUBLICIS'S internal legal team.
15 (Again, ALCON expressly reserves the right to allege alternative facts that
16 PEUGEOT'S contention that, essentially, PUBLICIS is lying about important
17 things or did, is instead what happened. However, again, PEUGEOT has not
18 delivered to ALCON any support for any such contentions by PEUGEOT and
19 ALCON'S understanding is that PUBLICIS entirely or substantially denies them.)

20 247. MENDEZ went on in her June 21, 2017 email to reject, on behalf of
21 PEUGEOT, ALCON'S and CTMG'S reserved rights offer to have all parties agree
22 to be bound by the January 18, 2017 long form signed by Montron, if PUBLICIS
23 would withdraw its breaches and re-affirm its promises to perform the co-
24 promotion and actually move it forward. Instead, MENDEZ communicated yet
25 again clearly PEUGEOT'S utterly bad faith denial that PEUGEOT had any binding
26 obligations to ALCON whatsoever, and certainly refused to be bound by the terms
27 as stated in the January 18, 2017 draft long form (or any other terms). MENDEZ
28 further made clear by her June 21, 2017 email, that if ALCON and CTMG would

1 not engage with PEUGEOT on renegotiated terms for a placement only, with no
2 binding PEUGEOT commitment to any co-promotion campaign, then PEUGEOT
3 was not interested in any further discussions.

4 ***Peugeot Receives the Benefit of the Placement without Any Co-Promotion***
5 ***and Still Refuses to Pay Alcon Even a Single Penny***

6 248. After MENDEZ'S and PEUGEOT'S June 21, 2017 abandonment of
7 the Picture and further discussions about it, ALCON and CTMG nonetheless
8 continued to act reasonably and in good faith, to say the least.

9 249. In July 2017, a life-size real-world model of K's Peugeot-branded
10 spinner with all of Cai's design notes was the centerpiece of an immersive fan
11 marketing experience at San Diego Comic-Con. Comic-Con is now one of the
12 entertainment industry's largest marketing events worldwide, patronized by
13 hundreds of thousands of fans that come from across the globe to attend it, and
14 covered by worldwide news outlets across all forms of media. The BR2049
15 experience at 2017 Comic-Con, with its Peugeot spinner, was widely recognized as
16 one of the best executed and most popular event marketing showings at the
17 convention.

18 250. In early August 2017, ALCON made a last attempt and demand on a
19 business basis for PEUGEOT to execute the co-promotion, which MENDEZ again
20 flatly rejected, with her same or similar bad faith denials. By September 2017,
21 outside litigators for ALCON and PEUGEOT were exchanging correspondence.

22 251. As the Picture's release neared and word began to spread that K's
23 spinner would be a Peugeot, multiple news outlets contacted ALCON wanting to
24 do stories focusing on Peugeot's role in BR2049. However, these publicity
25 opportunities all passed by, with MENDEZ hunkered in her office in Paris,
26 blocking PEUGEOT's participation or even full corporate knowledge of the
27 situation, as MENDEZ guarded her own political corporate career at the expense of
28 so very many people and companies who worked on BR2049 and the placement.

1 Probably including to the detriment of PEUGEOT itself, who missed an immense
2 opportunity fully to leverage the placement.

3 252. The Picture was finished, delivered and released theatrically (and
4 since on home entertainment, pay television and streaming services worldwide)
5 with the placement included. Peugeot visibility branding sequences run at least
6 twelve (12) seconds. They include both spinner badging sequences and a
7 prominent outdoor/wall ad Peugeot logo. Even without the lighting and other
8 visual enhancements that would have been made to the visibility sequences had
9 PEUGEOT not bailed out of the process in bad faith, the placement still clearly
10 marks the spinner as a Peugeot and permanently enshrines PEUGEOT'S brand in
11 the Picture and its story.

12 253. Indeed, the truth, far beyond counting seconds of logos, is that Cai's
13 design notes, intended to make the entire spinner sing with PEUGEOT'S trade
14 dress from almost every angle, are onscreen throughout the Picture. The spinner
15 accompanies K through almost every aspect of his quest. PEUGEOT'S triple-claw
16 brake lights blasting over a dystopian Southern California farmscape are almost the
17 first thing the audience sees in the entire film. The film's first sequences feature
18 Gosling interacting with the vehicle and speaking to it, almost as a living
19 companion, with Gosling's face next to PEUGEOT'S logo multiple times. The
20 visibility of the PEUGEOT logo in these sequences and others could have been
21 even higher had PEUGEOT not abandoned the process. Gosling's close
22 connection to the spinner goes on throughout the film, all the way to the film's
23 final sequences when K finally lays back in the falling snow to rest, with his
24 spinner a few feet away.

25 254. Attached hereto as **Exhibit D** and incorporated herein by reference are
26 photographic stills of scenes from the Picture incorporating PEUGEOT'S badging
27 and trade dress.

28 ///

1 255. The placement and its ripple effects take PEUGEOT’S brand, logos
2 and trade dress to consumers well past just the film as it appears on theater and
3 streaming screens. Some of the film’s most prominent one sheets (marketing
4 posters) feature Gosling next to the Peugeot spinner. In fact, the very first one
5 sheet released to a hungry audience, filled with anticipation for the long-dormant
6 *Blade Runner* property, was Gosling standing in fog next to the spinner’s red-lit
7 triple-claw Peugeot-trademark brake lights, just as Cai marked them up. See
8 **Exhibit E** [One Sheet].

9 256. Audiences and automotive industry publications around the world
10 recognized and generally reacted overwhelmingly favorably to the placement, with
11 pleasant surprise and appreciation to see that K’s spinner was a Peugeot. And in
12 some markets, the placement was seen as a true milestone for PEUGEOT –
13 especially the United States.

14 257. Here in the U.S., some of the business communities most prominent
15 watchers clearly took note of the placement. And they recognized that by it,
16 PEUGEOT had taken a first giant and positive step toward rebuilding its brand in
17 the U.S. market, from which it had been absent for an entire generation. For
18 example, on October 6, 2017, the Picture’s Release Date, *Bloomberg* published a
19 two-page story on BR2049’s treatment of brands and its deeper relevance to
20 business history. The Peugeot placement features prominently and
21 overwhelmingly positively in the story. The *Bloomberg* story effectively equates
22 the long-hibernated Peugeot’s brand stature with Coca-Cola, one of the world’s
23 most revered brands. It is hard to imagine how much paid U.S. television, radio
24 and print advertising might have been required for PEUGEOT to achieve such a
25 branding magic trick – to go almost overnight in the U.S. market from almost no
26 recognition to being equated to the revered Coca-Cola brand -- absent the BR2049
27 placement.

28 ///

1 258. PEUGEOT never executed any promotion and the Picture
2 undoubtedly suffered for it. The Picture had at least \$30 million less in paid media
3 to support the film’s release than expected, not to mention lost publicity, short-
4 form video pre-ambls never made or released to consumers to pre-tell the story of
5 K’s spinner as a PEUGEOT, and other ways to advance the film with consumers
6 beyond even just paid media, that PEUGEOT should have been part of, and even
7 led. But that PEUGEOT wasn’t and didn’t.

8 259. PEUGEOT’S bad faith failure to perform its co-promotional
9 obligations almost certainly negatively affected the Picture’s box office
10 performance. But even as the Picture actually performed, without the substantial
11 marketing and promotion support that PEUGEOT was supposed to provide,
12 BR2049 still grossed about \$260 million in worldwide box office, meaning that in
13 its initial theatrical release alone, it (and the PEUGEOT spinner, integral to the
14 story from beginning to end) was seen by over thirty million people, each of whom
15 were exposed to several *minutes* of screen time of PEUGEOT trade dress and
16 branding.

17 260. The Picture also received extraordinarily positive audience response,
18 with an 87% positive audience reaction on Rotten Tomatoes.

19 261. The critical acclaim for the Picture was even greater. Attached hereto
20 as **Exhibit F** is a list of awards won by BR2049. It is 16 pages long.

21 262. Among numerous other awards, BR2049 was nominated for five
22 Academy Awards, and it won two: Best Cinematography and Best Visual Effects –
23 both notably arguably the highest recognition a film can receive as to the way the
24 film (including the spinner) looks on the screen.

25 263. IGN named BR2049 the Best Movie of the Year for 2017, the Golden
26 Tomato Awards named it the Best Sci-Fi/Fantasy Movie of 2017, and the 2018
27 Saturn Awards named it the Best Science Fiction film.

28 ///

1 264. ALCON succeeded in making an enduring piece of art that will persist
2 and be appreciated, actively viewed and culturally relevant for decades.
3 PEUGEOT'S brand is permanently and positively a part of it, forever.

4 *Aftermath*

5 265. PEUGEOT has now had ample time to see the Picture's phenomenal
6 quality, including the artistically deft, high quality execution of the placement and
7 spinner, in exact match with Cai's design notes, and even in the face of
8 PEUGEOT'S egregious behavior.

9 266. PEUGEOT enjoyed and continues to enjoy accolades and positive
10 publicity from its place in the Picture, and it will for years and years to come.

11 267. In July 2018, PEUGEOT announced that it had opened a new office in
12 Atlanta, Georgia and is ready to start marketing and selling cars again in the United
13 States, after a being gone a generation. PEUGEOT also announced that among the
14 first 15 states it has its eye on is California.

15 268. ALCON has spent approximately a year and a half communicating
16 with PEUGEOT for it to make things right.

17 269. PEUGEOT still refuses to pay ALCON even one penny toward the
18 media spend, and has not paid ALCON anything at all, not even for the placement
19 fee.

20 270. ALCON thus now seeks relief from this Court.

21 271. The earliest possible point in time on which ALCON was put on any
22 notice that PEUGEOT and MENDEZ were engaged in the improper conduct
23 alleged herein was no earlier than January 18, 2017. ALCON did not discover and
24 was not aware of and did not suspect, either actually or constructively, nor was
25 ALCON put on any reasonable or actual inquiry notice, of any of the improper
26 conduct alleged herein at any time prior to that January 18, 2017 date at the
27 earliest, including because PEUGEOT and MENDEZ actively concealed their
28 improper conduct with the intention of causing ALCON not to discover or suspect

1 it. To the extent necessary, ALCON is thus entitled to the benefit of the discovery
2 rule on statute of limitations and time bars for all claims as to which the discovery
3 rule is applicable, and further, PEUGEOT and MENDEZ are legally and equitably
4 estopped, and otherwise barred, to claim that any time bars were running at all any
5 earlier than, at the very earliest, January 18, 2017.

6
7 **FIRST CLAIM FOR RELIEF**

8 ***Breach of Contract against Automobiles Peugeot SA and Does 1 through 5***

9 272. PLAINTIFF repeats, re-alleges and incorporates herein by reference
10 each and every allegation set forth in all of the foregoing paragraphs, and each
11 paragraph of this Complaint hereafter, as if set forth herein in full.

12 273. To the extent any of the allegations or theories in this First Claim for
13 Relief are inconsistent with other allegations or theories pled in this Complaint,
14 they are pled in the alternative.

15 274. PLAINTIFF and defendant PEUGEOT entered into a valid and
16 enforceable partially written, partially oral contract which included at least the
17 following material terms:

- 18 a. PLAINTIFF and PEUGEOT would work in close collaboration to
19 integrate PEUGEOT badging and other trade dress into the design of
20 K's spinner.
- 21 b. Once the K Spinner badging and feature designs were approved by
22 PEUGEOT, they would be locked and PEUGEOT would not be able to
23 change or disapprove them later (and the badging and feature designs
24 were actually approved by PEUGEOT no later than January 24, 2017).
- 25 c. The finished BR2049 film would include at least ten (10) seconds of
26 footage in which PEUGEOT'S logo and badging would be clearly
27 visible to the audience (although if ALCON for creative or other
28 reasons did not include a PEUGEOT placement, then this was not

- 1 necessarily a breach by ALCON, but the parties were expected and
2 obligated to negotiate with each other in good faith about what to do in
3 such event).
- 4 d. The at least ten (10) seconds of footage was to be apportioned across
5 multiple sequences in the movie (with a clear record that PEUGEOT
6 had it explained to them that a sequence or scene could include more
7 than one camera shot – ALCON and CTMG expressly declined to be
8 bound by measuring timing by single shots, but rather would only agree
9 to “sequences” or “scenes”, meaning aggregations of related shots).
- 10 e. The at least ten (10) seconds of footage was to be apportioned across
11 two types of sequences: 1) badging on K’s spinner, and 2) at least one
12 sequence where the Peugeot logo would appear in the BR2049 world,
13 such as in an outdoor advertisement in the background.
- 14 f. Of the two types of sequences, the K spinner badging sequences were
15 more important to PEUGEOT, and the outdoor/wall ad sequences (or
16 “holographic advertisements”) were of secondary importance
17 (including meaning that of the ten (10) seconds, more of the time would
18 go to the K spinner badging sequences).
- 19 g. At least one mutually acceptable allocation of the ten (10) seconds was
20 about six (6) second of visibility footage in two spinner sequences and
21 about (4) seconds to at least one outdoor/wall ad sequence. It was also
22 clear that ALCON was widely flexible and ready, willing and able to
23 perform a different allocation, as long as PEUGEOT communicated its
24 desires clearly with enough time for ALCON to meet them without
25 undue prejudice. Indeed, ALCON was prepared to over-perform on the
26 visibility deliveries if it had to (and in fact, it did so).
- 27 h. The execution of the ten (10) seconds of placement footage was subject
28 to PEUGEOT’S commercially reasonable and good faith review and

1 approval, which was to be prompt, and within the creative and artistic
2 parameters of the film, which were understood not to be in
3 PEUGEOT'S purview. PEUGEOT'S review and approval was to be
4 conducted by PEUGEOT without unreasonable disruption of the film's
5 schedule, including picture lock, film delivery and release date, and
6 also early enough such that the co-promotion could be planned and
7 executed.

8 i. The Peugeot spinner badging would be associated with Ryan Gosling's
9 character, K.

10 j. Ryan Gosling's character, K, would not be associated with any rival
11 automobile brand.

12 k. The Peugeot brand would not be presented in a perjorative context.
13 PEUGEOT acknowledged that it had reviewed the BR2049 script and
14 knew, understood and agreed that the BR2049 involved one or more
15 crashes of K's spinner, and that these crashes were agreed as not
16 violative of any term of the parties' agreement.

17 l. If upon review, PEUGEOT was not reasonably and in good faith
18 satisfied with a proposed execution of the footage placement, then
19 PEUGEOT was to engage with ALCON reasonably and in good faith
20 on changes or enhancements such that PEUGEOT would be able to
21 give its reasonable and good faith approval, also again within the
22 creative and artistic parameters of the film, and which was to be
23 conducted by PEUGEOT without unreasonable disruption of the film's
24 schedule, including picture lock, film delivery and release date.

25 m. PEUGEOT expressly acknowledged that it had been provided with the
26 opportunity to review the visual depictions of the placement items and
27 had approved them.

28 n. If ALCON delivered satisfactory placement footage, then PEUGEOT

1 was obligated to pay \$500,000 directly to ALCON as a product
2 placement fee, and was also obligated to work with ALCON to plan,
3 finance and execute a global co-promotion media campaign (which
4 could exclude the U.S.) to support the October 6, 2017 day-and-date
5 global theatrical release of the Picture, with PEUGEOT obligated to
6 deliver at least \$30 million of paid media. In this context, delivery of
7 satisfactory placement footage meant that ALCON communicated
8 intention to perform and deliver the footage – that the placement would
9 in fact be in the Picture. Planning of the co-promotion thus was to
10 occur upon that communicated intent by ALCON.

- 11 o. If ALCON failed to deliver satisfactory placement footage even after
12 reasonable and good faith engagement between the parties to attempt to
13 cure reasonable and good faith placement dissatisfactions of
14 PEUGEOT, then the parties would negotiate in good faith about
15 alternative terms that would be fair and reasonable to both sides.
- 16 p. Of the \$500,000 placement fee, \$400,000 was allocated to the spinner
17 placements and \$100,000 to the outdoor/wall ad placement. The
18 parties further agreed and intended that the purpose of setting forth an
19 allocation was to provide a yardstick for potential reduction of the
20 placement fee if an element of the placements was not satisfactory after
21 good faith cooperative attempts to cure were exhausted.
- 22 q. The \$500,000 placement fee was earned by ALCON and owed by
23 PEUGEOT no later than upon ALCON'S written confirmation to
24 PEUGEOT that the placements would be in the final Picture – while
25 the placement fee could be paid by PEUGEOT after release of the
26 Picture, it was earned by ALCON and owed by PEUGEOT earlier, on
27 ALCON'S confirmation that ALCON intended to perform the
28 placement (which confirmation by ALCON was repeatedly given).

- 1 r. The agreed co-promotional period (the time during which the co-
2 promotion would actually be licensed to run) would be from
3 September 1, 2017 to November 30, 2017 (or sixty days after the
4 initial theatrical release date of the Picture, if ALCON had to change
5 the release date of the Picture for any reason).
- 6 s. The defined co-promotional territory was the entire world, excluding
7 the United States and Canada and their related territories (but it was
8 understood that PEUGEOT would nonetheless receive the branding
9 and goodwill benefits of the U.S. and Canada release of BR2049, as
10 the PEUGEOT placements would be and were in all versions of the
11 film in all territories).
- 12 t. The agreed \$30 million guaranteed minimum media spend was to be
13 divided \$27 million in Above-The-Line (“ATL”) Spend and \$3
14 million in Below-The-Line (“BTL”) Spend (with it understood and
15 agreed that the ATL and BTL definitions were the advertising industry
16 standard definitions of these terms – very generally, ATL Spend refers
17 to media that mass targets large audiences, like television and radio
18 and many forms of Internet media; BTL Spend refers to media that
19 more specifically targets a limited set of consumers, like flyers
20 distributed from a particular retail store, or most forms of event
21 marketing, like a fan convention or auto show).
- 22 u. ALCON had a review and approval right over the co-promotion’s
23 specific executions, on a case-by-case basis.
- 24 v. The co-promotion was to include a dedicated presence on
25 PEUGEOT’S website (www.peugeot.fr).
- 26 w. PEUGEOT was obligated to create, and the co-promotion was to
27 include, at least one thirty-second television spot, unless Gosling
28 refused to approve use of his likeness in the spot, in which case

1 PEUGEOT was relieved of the television spot obligation (but not of
2 the entire co-promotion). (Gosling agreed in principal to potential use
3 of his likeness in a television spot for PEUGEOT, and PEUGEOT
4 never sought Gosling's review or approval of any proposed spot,
5 including because PEUGEOT never created one.)

- 6 x. PEUGEOT was to create and produce Below-The-Line spend spots.
- 7 y. PEUGEOT was to create and issue a press release to the media
8 regarding the co-promotion.

9 275. PLAINTIFF completely or substantially performed all conditions,
10 covenants and promises required on its part to be performed in accordance with the
11 contract, except to the extent that such obligations have been excused or defendants
12 prevented PLAINTIFF from performing them and/or made them impossible. Any
13 and all conditions precedent to the enforceability of PEUGEOT'S obligations that
14 PLAINTIFF seeks to enforce herein have either been satisfied or waived or
15 otherwise excused.

16 276. PEUGEOT breached the contract in at least the following ways:

- 17 a. PEUGEOT purported in bad faith to deny that it had given final
18 approval over design and badging of K's spinner.
- 19 b. PEUGEOT in bad faith attempted to make the allocation of the ten (10)
20 seconds of visibility a moving target that ALCON could never hit, for
21 the purpose of PEUGEOT holding on to a bad faith excuse for its own
22 non-performance.
- 23 c. PEUGEOT refused and failed to engage in good faith and
24 commercially reasonable review of the visibility footage, for the
25 purpose of PEUGEOT holding on to a bad faith excuse for its own
26 performance.
- 27 d. PEUGEOT purported to disapprove the placement even on issues
28 where the placement followed PEUGEOT-created and PEUGEOT-

- 1 approved design elements (*e.g.*, the spinner’s triple-claw brake lights,
2 and the subtlety of a recessed PEUGEOT black letter word logo on the
3 driver’s side dashboard).
- 4 e. PEUGEOT refused to conduct its reviews and approvals on a prompt
5 basis or at all.
- 6 f. PEUGEOT refused to conduct its reviews and approvals on a
7 commercially reasonable and good faith basis.
- 8 g. PEUGEOT denied in bad faith that it had ever made any co-promotion
9 commitment, and clearly communicated that it refused to finance any
10 co-promotion, even if the placement was fully satisfactory.
- 11 h. PEUGEOT refused to make its necessary interim performances to
12 prepare to execute the co-promotion, including failing and refusing to
13 present ALCON and CTMG with co-promotion plans.
- 14 i. PEUGEOT failed and refused to pay anything at all for the placement.
- 15 j. PEUGEOT did not run any co-promotion during the agreed co-
16 promotional period or ever.
- 17 k. PEUGEOT did not make media spend, including no ATL Spend and
18 no BTL Spend.
- 19 l. PEUGEOT failed to include a dedicated BR2049 presence on
20 PEUGEOT’S website (www.peugeot.fr).
- 21 m. PEUGEOT failed and refused to produce the TV spot.
- 22 n. PEUGEOT failed and refused to produce Below-The-Line spend
23 spots.
- 24 o. PEUGEOT failed and refused to issue a press release to the media
25 regarding the co-promotion.

26 277. PEUGEOT’S breaches damaged PLAINTIFF.

27 278. PEUGEOT is liable to PLAINTIFF in the amount of at least \$30.5
28 million, exclusive of prejudgment interest, attorneys’ fees, costs or other amounts.

1 279. DOES 1 through 5 are named herein as entities which PEUGEOT may
2 contend are PEUGEOT-controlled or PEUGEOT-affiliated entities which should
3 be treated as the contracting party or parties with PLAINTIFF, either in addition to
4 or instead of PEUGEOT. To the extent DOES 1 through 5, or any of them, are a
5 contracting party or the contracting party, all of the foregoing allegations are made
6 as to said DOE defendant, and said DOE defendant is liable to PLAINTIFF for
7 breach of contract for the reasons and on the ground set forth in this First Claim for
8 Relief.

9 **SECOND CLAIM FOR RELIEF**

10 ***Breach of Implied Covenant of Good Faith and Fair Dealing against***
11 ***Automobiles Peugeot SA and Does 1 through 5***

12 280. PLAINTIFF repeats, re-alleges and incorporates herein by reference
13 each and every allegation set forth in all of the foregoing paragraphs, and each
14 paragraph of this Complaint hereafter, as if set forth herein in full.

15 281. To the extent any of the allegations or theories in this Second Claim
16 for Relief are inconsistent with other allegations or theories pled in this Complaint,
17 they are pled in the alternative.

18 282. PLAINTIFF and defendant PEUGEOT entered into a valid and
19 enforceable partly oral, partly written contract which included at least the following
20 terms:

- 21 a. PLAINTIFF and PEUGEOT would work in close collaboration to
22 integrate PEUGEOT badging and other trade dress into the design of
23 K's spinner.
- 24 b. Once the K Spinner badging and feature designs were approved by
25 PEUGEOT, they would be locked and PEUGEOT would not be able to
26 change or disapprove them later (and the badging and feature designs
27 were actually approved by PEUGEOT no later than January 24, 2017).
- 28 c. The finished BR2049 film would include at least ten (10) seconds of

1 footage in which PEUGEOT’S logo and badging would be clearly
2 visible to the audience (although if ALCON for creative or other
3 reasons did not include a PEUGEOT placement, then this was not
4 necessarily a breach by ALCON, but the parties were expected and
5 obligated to negotiate with each other in good faith about what to do in
6 such event).

- 7 d. The at least ten (10) seconds of footage was to be apportioned across
8 multiple sequences in the movie (with a clear record that PEUGEOT
9 had it explained to them that a sequence or scene could include more
10 than one camera shot – ALCON and CTMG expressly declined to be
11 bound by measuring timing by single shots, but rather would only agree
12 to “sequences” or “scenes”, meaning related aggregations of shots).
- 13 e. The at least ten (10) seconds of footage was to be apportioned across
14 two types of sequences: 1) badging on K’s spinner, and 2) at least one
15 sequence where the Peugeot logo would appear in the BR2049 world,
16 such as in an outdoor advertisement in the background.
- 17 f. Of the two types of sequences, the K spinner badging sequences were
18 more important to PEUGEOT, and the outdoor/wall ad sequences (or
19 “holographic advertisements”) were of secondary importance
20 (including meaning that of the ten (10) seconds, more of the time would
21 go to the K spinner badging sequences).
- 22 g. At least one mutually acceptable allocation of the ten (10) seconds was
23 about six (6) second of visibility footage in two spinner sequences and
24 about (4) seconds to at least one outdoor/wall ad sequence. It was also
25 clear that ALCON was widely flexible and ready, willing and able to
26 perform a different allocation, as long as PEUGEOT communicated its
27 desires clearly with enough time for ALCON to meet them without
28 undue prejudice. Indeed, ALCON was prepared to over-perform on the

- 1 visibility deliveries if it had to (and in fact, it did so).
- 2 h. The execution of the ten (10) seconds of placement footage was subject
- 3 to PEUGEOT'S commercially reasonable and good faith review and
- 4 approval, which was to be prompt, and within the creative and artistic
- 5 parameters of the film, which were understood not to be in
- 6 PEUGEOT'S purview. PEUGEOT'S review and approval was to be
- 7 conducted by PEUGEOT without unreasonable disruption of the film's
- 8 schedule, including picture lock, film delivery and release date, and
- 9 also early enough such that the co-promotion could be planned and
- 10 executed.
- 11 i. The Peugeot spinner badging would be associated with Ryan Gosling's
- 12 character, K.
- 13 j. Ryan Gosling's character, K, would not be associated with any rival
- 14 automobile brand.
- 15 k. The Peugeot brand would not be presented in a perjorative context.
- 16 PEUGEOT acknowledged that it had reviewed the BR2049 script and
- 17 knew, understood and agreed that the BR2049 involved one or more
- 18 crashes of K's spinner, and that these crashes were agreed as not
- 19 violative of any term of the parties' agreement.
- 20 l. upon review, PEUGEOT was not reasonably and in good faith
- 21 satisfied with a proposed execution of the footage placement, then
- 22 PEUGEOT was to engage with ALCON reasonably and in good faith
- 23 on changes or enhancements such that PEUGEOT would be able to
- 24 give its reasonable and good faith approval, also again within the
- 25 creative and artistic parameters of the film, and which was to be
- 26 conducted by PEUGEOT without unreasonable disruption of the film's
- 27 schedule, including picture lock, film delivery and release date.
- 28 m. PEUGEOT expressly acknowledged that it had been provided with the

1 opportunity to review the visual depictions of the placement items and
2 had approved them.

3 n. If ALCON delivered satisfactory placement footage, then PEUGEOT
4 was obligated to pay \$500,000 directly to ALCON as a product
5 placement fee, and was also obligated to work with ALCON to plan,
6 finance and execute a global co-promotion media campaign (which
7 could exclude the U.S.) to support the October 6, 2017 day-and-date
8 global theatrical release of the Picture, with PEUGEOT obligated to
9 deliver at least \$30 million of paid media. In this context, delivery of
10 satisfactory placement footage meant that ALCON communicated
11 intention to perform and deliver the footage – that the placement would
12 in fact be in the Picture. Planning of the co-promotion thus was to
13 occur upon that communicated intent by ALCON.

14 o. If ALCON failed to deliver satisfactory placement footage even after
15 reasonable and good faith engagement between the parties to attempt to
16 cure reasonable and good faith placement dissatisfactions of
17 PEUGEOT, then the parties would negotiate in good faith about
18 alternative terms that would be fair and reasonable to both sides.

19 p. Of the \$500,000 placement fee, \$400,000 was allocated to the spinner
20 placements and \$100,000 to the outdoor/wall ad placement. The
21 parties further agreed and intended that the purpose of setting forth an
22 allocation was to provide a yardstick for potential reduction of the
23 placement fee if an element of the placements was not satisfactory after
24 good faith cooperative attempts to cure were exhausted.

25 q. The \$500,000 placement fee was earned by ALCON and owed by
26 PEUGEOT no later than upon ALCON'S written confirmation to
27 PEUGEOT that the placements would be in the final Picture – while
28 the placement fee could be paid by PEUGEOT after release of the

1 Picture, it was earned by ALCON and owed by PEUGEOT earlier, on
2 ALCON'S confirmation that ALCON intended to perform the
3 placement (which confirmation by ALCON was repeatedly given).

- 4 r. The agreed co-promotional period (the time during which the co-
5 promotion would actually be licensed to run) would be from
6 September 1, 2017 to November 30, 2017 (or sixty days after the
7 initial theatrical release date of the Picture, if ALCON had to change
8 the release date of the Picture for any reason).
- 9 s. The defined co-promotional territory was the entire world, excluding
10 the United States and Canada and their related territories (but it was
11 understood that PEUGEOT would nonetheless receive the branding
12 and goodwill benefits of the U.S. and Canada release of BR2049, as
13 the PEUGEOT placements would be and were in all versions of the
14 film in all territories).
- 15 t. The agreed \$30 million guaranteed minimum media spend was to be
16 divided \$27 million in Above-The-Line ("ATL") Spend and \$3
17 million in Below-The-Line ("BTL") Spend (with it understood and
18 agreed that the ATL and BTL definitions were the advertising industry
19 standard definitions of these terms – very generally, ATL Spend refers
20 to media that mass targets large audiences, like television and radio
21 and many forms of Internet media; BTL Spend refers to media that
22 more specifically targets a limited set of consumers, like flyers
23 distributed from a particular retail store, or most forms of event
24 marketing, like a fan convention or auto show).
- 25 u. ALCON had a review and approval right over the co-promotion's
26 specific executions, on a case-by-case basis.
- 27 v. The co-promotion was to include a dedicated presence on
28 PEUGEOT'S website (www.peugeot.fr).

1 w. PEUGEOT was obligated to create, and the co-promotion was to
2 include, at least one thirty-second television spot, unless Gosling
3 refused to approve use of his likeness in the spot, in which case
4 PEUGEOT was relieved of the television spot obligation (but not of
5 the entire co-promotion). (Gosling agreed in principal to potential use
6 of his likeness in a television spot for PEUGEOT, and PEUGEOT
7 never sought Gosling's review or approval of any proposed spot,
8 including because PEUGEOT never created one.)

9 x. PEUGEOT was to create and produce Below-The-Line spend spots.

10 y. PEUGEOT was to create and issue a press release to the media
11 regarding the co-promotion.

12 283. PLAINTIFF completely or substantially performed all conditions,
13 covenants and promises required on its part to be performed in accordance with the
14 contract, except to the extent that such obligations have been excused or defendants
15 prevented PLAINTIFF from performing them and/or made them impossible. Any
16 and all conditions precedent to the enforceability of PEUGEOT'S obligations that
17 PLAINTIFF seeks to enforce herein have either been satisfied or waived or
18 otherwise excused.

19 284. Like all contracts under the relevant governing law, which is the law of
20 the State of California, the contract between PLAINTIFF and PEUGEOT referenced
21 herein contained an implied covenant of good faith and fair dealing, imposing on
22 each party to the contract the duty to refrain from doing anything which would
23 render performance of the contract impossible, by an act of his or her or its own, and
24 also the duty to do everything that the contract presupposes that each party will do
25 to accomplish its purpose.

26 285. PEUGEOT breached the contract's implied covenant of good faith and
27 fair dealing in at least the following ways:

28 a. PEUGEOT manipulated the negotiation and signature process of long

1 form drafting and withheld its signature on all long form drafts in bad
2 faith, for the purpose of attempting to create a bad faith excuse not to
3 perform any obligation or condition.

- 4 b. PEUGEOT purported in bad faith to deny that it had given final
5 approval over design and badging of K's spinner.
- 6 c. PEUGEOT in bad faith attempted to make the allocation of the ten (10)
7 seconds of visibility a moving target that ALCON could never hit, for
8 the purpose of PEUGEOT holding on to a bad faith excuse for its own
9 non-performance.
- 10 d. PEUGEOT refused and failed to engage in good faith and
11 commercially reasonable review of the visibility footage, for the
12 purpose of PEUGEOT holding on to a bad faith excuse for its own non-
13 performance.
- 14 e. PEUGEOT purported to disapprove the placement even on issues
15 where the placement followed PEUGEOT-created and PEUGEOT-
16 approved design elements (*e.g.*, the spinner's triple-claw brake lights,
17 and the subtlety of a recessed PEUGEOT black letter word logo on the
18 driver's side dashboard).
- 19 f. PEUGEOT refused to conduct its reviews and approvals on a prompt
20 basis or at all.
- 21 g. PEUGEOT refused to conduct its reviews and approvals on a
22 commercially reasonable and good faith basis.
- 23 h. PEUGEOT denied in bad faith that it had ever made any co-promotion
24 commitment, and clearly communicated that it refused to finance and
25 co-promotion, even if the placement was fully satisfactory.
- 26 i. PEUGEOT refused to make its necessary interim performances to
27 prepare to execute the co-promotion, including failing and refusing to
28 present ALCON and CTMG with co-promotion plans.

- 1 j. PEUGEOT failed and refused to pay anything at all for the placement.
- 2 k. PEUGEOT did not run any co-promotion during the agreed co-
- 3 promotional period or ever.
- 4 l. PEUGEOT did not make media spend, including no ATL Spend and
- 5 no BTL Spend.
- 6 m. PEUGEOT failed to include a dedicated BR2049 presence on
- 7 PEUGEOT'S website (www.peugeot.fr).
- 8 n. PEUGEOT failed and refused to produce the TV spot.
- 9 o. PEUGEOT failed and refused to produce Below-The-Line spend
- 10 spots.
- 11 p. PEUGEOT failed and refused to issue a press release to the media
- 12 regarding the co-promotion.
- 13 q. PEUGEOT manipulated review and approval communications and
- 14 processes in bad faith, including in ways that caused ALCON and
- 15 CTMG to incur wasted expenses, including for at least one wasted trip
- 16 by the CTMG team to Paris, and the preparations for it.

17 286. PEUGEOT'S breaches damaged PLAINTIFF.

18 287. PEUGEOT is liable to PLAINTIFF in the amount of at least \$30.5
19 million, exclusive of prejudgment interest, attorneys' fees, costs or other amounts.

20 288. DOES 1 through 5 are named herein as entities which PEUGEOT may
21 contend are PEUGEOT-controlled or PEUGEOT-affiliated entities which should
22 be treated as the contracting party or parties with PLAINTIFF, either in addition to
23 or instead of PEUGEOT. To the extent DOES 1 through 5, or any of them, are a
24 contracting party or the contracting party, all of the foregoing allegations are made
25 as to said DOE defendant, and said DOE defendant is liable to PLAINTIFF for
26 breach of the implied covenant of good faith and fair dealing for the reasons and on
27 the ground set forth in this Second Claim for Relief.

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THIRD CLAIM FOR RELIEF

Promissory Estoppel against Automobiles Peugeot SA and Does 1 through 5

289. PLAINTIFF repeats, re-alleges and incorporates herein by reference each and every allegation set forth in all of the foregoing paragraphs, and each paragraph of this Complaint hereafter, as if set forth herein in full.

290. To the extent any of the allegations or theories in this Third Claim for Relief are inconsistent with other allegations or theories pled in this Complaint, they are pled in the alternative.

291. PEUGEOT made clear and unambiguous promises to PLAINTIFF as follows:

- a. Including by both the May 19, 2016 sweetened bid and the July 12, 2016 LOI, PEUGEOT promised at a minimum to negotiate in good faith with PLAINTIFF for a product placement and co-promotion agreement that would include a guaranteed media spend of at minimum \$20 million and that could be “up to \$40 million.”
- b. Subsequently, from August 2016 through and until at least January 18, 2017, PEUGEOT made the following promises:
- c. PLAINTIFF and PEUGEOT would work in close collaboration to integrate PEUGEOT badging and other trade dress into the design of K’s spinner.
- d. Once the K Spinner badging and feature designs were approved by PEUGEOT, they would be locked and PEUGEOT would not be able to change or disapprove them later (and the badging and feature designs were actually approved by PEUGEOT no later than January 24, 2017).
- e. The finished BR2049 film would include at least ten (10) seconds of footage in which PEUGEOT’S logo and badging would be clearly visible to the audience (although if ALCON for creative or other reasons did not include a PEUGEOT placement, then this was not

1 necessarily a breach by ALCON, but the parties were expected and
2 obligated to negotiate with each other in good faith about what to do in
3 such event).

- 4 f. The at least ten (10) seconds of footage was to be apportioned across
5 multiple sequences in the movie (with a clear record that PEUGEOT
6 had it explained to them that a sequence or scene could include more
7 than one camera shot – ALCON and CTMG expressly declined to be
8 bound by measuring timing by single shots, but rather would only agree
9 to “sequences” or “scenes”, meaning aggregations of related shots).
- 10 g. The at least ten (10) seconds of footage was to be apportioned across
11 two types of sequences: 1) badging on K’s spinner, and 2) at least one
12 sequence where the Peugeot logo would appear in the BR2049 world,
13 such as in an outdoor advertisement in the background.
- 14 h. Of the two types of sequences, the K spinner badging sequences were
15 more important to PEUGEOT, and the outdoor/wall ad sequences (or
16 “holographic advertisements”) were of secondary importance
17 (including meaning that of the ten (10) seconds, more of the time would
18 go to the K spinner badging sequences).
- 19 i. At least one mutually acceptable allocation of the ten (10) seconds was
20 about six (6) seconds of visibility footage in two spinner sequences and
21 about (4) seconds to at least one outdoor/wall ad sequence. It was also
22 clear that ALCON was widely flexible and ready, willing and able to
23 perform a different allocation, as long as PEUGEOT communicated its
24 desires clearly with enough time for ALCON to meet them without
25 undue prejudice. Indeed, ALCON was prepared to over-perform on the
26 visibility deliveries if it had to (and in fact, it did so).
- 27 j. The execution of the ten (10) seconds of placement footage was subject
28 to PEUGEOT’S commercially reasonable and good faith review and

1 approval, which was to be prompt, and within the creative and artistic
2 parameters of the film, which were understood not to be in
3 PEUGEOT'S purview. PEUGEOT'S review and approval was to be
4 conducted by PEUGEOT without unreasonable disruption of the film's
5 schedule, including picture lock, film delivery and release date, and
6 also early enough such that the co-promotion could be planned and
7 executed.

8 k. The Peugeot spinner badging would be associated with Ryan Gosling's
9 character, K.

10 l. Ryan Gosling's character, K, would not be associated with any rival
11 automobile brand.

12 m. The Peugeot brand would not be presented in a perjorative context.
13 PEUGEOT acknowledged that it had reviewed the BR2049 script and
14 knew, understood and agreed that the BR2049 involved one or more
15 crashes of K's spinner, and that these crashes were agreed as not
16 violative of any term of the parties' agreement.

17 n. upon review, PEUGEOT was not reasonably and in good faith
18 satisfied with a proposed execution of the footage placement, then
19 PEUGEOT was to engage with ALCON reasonably and in good faith
20 on changes or enhancements such that PEUGEOT would be able to
21 give its reasonable and good faith approval, also again within the
22 creative and artistic parameters of the film, and which was to be
23 conducted by PEUGEOT without unreasonable disruption of the film's
24 schedule, including picture lock, film delivery and release date.

25 o. PEUGEOT expressly acknowledged that it had been provided with the
26 opportunity to review the visual depictions of the placement items and
27 had approved them.

28 p. If ALCON delivered satisfactory placement footage, then PEUGEOT

1 was obligated to pay \$500,000 directly to ALCON as a product
2 placement fee, and was also obligated to work with ALCON to plan,
3 finance and execute a global co-promotion media campaign (which
4 could exclude the U.S.) to support the October 6, 2017 day-and-date
5 global theatrical release of the Picture, with PEUGEOT obligated to
6 deliver at least \$30 million of paid media.

- 7 q. If ALCON failed to deliver satisfactory placement footage even after
8 reasonable and good faith engagement between the parties to attempt to
9 cure reasonable and good faith placement dissatisfactions of
10 PEUGEOT, then the parties would negotiate in good faith about
11 alternative terms that would be fair and reasonable to both sides.
- 12 r. Of the \$500,000 placement fee, \$400,000 was allocated to the spinner
13 placements and \$100,000 to the outdoor/wall ad placement. The
14 parties further agreed and intended that the purpose of setting forth an
15 allocation was to provide a yardstick for potential reduction of the
16 placement fee if an element of the placements was not satisfactory after
17 good faith cooperative attempts to cure were exhausted.
- 18 s. The \$500,000 placement fee was earned by ALCON and owed by
19 PEUGEOT no later than upon ALCON'S written confirmation to
20 PEUGEOT that the placements would be in the final Picture – while
21 the placement fee could be paid by PEUGEOT after release of the
22 Picture, it was earned by ALCON and owed by PEUGEOT earlier, on
23 ALCON'S confirmation that ALCON intended to perform the
24 placement (which confirmation by ALCON was repeatedly given).
- 25 t. The agreed co-promotional period (the time during which the co-
26 promotion would actually be licensed to run) would be from
27 September 1, 2017 to November 30, 2017 (or sixty days after the
28 initial theatrical release date of the Picture, if ALCON had to change

- 1 the release date of the Picture for any reason).
- 2 u. The defined co-promotional territory was the entire world, excluding
- 3 the United States and Canada and their related territories (but it was
- 4 understood that PEUGEOT would nonetheless receive the branding
- 5 and goodwill benefits of the U.S. and Canada release of BR2049, as
- 6 the PEUGEOT placements would be and were in all versions of the
- 7 film in all territories).
- 8 v. The agreed \$30 million guaranteed minimum media spend was to be
- 9 divided \$27 million in Above-The-Line (“ATL”) Spend and \$3
- 10 million in Below-The-Line (“BTL”) Spend (with it understood and
- 11 agreed that the ATL and BTL definitions were the advertising industry
- 12 standard definitions of these terms – very generally, ATL Spend refers
- 13 to media that mass targets large audiences, like television and radio
- 14 and many forms of Internet media; BTL Spend refers to media that
- 15 more specifically targets a limited set of consumers, like flyers
- 16 distributed from a particular retail store, or most forms of event
- 17 marketing, like a fan convention or auto show).
- 18 w. ALCON had a review and approval right over the co-promotion’s
- 19 specific executions, on a case-by-case basis.
- 20 x. The co-promotion was to include a dedicated presence on
- 21 PEUGEOT’S website (www.peugeot.fr).
- 22 y. PEUGEOT was obligated to create, and the co-promotion was to
- 23 include, at least one thirty-second television spot, unless Gosling
- 24 refused to approve use of his likeness in the spot, in which case
- 25 PEUGEOT was relieved of the television spot obligation (but not of
- 26 the entire co-promotion). (Gosling agreed in principal to potential use
- 27 of his likeness in a television spot for PEUGEOT, and PEUGEOT
- 28 never sought Gosling’s review or approval of any proposed spot,

1 including because PEUGEOT never created one.)

2 z. PEUGEOT was to create and produce Below-The-Line spend spots.

3 aa. PEUGEOT was to create and issue a press release to the media

4 regarding the co-promotion.

5 292. PLAINTIFF completely or substantially performed all conditions,
6 covenants and promises required on its part to be performed in accordance with the
7 contract, except to the extent that such obligations have been excused or defendants
8 prevented PLAINTIFF from performing them and/or made them impossible, and all
9 conditions precedent to PEUGEOT'S obligations that PLAINTIFF seeks to enforce
10 herein have either been satisfied, excused or waived.

11 293. Within the last two years, PEUGEOT materially breached its promises
12 to PLAINTIFF in at least the following ways:

13 a. PEUGEOT did not negotiate in good faith with ALCON, including
14 intentionally misleading ALCON for almost a year that PEUGEOT was
15 committed to and able to perform a media spend of initially at least \$20
16 million, later moving up to an agreed \$30 million, when PEUGEOT
17 never intended to commit to any media spend at all, and was unable to
18 do so.

19 b. PEUGEOT manipulated the negotiation and signature process of long
20 form drafting and withheld its signature on all long form drafts in bad
21 faith, for the purpose of attempting to create a bad faith excuse not to
22 perform any obligation or condition.

23 c. PEUGEOT purported in bad faith to deny that it had given final
24 approval over design and badging of K's spinner.

25 d. PEUGEOT in bad faith attempted to make the allocation of the ten (10)
26 seconds of visibility a moving target that ALCON could never hit, for
27 the purpose of PEUGEOT holding on to a bad faith excuse for its own
28 non-performance.

- 1 e. PEUGEOT refused and failed to engage in good faith and
- 2 commercially reasonable review of the visibility footage, for the
- 3 purpose of PEUGEOT holding on to a bad faith excuse for its own
- 4 performance.
- 5 f. PEUGEOT purported to disapprove the placement even on issues
- 6 where the placement followed PEUGEOT-created and PEUGEOT-
- 7 approved design elements (*e.g.*, the spinner's triple-claw brake lights,
- 8 and the subtlety of a recessed PEUGEOT black letter word logo on the
- 9 driver's side dashboard).
- 10 g. PEUGEOT refused to conduct its reviews and approvals on a prompt
- 11 basis or at all.
- 12 h. PEUGEOT refused to conduct its reviews and approvals on a
- 13 commercially reasonable and good faith basis.
- 14 i. PEUGEOT denied in bad faith that it had ever made any co-promotion
- 15 commitment, and clearly communicated that it refused to finance any
- 16 co-promotion, even if the placement was fully satisfactory.
- 17 j. PEUGEOT refused to make its necessary interim performances to
- 18 prepare to execute the co-promotion, including failing and refusing to
- 19 present ALCON and CTMG with co-promotion plans.
- 20 k. PEUGEOT failed and refused to pay anything at all for the placement.
- 21 l. PEUGEOT did not run any co-promotion during the agreed co-
- 22 promotional period or ever.
- 23 m. PEUGEOT did not make any media spend, including no ATL Spend
- 24 and no BTL Spend.
- 25 n. PEUGEOT failed to include a dedicated BR2049 presence on
- 26 PEUGEOT'S website (www.peugeot.fr).
- 27 o. PEUGEOT failed and refused to produce the TV spot.
- 28 p. PEUGEOT failed and refused to produce Below-The-Line spend

1 spots.

2 q. PEUGEOT failed and refused to issue a press release to the media
3 regarding the co-promotion.

4 r. PEUGEOT manipulated review and approval communications and
5 processes in bad faith, including in ways that caused ALCON and
6 CTMG to incur wasted expenses, including for at least one wasted trip
7 by the CTMG team to Paris, and the preparations for it.

8 294. PLAINTIFF actually relied on PEUGEOT'S promises in changing its
9 position to its detriment, including by:

10 a. Foregoing other placement and co-promotion bids, including the
11 Automotive Brand Z bid, which was for at least a \$16-plus million
12 media spend.

13 b. Incurring substantial production expenditures to prepare to perform the
14 placement, including without limitation design changes to K's spinner,
15 and the value of at least one production day in bringing PEUGEOT
16 executives to Budapest, Hungary to move forward with negotiations
17 and to prepare to perform a placement and co-promotion deal.

18 c. Planning an entire marketing and promotion strategy to support the
19 October 6, 2017 day-and-date release of the Picture that relied and
20 depended on a PEUGEOT \$30 million or more media spend in a co-
21 promotion.

22 d. Creating marketing materials, including one sheets, that featured the
23 spinner with PEUGEOT badging and/or trade dress.

24 295. PLAINTIFF'S reliance on the all of the above promises from
25 PEUGEOT was reasonable and foreseeable, and indeed PEUGEOT made the
26 promises to PLAINTIFF for the intended purpose of causing PLAINTIFF to rely on
27 the promises substantially in the manner that PLAINTIFF did.

28

1 296. PLAINTIFF’S reliance on PEUGEOT’S promises caused PLAINTIFF
2 substantial detriment, including without limitation in the form of losing the value of
3 the \$16+ million bid from Automotive Brand Z, and in incurring all of the expenses
4 and lost opportunities set forth immediately above. Had PLAINTIFF not acted in
5 reliance on PEUGEOT’S promises, PLAINTIFF would have entered into a
6 placement and co-promotion deal with Automotive Brand Z or another bidder;
7 would not have incurred expenses to prepare to perform with PEUGEOT; and would
8 not have planned a global market and promotion strategy for release of the Picture
9 that depended on and relied on a \$30 million co-promotion media spend by
10 PEUGEOT. By relying on PEUGEOT’S promises, PLAINTIFF incurred these
11 costs and suffered these lost opportunities irrevocably.

12 297. If PLAINTIFF had known that PEUGEOT would not perform its
13 promises to PLAINTIFF, especially that PEUGEOT never intended to commit to a
14 guaranteed media spend co-promotion under any circumstances and was unable to
15 do so, PLAINTIFF would not have agreed even to negotiate with PEUGEOT at all,
16 would not have foregone the Automotive Brand Z \$16+ million bid or other bids,
17 and would not have taken any of the further steps that ALCON in fact took in
18 reliance on PEUGEOT’S promises.

19 298. Under these circumstances, injustice can only be avoided by
20 enforcement of PEUGEOT’S promises to PLAINTIFF.

21 299. As a result of PEUGEOT’S conduct, PEUGEOT is liable to
22 PLAINTIFF for general damages, special damages, prejudgment interest, costs of
23 suit, and such other relief as may be just.

24 **FOURTH CLAIM FOR RELIEF**

25 ***Breach of Duty to Negotiate in Good Faith***
26 ***against Automobiles Peugeot SA and Does 1 through 10***

27 300. PLAINTIFF repeats, re-alleges and incorporates herein by reference
28 each and every allegation set forth in all of the foregoing paragraphs, and each

1 paragraph of this Complaint hereafter, as if set forth herein in full.

2 301. To the extent any of the allegations or theories in this Fourth Claim for
3 Relief are inconsistent with other allegations or theories pled in this Complaint,
4 they are pled in the alternative.

5 302. By no later than July 12, 2016, PEUGEOT had engaged in
6 communications and conduct with ALCON such that PEUGEOT at a minimum was
7 under a duty to negotiate in good faith with ALCON to come to a binding agreement
8 (to the extent that they had not already done so or did not otherwise do so) pursuant
9 to which ALCON would provide PEUGEOT product placements in BR2049 and in
10 exchange for which PEUGEOT would pay at least on the order of \$500,000 to
11 ALCON directly and would also guarantee a co-promotional media campaign with a
12 minimum guaranteed paid media value of \$30 million.

13 303. PEUGEOT breached the above duty to negotiate in good faith with
14 ALCON, including as follows:

- 15 a. PEUGEOT never intended ever to commit any guaranteed media co-
16 promotion spend and indeed was unable to do so, and never revealed
17 that to ALCON until at earliest May 4, 2017, by which time ALCON
18 had drastically changed its position to its detriment.
- 19 b. PEUGEOT at all times harbored a secret intention to stall and frustrate
20 signature of a PEUGEOT executive on any form of contractual
21 obligation (other than confidentiality agreements), for the intentional
22 and bad faith purpose of controlling the BR2049 opportunity while
23 also claiming it had incurred no obligations itself.
- 24 c. Intentionally attempting in bad faith to build in and/or assert
25 satisfaction targets that it would be impossible for ALCON to hit, no
26 matter what ALCON did, for PEUGEOT'S intentional purpose of
27 attempting to maintain bad faith excuses not to perform.
- 28 d. Intentionally and falsely denying the existence and scope of authority

1 of its designated agents for negotiation.

2 e. Falsely and in bad faith leading ALCON and CTMG to believe that if
3 PEUGEOT'S CEO were provided an opportunity to review materials,
4 that PEUGEOT might perform at least some parts of the deal, when in
5 fact PEUGEOT (and MENDEZ specifically) had no intention of
6 allowing the CEO to interact directly with ALCON or CTMG, and the
7 CEO ploy was just a further stall.

8 304. As a result of PEUGEOT'S breach of duty, ALCON suffered
9 damages, including at a minimum the value of the \$16 million-plus deal for a
10 BR2049 product placement and co-promotion that was being offered to ALCON by
11 Automotive Brand Z, prior to PEUGEOT'S promises and representations that it
12 would negotiate in good faith with ALCON on the terms set forth above. ALCON
13 also lost the value of the costs and expenses it incurred in performing and preparing
14 to perform the actual and/or to-be-negotiated deal with PEUGEOT, including
15 modifications to K's spinner and the value of at least one lost production day on the
16 set. ALCON also lost at least about three months of time in or about the late
17 January to early May 2017 period by PEUGEOT in bad faith concealing the
18 differences from the represented situation to the actual situation from ALCON, to
19 ALCON'S prejudice and detriment. Had this time not been wasted, ALCON and
20 CTMG might have been able to use it better to plan a marketing and promotion
21 strategy for the Picture's release that was less dependent on a media spend from
22 PEUGEOT. ALCON and CTMG also lost the expenses incurred in CTMG'S
23 wasted June 1, 2017 trip to Paris for PEUGEOT'S bad-faith non-meeting with its
24 CEO.

25 305. PEUGEOT is thus liable to ALCON for general and/or special
26 damages in an amount to be proven at trial, but at least \$16-plus million.

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28 ///

1 **FIFTH CLAIM FOR RELIEF**

2 ***Fraud against Automobiles Peugeot SA,***
3 ***Isabel Salas Mendez and Does 1 through 10***

4 306. PLAINTIFF repeats, re-alleges and incorporates herein by reference
5 each and every allegation set forth in all of the foregoing paragraphs, and each
6 paragraph of this Complaint hereafter, as if set forth herein in full.

7 307. To the extent any of the allegations or theories in this Fifth Claim for
8 Relief are inconsistent with other allegations or theories pled in this Complaint,
9 they are pled in the alternative.

10 308. Within the last three years, PEUGEOT and MENDEZ made affirmative
11 misrepresentations to PLAINTIFF, and/or suppressed and concealed facts from
12 PLAINTIFF which they had a duty to disclose to PLAINTIFF under all the
13 circumstances, and/or made promises without any intention of performing them, at
14 least as follows.

15 309. PLAINTIFF is informed and believes and on that basis alleges that
16 MENDEZ caused PEUGEOT to make all of the following misrepresentations or
17 material omissions to ALCON or intended to be received by ALCON, either by
18 MENDEZ making them herself or by MENDEZ causing others to make them at her
19 direction:

- 20 a. MENDEZ and/or PEUGEOT caused BEN and Porter to communicate
21 the May 19, 2016 sweetened bid to ALCON, the purpose and intention
22 of which was to lead ALCON falsely to believe that if ALCON gave up
23 other bid opportunities and dealt only with PEUGEOT, that PEUGEOT
24 was ready, willing and able in good faith to offer and negotiate with
25 ALCON for a placement and co-promotion agreement on BR2049 that
26 would include PEUGEOT committing to a minimum \$20 million
27 media spend, and “up to \$40 million.” In fact, MENDEZ and/or
28 PEUGEOT knew that there was no such commitment by PEUGEOT

- 1 for any media spend and indeed never would be.
- 2 b. MENDEZ and/or PEUGEOT caused PUBLICIS (through Casablanca’s
3 Montron) to communicate the July 12, 2016 LOI to ALCON, the
4 purpose and intention of which was to lead ALCON falsely to believe
5 that if ALCON continued to move forward to negotiate a more binding
6 agreement with PEUGEOT, rather than deal with other bidders, that
7 PEUGEOT would negotiate in good faith with ALCON for a more
8 binding agreement that would include a promotional campaign with a
9 PEUGEOT-financed media spend of at least \$30 million. In fact,
10 MENDEZ and/or PEUGEOT knew that there was no such commitment
11 by PEUGEOT for any media spend and indeed never would be.
- 12 c. During and at around the time of the late July 2016 visit to the
13 Budapest production offices and set of BR2049, MENDEZ herself
14 and/or others on behalf of PEUGEOT made multiple statements and
15 engaged in conduct, the intended and actual effect of which was to
16 communicate to ALCON that if ALCON made design changes to the K
17 spinner to make it a Peugeot and otherwise took steps to effect Peugeot
18 product placement in the Picture, then PEUGEOT promised to commit
19 to, plan and finance a co-promotion with a minimum \$30 million media
20 spend (or at a bare minimum to continue to negotiate in good faith for a
21 binding agreement to such a commitment). In fact, MENDEZ and/or
22 PEUGEOT knew that there was no such commitment by PEUGEOT
23 for any media spend and indeed never would be.
- 24 d. From August 2016 and until May 4, 2017, MENDEZ and/or
25 PEUGEOT intentionally caused PEUGEOT or its representatives to
26 make the promises set forth in the First through Third Claims for
27 Relief, even though MENDEZ and/or PEUGEOT knew at the time of
28 making the promises that the promises were false and that MENDEZ

1 had no intention of allowing PEUGEOT to perform them and/or
2 PEUGEOT had no intention of performing them, at least as any
3 committed contractual obligation, but rather at most only intended to
4 perform them if they felt like it later – and PEUGEOT never intended
5 to perform the media spend and co-promotion promises at all, under
6 any circumstances.

7 e. On or about January 24, 2017, MENDEZ herself was at the Los
8 Angeles offices of ALCON for the purpose of participating in the
9 kickoff meeting for the co-promotion. During and around the time of
10 that meeting, by her statements and conduct, MENDEZ intentionally
11 and falsely communicated to ALCON that there was a binding
12 agreement between ALCON and PEUGEOT that included a co-
13 promotion media spend to be financed by PEUGEOT and potentially
14 executed by BETC (representatives for whom also attended the
15 meeting). MENDEZ further by her statements and conduct falsely
16 communicated that PEUGEOT was to that point satisfied with the
17 placement as presented by ALCON, and indeed MENDEZ expressly
18 approved the creative deck with Cai’s K spinner design modifications
19 as executed by production. MENDEZ further intentionally and falsely
20 omitted during all of her communication and conduct at this meeting
21 that in fact PEUGEOT had no budget of its own for any media spend
22 and MENDEZ had not taken any steps within the PEUGEOT
23 organization to prepare to fund a media spend, and that in fact there
24 would never be any such media spend by PEUGEOT, regardless of
25 satisfaction of the placement condition. At the January 24, 2017
26 meeting and surrounding it, MENDEZ also directly and falsely
27 communicated herself that she would cause BETC to send an updated
28 and/or more specific co-promotion plan to ALCON and CTMG, so the

1 co-promotion could continue to move forward. In fact, MENDEZ
2 never intended to cause BETC to send any such plans. The purpose of
3 these false statements and omissions by MENDEZ at this time was to
4 allow MENDEZ in bad faith to continue to keep control of the BR2049
5 opportunity both entirely for PEUGEOT versus any other auto partners,
6 and to keep control of it herself within the PEUGEOT corporate
7 organization, for her own expediencies. MENDEZ intended to do so
8 for as long as possible until she either chose to abandon the deal, or had
9 so much leverage due to time pressure to force ALCON to re-negotiate.

10 f. In or about May 2017, MENDEZ personally via email (and/or via
11 emails from her subordinates) made false statements and omissions to
12 CTMG executives to the effect that if CTMG put together placement
13 demonstration materials and traveled to PEUGEOT'S Paris offices to
14 show them, that MENDEZ would arrange and had arranged for
15 PEUGEOT'S CEO to view them. In fact, this was false, and MENDEZ
16 had never so arranged with the CEO, and/or the CEO was himself
17 aware of and a party to the false representations, causing the wasted trip
18 and the expenses of it.

19 310. The above misrepresentations, acts of suppression and concealment,
20 and/or false promises were material to PLAINTIFF, essential to the analysis
21 undertaken by PLAINTIFF, and PLAINTIFF would not have acted as it did had
22 PEUGEOT and MENDEZ not made the above statements or engaged in the acts of
23 suppression and concealment and/or false promises.

24 311. PEUGEOT and MENDEZ knew at the time that they made the
25 affirmative misrepresentations and false promises that they were false, and knew at
26 the time that they suppressed or concealed the material facts the effect such
27 suppression or concealment would have.

28 ///

1 312. PEUGEOT and MENDEZ made the affirmative representations, false
2 promises, and acts of suppression and concealment of material facts with the intent
3 and for the purpose of causing PLAINTIFF to change its position to its detriment.

4 313. PLAINTIFF actually and justifiably relied on the affirmative
5 misrepresentations, false promises and the facts as they stood given the suppression
6 and concealment of other material facts in changing its position to its detriment,
7 including at a minimum the lost value of the \$16 million-plus deal for a BR2049
8 product placement and co-promotion that was being offered to ALCON by
9 Automotive Brand Z, prior to PEUGEOT'S promises and representations that they
10 would negotiate in good faith with ALCON on the terms set forth above. ALCON
11 also lost the value of the costs and expenses it incurred in performing and preparing
12 to perform the actual and/or to-be-negotiated deal with PEUGEOT, including
13 modifications to K's spinner and the value of at least one lost production day on the
14 set. ALCON also lost at least about three months of time in or about the late
15 January to early May 2017 period by PEUGEOT in bad faith concealing the
16 differences in the represented situation from the actual situation from ALCON, to
17 ALCON'S prejudice and detriment. Had this time not been wasted, ALCON and
18 CTMG might have been able to use it better to plan a marketing and promotion
19 strategy for the Picture's release that was less dependent on a media spend from
20 PEUGEOT. ALCON and CTMG also lost the expenses incurred in CTMG'S
21 wasted June 1, 2017 trip to Paris for PEUGEOT'S bad-faith non-meeting with its
22 CEO.

23 314. PLAINTIFF'S reliance on the affirmative misrepresentations, false
24 promises and the facts as they stood given the suppression and concealment of other
25 material facts was a proximate cause of actual damage to PLAINTIFF.

26 315. PLAINTIFF actually relied on defendants' promises and
27 representations in changing its position to its detriment, including by giving up the
28 Automotive Brand Z \$16 million-plus bid and/or the opportunity to do business with

1 other automotive partners who were acting in good faith. ALCON also lost the
2 value of the costs and expenses it incurred in performing and preparing to perform
3 the actual and/or to-be-negotiated deal with PEUGEOT, including modifications to
4 K's spinner and the value of at least one lost production day on the set. ALCON
5 also lost at least about three months of time in or about the late January to early May
6 2017 period by both PEUGEOT and PUBLICIS in bad faith concealing the
7 differences between the represented situation and the actual situation from ALCON,
8 to ALCON'S prejudice and detriment. Had this time not been wasted, ALCON and
9 CTMG might have been able to use it better to plan a marketing and promotion
10 strategy for the Picture's release that was less dependent on a media spend from
11 PEUGEOT. ALCON and CTMG also lost the expenses incurred in CTMG'S
12 wasted June 1, 2017 trip to Paris for PEUGEOT'S bad-faith non-meeting with its
13 CEO.

14 316. PLAINTIFF'S reliance on the all of the above promises,
15 representations, and facts as they were understood in light of defendants' material
16 omissions was reasonable and foreseeable, and indeed defendants made the false
17 representations, false promises and material omissions for the intended purpose of
18 causing PLAINTIFF to rely on them substantially in the manner that PLAINTIFF
19 did.

20 317. Had PLAINTIFF not acted in reliance on defendants'
21 misrepresentations, false promises, and facts as they were understood in light of
22 defendants' material omissions, PLAINTIFF would not have incurred the detriments
23 above. By relying on defendants' misrepresentations, false promises, and facts as
24 they were understood in light of defendants' material omissions, PLAINTIFF
25 suffered those costs, expenses and lost opportunities irrevocably.

26 318. PEUGEOT and MENDEZ are thus liable to PLAINTIFF for general
27 damages and special damages, as well as costs and other relief, all in amounts to be
28 proven at trial, but not less than \$30.5 million.

1 319. Defendants, and each of them, did the things herein alleged
2 maliciously, knowingly, willfully and with the deliberate intention of injuring and
3 oppressing PLAINTIFF and with conscious and reckless disregard of
4 PLAINTIFF'S rights. Defendants' conduct was fraudulent, malicious and
5 oppressive and, by reason thereof, PLAINTIFF is entitled to exemplary and
6 punitive damages in an amount according to proof at trial.

7 **SIXTH CLAIM FOR RELIEF**

8 ***Reasonable Value of Services against***

9 ***Automobiles Peugeot, SA and Does 1 through 5***

10 320. PLAINTIFF repeats, re-alleges and incorporates herein by reference
11 each and every allegation set forth in all of the foregoing paragraphs, and each
12 paragraph of this Complaint hereafter, as if set forth herein in full.

13 321. To the extent any of the allegations or theories in this Sixth Claim for
14 Relief are inconsistent with other allegations or theories pled in this Complaint,
15 they are pled in the alternative.

16 322. PLAINTIFF provided valuable services to PEUGEOT at
17 PEUGEOT'S request and/or with PEUGEOT'S knowledge, and PEUGEOT
18 accepted or otherwise received the benefit of said services.

19 323. The value of the placement that PEUGEOT actually received in the
20 Picture, if valued solely as a placement, is at least \$10 million paid directly by
21 PEUGEOT to ALCON.

22 324. The value of the services provided by PLAINTIFF to PEUGEOT was
23 agreed between PLAINTIFF to PEUGEOT, and/or reasonably known and
24 determinable including by custom and practice in the industry, and PEUGEOT
25 knew and understood that the services were valuable, or should have known.

26 325. PEUGEOT knew and understood that PLAINTIFF expected
27 compensation for rendition of the services.

28 326. PLAINTIFF has demanded that PEUGEOT compensate PLAINTIFF

1 for the value of the services and PLAINTIFF has refused to pay PLAINTIFF
2 anything at all for them.

3 **SEVENTH CLAIM FOR RELIEF**

4 *Quantum Meruit against*

5 *Automobiles Peugeot, SA and Does 1 through 10*

6 327. PLAINTIFF repeats, re-alleges and incorporates herein by reference
7 each and every allegation set forth in all of the foregoing paragraphs, and each
8 paragraph of this Complaint hereafter, as if set forth herein in full.

9 328. To the extent any of the allegations or theories in this Seventh Claim
10 for Relief are inconsistent with other allegations or theories pled in this Complaint,
11 they are pled in the alternative.

12 329. PEUGEOT received a benefit provided by PLAINTIFF to
13 PLAINTIFF'S detriment. The value of the placement that PEUGEOT actually
14 received in the Picture, if valued solely as a placement, is at least \$10 million paid
15 directly by PEUGEOT to ALCON.

16 330. Under the facts and circumstances here, it would be unjust for
17 PEUGEOT to retain the benefit or its value, at PLAINTIFF'S expense.

18 331. PLAINTIFF is thus entitled to damages and/or restitution from
19 PEUGEOT.

20 **Prayer for Relief**

21 WHEREFORE, PLAINTIFF prays judgment be entered in its favor and
22 against Defendants, and each of them, as follows:

23
24 **On the First Claim for Relief for Breach of Contract:**

- 25 1. For general damages in an amount to be proved at trial, but at least
26 \$30.5 million.
- 27 2. For such other general damages as may be shown by proof at trial.
- 28 3. For special damages.

- 1 4. For prejudgment interest at the legal rate from at least October 6, 2017.
- 2 5. For PLAINTIFF'S costs of suit.
- 3 6. For such further relief as the Court deems just and proper.

4

5 On the Second Claim for Relief for Breach of Implied Covenant of Good
6 Faith and Fair Dealing:

- 7 7. For general damages in an amount to be proved at trial, but at least \$30
8 million.
- 9 8. For such other general damages as may be shown by proof at trial.
- 10 9. For special damages.
- 11 10. For prejudgment interest at the legal rate from at least October 6, 2017.
- 12 11. For PLAINTIFF'S costs of suit.
- 13 12. For such further relief as the Court deems just and proper.

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15 On the Third Claim for Relief for Promissory Estoppel:

- 16 13. For general damages according to proof at trial.
- 17 14. For prejudgment interest at the legal rate from at least October 6, 2017.
- 18 15. For PLAINTIFF'S costs of suit.
- 19 16. For such further relief as the Court deems just and proper.

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21 On the Fourth Claim for Relief for Breach of Duty to Negotiate in Good
22 Faith:

- 23 17. For general and/or special damages in an amount to be proved at trial,
24 but at least \$16 million.
- 25 18. For prejudgment interest at the legal rate from at least October 6, 2017.
- 26 19. For PLAINTIFF'S costs of suit.
- 27 20. For such further relief as the Court deems just and proper.

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On the Fifth Claim for Relief for Fraud:

- 21. For general damages according to proof at trial.
- 22. For punitive damages.
- 23. For prejudgment interest at the legal rate from at least October 6, 2017.
- 24. For PLAINTIFF’S costs of suit.
- 25. For such further relief as the Court deems just and proper.

On the Sixth Claim for Relief for Reasonable Value of Services:

- 26. For general damages according to proof at trial.
- 27. For prejudgment interest at the legal rate from at least October 6, 2017.
- 28. For PLAINTIFF’S costs of suit.
- 29. For such further relief as the Court deems just and proper.

On the Seventh Claim for Relief for Quantum Meruit:

- 30. For general damages and/or restitution damages according to proof at trial.
- 31. For prejudgment interest at the legal rate from at least October 6, 2017.
- 32. For PLAINTIFF’S costs of suit.
- 33. For such further relief as the Court deems just and proper.

DATED: January 10, 2019

ANDERSON YEH PC
Edward M. Anderson
Regina Yeh



Attorneys for Plaintiff
ALCON ENTERTAINMENT, LLC


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DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, on its claims against defendants
AUTOMOBILES PEUGEOT SA, ISABEL SALAS MENDEZ and DOES 1
through 10, Plaintiff ALCON ENTERTAINMENT, LLC hereby demands a trial by
jury of all matters triable to a jury.

DATED: January 10, 2019

ANDERSON YEH PC
Edward M. Anderson
Regina Yeh



Attorneys for Plaintiff
ALCON ENTERTAINMENT, LLC