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THE BEST OF THE TWENTIETH CENTURY, INC.

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE CENTRAL DISTRICT OF CALIFORNIA

THE BEST OF
THE TWENTIETH
CENTURY, INC.,

Plaintiff,

v.

FOX BROADCASTING COMPANY,
NEWS CORPORATION,
TV GUIDE FINANCIAL, INC.,
McWHORTER DRISCOLL, LTD.,
SUSAN McWHORTER,
MARK DRISCOLL,
and DOES 1 through 10,

Defendants.

CASE NO. _____

**PLAINTIFF'S COMPLAINT FOR
DAMAGES AND FOR INJUNCTIVE
RELIEF:**

1. BREACH OF IMPLIED-IN-FACT CONTRACT
2. BREACH OF ORAL CONTRACT
3. BREACH OF WRITTEN CONTRACT
4. PROMISSORY ESTOPPEL
5. BREACH OF WRITTEN CONTRACT
6. RESCISSION
7. FRAUD
8. FALSE DESIGNATIONS AND DESCRIPTIONS
9. BREACH OF CONFIDENCE
10. MISAPPROPRIATION OF TRADE SECRETS
11. COMMON-LAW UNFAIR COMPETITION
12. STATUTORY UNFAIR COMPETITION

13. BREACH OF FIDUCIARY DUTY AND TRUST
 14. INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE
 15. NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE
- [JURY TRIAL DEMANDED]**
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By way of this Complaint for Damages, plaintiff The Best of the Twentieth Century, Inc., complains against defendants, and each of them, and alleges for causes of action:

JURISDICTION AND VENUE

1. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1332, in that this action is between citizens of different States and the matter in controversy exceeds the sum or value of seventy-five thousand dollars, exclusive of interest and costs.
2. This Court has original jurisdiction over the subject matter of this action pursuant to 15 U.S.C. §1121 and 28 U.S.C. §1338(a) in that this case arises under the Trademark Laws of the United States, 15 U.S.C. §§1051, et seq.
3. This Court has jurisdiction over the subject matter of this action pursuant to the Court's supplemental jurisdiction under 28 U.S.C. §1367.
4. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b)and(c) and 28 U.S.C. §1400(a).

THE PARTIES

5. Plaintiff The Best of the Twentieth Century, Inc. (hereafter, "Best20") is a corporation existing under the laws of the State of Maryland with its principal place of business located within the State of Maryland.
6. Plaintiff Best20 is informed and believes, and thereon alleges, that defendant Fox Broadcasting Company (hereafter, "Fox Broadcasting") is, and at all relevant times was, a corporation existing under the laws of the State of Delaware with its principal place of business located within the State of California and which is regularly doing business within the State of California.
7. Plaintiff Best20 is informed and believes, and thereon alleges, that defendant News Corporation (hereafter, "NewsCorp") is, and at all relevant times was, a corporation existing under the laws of the State of Delaware with its principal place of business located within the State of New York and which is regularly doing business within the State of California.
8. Plaintiff Best20 is informed and believes, and thereon alleges, that defendant TV Guide Financial, Inc. (hereafter, "TV Guide") is, and at all relevant times was, a corporation existing under the laws of the State of Delaware with its principal place of business located within the State of New York and which is regularly doing business within the State of California.
9. Plaintiff Best20 is informed and believes, and thereon alleges, that defendant McWhorter Driscoll, Ltd., (hereafter, "McWhorter-Driscoll") is, and at all relevant times was, a corporation existing under the laws of the State of Georgia with its principal place of business located within the State of Georgia and which is regularly doing business within the State of California.
10. Plaintiff Best20 is informed and believes, and thereon alleges, that defendant Susan McWhorter (hereafter, "McWhorter") is, and at all relevant times was, an individual who resides within the State of Georgia.
11. Plaintiff Best20 is informed and believes, and thereon alleges, that defendant Mark Driscoll (hereafter "Driscoll") is, and at all relevant times was, an individual who resides within the State of Georgia and/or within the State of Connecticut.
12. Plaintiff Best20 is unaware and ignorant of the true names and capacities of the defendants sued in this Complaint as DOES 1 through 10, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff Best20 will amend this complaint to allege their true names and capacities when ascertained. Plaintiff Best20 is informed and believes, and thereon alleges, that each of the fictitiously-named defendants is legally responsible in some manner for the occurrences alleged in this Complaint and that plaintiff Best20's damages and losses were proximately and legally caused or contributed to by said defendants.
13. Plaintiff Best20 is informed and believes, and thereon alleges, that at all times relevant hereto, each of the defendants was the agent, employee, partner, co-conspirator, third-party contractor, and/or joint venturer with each of the remaining defendants and that the defendants, and each of them, were acting in concert with each other and within the course, scope and authority of such agency, employment, partnership, civil conspiracy and/or joint venture as to the acts and occurrences alleged in this Complaint. The acts of the defendants, and each of them, as

herein set forth were further knowingly or impliedly ratified, adopted and consented to by each and every other defendant.

14. Plaintiff Best20 is informed and believes, and thereon alleges, that defendants DOES 1 through 10, and each of them, are the owners or de facto owners of shares of stock and the de facto controlling interests in some or all of the other defendants named herein and that there exists, and at all times herein mentioned there existed, a unity of interest and ownership and a common unlawful or inequitable purpose between said fictitiously-named defendants and some or all of the other defendants named herein such that any individuality, distinction and/or separateness between said fictitiously-named defendants and other defendants named herein have legally ceased and that said fictitiously-named defendants have operated, individually and collectively, as the alter egos of some or all of the other defendants named herein.

**INTRODUCTORY PARAGRAPHS:
THE BEST OF THE TWENTIETH CENTURY, INC.,
AND ITS MILLENNIUM PROJECT**

15. Plaintiff Best20 is a marketing organization which has developed and trademarked "The Best of the Twentieth Century, The Official National Survey®," a world-wide synergistic program of polling, advertising, merchandising, brand impression and event promotion surrounding the turn-of-the-century (hereafter the "Millennium Project"). The basic premise revolved around grassroots consumer-balloting in over 200 categories to determine "The Best of the Twentieth Century." Sponsors of the balloting and their brands were to be shown across all media with elaborate tie-ins and merchandising. Television, the Internet, and all other forms of media, retail, and live venue were all to be used to promote sponsors' brands and to create consumer awareness for the sponsors and The Best of the Twentieth Century, The Official National Survey®. The final result was to be the completed tally of "The Best of the Twentieth Century" which was to be made available to consumers in a variety of forms, including a televised awards show, television interstitials, books, CD's, and other merchandise.

16. As part of its Millennium Project, plaintiff Best20, for its own benefit and on behalf of defendants, entered into exclusive licenses with persons and entities on a geographic basis, by which the licensees were granted the exclusive rights to market the Millennium Project in the specified territories. As defendant Fox Broadcasting stated in its press release, issued nationally on or about December 4, 1997, "The breadth of the [Millennium] [P]roject represents the largest and most encompassing utilization of the various News Corporation distribution vehicles to date." (Press Release, page 2.) A true and correct copy of this press release (hereafter the "December 1997 Press Release") is attached as Exhibit A and incorporated in this Complaint by this reference. As Mark Stroman, defendant Fox Broadcasting's Senior Vice President (National Promotions) (hereafter, "Senior Vice President Mark Stroman") was quoted in the same press release: "This represents an extraordinary opportunity for FOX not only to build an audience over the next two years but also to keep them continually involved and interested in The Best of the 20th Century across several interactive, participatory and experiential programs and activities." (December 1997 Press Release, Exhibit A, page 2.)

**COUNT ONE
FIRST CAUSE OF ACTION BY PLAINTIFF BEST20 FOR BREACH OF IMPLIED-IN-FACT CONTRACT
AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10**

17. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 16, inclusive, as though set forth in full.

18. In or about May of 1996, plaintiff Best20, through its officers and directors, met with defendant Fox Broadcasting's Senior Vice President Mark Stroman to solicit an agreement between plaintiff Best20 and defendant Fox Broadcasting with respect to a far-reaching national and international marketing/promotional campaign highlighting the upcoming Millennium and creating a nation-wide and world-wide Millennium survey designed to allow the general public to vote on the "Best of the 20th Century" in a long list of preselected and predesigned areas (i.e., the Millennium Project).

19. At the meeting between plaintiff Best20 and Senior Vice President Mark Stroman of defendant Fox Broadcasting in or about May of 1996, Senior Vice President Mark Stroman enthusiastically endorsed the proposed joint project and began providing input as to ways to refine the proposal. Between approximately May of 1996 and September of 1996, plaintiff Best20, through its officers and directors, engaged in a number of negotiations with defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10, and their authorized representatives, including, but not limited to, Senior Vice President Mark Stroman, Executive Vice President (Sales) Jean Rossi, and Fox Broadcasting Executive Neil Mulcahy, during which defendants Fox Broadcasting and NewsCorp expressed their committal to airing "Best of the 20th Century" vignettes on all Fox/NewsCorp broadcast activities, including pay, cable, satellite, and free T.V. worldwide; recommended that plaintiff Best20 use Bart Simpson (a character from defendant Fox Broadcasting's Family Channel and syndicated shows) and Terry Bradshaw (from defendant Fox Broadcasting's Fox Sports Channel) as spokespersons in their respective media; and provided an agreement from defendant TV Guide (an affiliate of defendant Fox Broadcasting and a division of defendant NewsCorp) to support plaintiff Best20's

project and proposal by providing dead space for the promotion of plaintiff Best20's 900-number which was to be used for balloting purposes. As defendant Fox Broadcasting's Senior Vice President Mark Stroman stated in an e-mail message which was dated July 18, 1996, and sent to various addressees within defendants Fox Broadcasting and/or NewsCorp, "This is a monumental property that is sweeping through the News Corp divisions like wild fire." He was speaking of plaintiff Best20's Millennium Project.

20. Based largely upon the enthusiasm, support, promises, and representations of defendants Fox Broadcasting and NewsCorp, plaintiff Best20 continued throughout the second half of 1996 and throughout all of 1997 to refine and market its Millennium Project with the collaboration of defendants Fox Broadcasting and NewsCorp. In or about October of 1996, plaintiff Best20 provided defendants Fox Broadcasting and NewsCorp with a detailed copy of plaintiff Best20's time line and confirmed that, pursuant to the instructions of defendants Fox Broadcasting and NewsCorp, plaintiff Best20 had instructed its marketing partners and associates to keep its Millennium Project unencumbered so as to satisfy the needs and prerequisites of defendants Fox Broadcasting and NewsCorp.

21. On or about October 17, 1996, plaintiff Best20 notified defendant Fox Broadcasting in writing that it strongly believed that an agreement with defendant Fox Broadcasting (and other affiliated divisions of defendant NewsCorp) would result in a strong and successful team which could maximize the economic potential of the Millennium Project. Following and despite receipt of this written request for a letter of intent, defendants Fox Broadcasting and NewsCorp continued to meet with and negotiate with plaintiff Best20 and third parties in developing and promoting the Millennium Project.

22. On or about February 17, 1997, plaintiff Best20 notified defendant Fox Broadcasting in writing that it desired an opportunity to meet with defendant Fox Broadcasting to better define their relationship and desired some kind of written proposal defining such relationship. Following and despite receipt of this written request, defendants Fox Broadcasting and NewsCorp continued to meet with and negotiate with plaintiff Best20 in developing and promoting the Millennium Project.

23. On or about May 2, 1997, Senior Vice President Mark Stroman, acting on behalf of defendant Fox Broadcasting, wrote to plaintiff Best20 indicating that there were "several issues still outstanding," but outlining a "general idea" of how the Millennium Project "can work domestically for [defendant] Fox [Broadcasting]" and its "advertiser partners." After outlining the general ideas and proposals making up the proposed plaintiff Best20/defendant Fox Broadcasting partnership and/or joint venture, defendant Fox Broadcasting's letter concluded that it saw the start of the project to be January 1, 1998, and that "this could be a very lucrative plan if the aforementioned formula works out." The same letter concluded that defendant Fox Broadcasting would be committed to "sell the time;" produce vignettes for television; air one or more television special(s); and help oversee marketing and promotional efforts. In exchange, according to this same letter, plaintiff Best20 would be committed to: managing promotion and marketing for the following two years ("with [defendant] FOX [Broadcasting]"); maintaining a database collection of consumer votes; managing all aspects of the advertiser support promotions; insuring all advertising partners receive and extract all benefits from their participation within the two-year effort; managing 900-number telephone services with News America New Media (an affiliate of defendant Fox Broadcasting); developing all merchandising opportunities; and exploring and delivering outside revenue opportunities such as "international."

24. Based upon the written and oral representations of defendants Fox Broadcasting and NewsCorp that they were enthusiastically committed to become an integral part of plaintiff Best20's Millennium Project, plaintiff Best20 and defendants Fox Broadcasting and NewsCorp continued to work together to further define and fine-tune the many components of the Millennium Project. Among other activities, plaintiff Best20 provided defendant Fox Broadcasting with proposed vignettes of different lengths of time for anticipated televising on defendant Fox Broadcasting's numerous television services, of which defendant Fox Broadcasting chose the 30-second vignettes.

25. On or about July 2, 1997, Rich Vokulich, defendant Fox Broadcasting's Senior Vice President (Business Affairs) (hereafter, "Senior Vice President Rich Vokulich"), confirmed in a letter addressed to plaintiff Best20 that defendant Fox Broadcasting "is currently working on a proposal for Best 20 Group to become involved with the turn of the millennium project" that plaintiff Best20 had been discussing with defendants Fox Broadcasting's and NewsCorp's various officers and agents. Senior Vice President Rich Vokulich further stated in the same letter that he "hoped" to have a written proposal to plaintiff Best20 within two weeks of the date of the letter (July 2, 1997), but that, "due to the unique nature of this project and the number of FOX executives that are involved, I hope that you will continue to remain patient as we attempt to solidify our proposal."

26. On or about August 7, 1997, plaintiff Best20 wrote to defendant Fox Broadcasting's Senior Vice President Mark Stroman and advised defendant Fox Broadcasting that plaintiff Best20 "is ready to move this agreement forward now." Plaintiff Best20 mentioned defendant Fox Broadcasting's "verbal assurances that the deal is done." Defendant Fox Broadcasting's pre-August 7, 1997 representation that "the deal is done" has never been repudiated or denied by defendants Fox Broadcasting or NewsCorp or any of their respective officers, agents, representatives, or employees. The August 7, 1997, letter further stated that, despite defendant Fox Broadcasting's verbal assurances that the "deal is done," plaintiff Best20 had not yet received a formal written proposal. The same letter outlined the steps and

actions undertaken by plaintiff Best20 in developing and furthering the Millennium Project and outlined the options available to plaintiff Best20. One of the options outlined was to "Complete deal with Fox," and plaintiff Best20 expressed in emphatic terms that "completing the deal with [defendant] Fox [Broadcasting] is our best option."

27. On or about August 15, 1997, Senior Vice President Rich Vokulich provided plaintiff Best20 with defendant Fox Broadcasting's "basic proposal" "in connection with" plaintiff Best20's "Best of the 20th Century" project. The written proposal provided that defendant Fox Broadcasting would finance, produce, and televise a two-hour special during the fourth quarter of 1999 to feature the results of "The Best of the 20th Century" balloting; would have an exclusive option exercisable on or before July 1, 1998, to finance, produce, and televise a minimum of 13 interstitials during the third and/or fourth quarters of 1999; and would grant plaintiff Best20 the right to use defendant Fox Broadcasting's name and logos in connection with its balloting, advertising and promotion of the events sponsored and/or licensed by plaintiff Best20. The written proposal further provided that plaintiff Best20 would grant defendant Fox Broadcasting (and its related and affiliated entities and stations) exclusivity; would enter into firm written agreements with no less than seven nationally recognized sponsors prior to June 1, 1998, each of which would be required to commit to spend at least \$5,000,000 (as a "Sponsor Buy-in" fee) in connection with the Millennium Project; and would provide all entities and stations affiliated with, owned by, or operated by defendants Fox Broadcasting and NewsCorp "first negotiation/last refusal rights to become involved in the project," the details of which were "to be negotiated in good faith." The written proposal further provided that each nationally known sponsor's \$5,000,000 "Sponsor Buy-in" fee would be allocated so that 10% would be paid to plaintiff Best20 for overhead. The written proposal further implicitly confirmed that plaintiff Best20 would be entitled to additional revenues associated with the Millennium Project from the use of a 900 Telephone Number, from merchandising, and from other undefined sources of revenue (less certain percentages to be paid to defendant Fox Broadcasting).

28. Subsequent to the presentation of defendant Fox Broadcasting's written proposal, plaintiff Best20 and defendants Fox Broadcasting and NewsCorp continued to engage in meetings and negotiations to further the details of the joint project. In September, October, and November of 1997, defendants Fox Broadcasting and NewsCorp actively engaged in the drafting, approval, and issuance of the December 1997 Press Release, a press release issued to announce to the general public the agreement between plaintiff Best20 and defendant Fox Broadcasting. [See, Exhibit A.] The December 1997 Press Release, issued on or about December 4, 1997, began: "FOX Broadcasting Co. and The Best 20 Group today announced an unprecedented entertainment and marketing partnership The Best of the 20th Century, The Official National Survey® to identify through popular vote the best athletes, entertainers and leaders of the past 100 years." (December 1997 Press Release, Exhibit A, page 1.) Said national public press release in effect confirmed defendant Fox Broadcasting's subjective belief that an agreement had been reached and accordingly plaintiff Best20 assumed that such was the case.

29. The December 1997 Press Release, drafted and issued by defendants Fox Broadcasting and NewsCorp in November and December of 1997, resulted in a front-page article appearing in the December 1, 1997, issue of the leading national marketing trade magazine "BRANDWEEK." A true and correct copy of this article (hereafter, the "BRANDWEEK News Article") is attached as Exhibit B and incorporated in this Complaint this reference. It was defendant Fox Broadcasting's marketing strategy, as expressed by its Senior Vice President Mark Stroman, to have an article featured in "BRANDWEEK." Defendant Fox Broadcasting's Senior Vice President Mark Stroman played an instrumental role in ensuring the first-page placement of the BRANDWEEK News Article. The article, based on defendants Fox Broadcasting's and NewsCorp's December 1997 Press Release (i.e., Exhibit A), stated that "The youth-skewed "Best of" poll will anchor nearly two years' worth of marketing activity by almost every unit of the News Corp. conglomerate and its advertisers." (BRANDWEEK News Article, Exhibit B.) It further stated that "Fox has hammered out licenses with 50 of the country's largest cities--including Atlanta, Chicago, New York, L.A., and Washington--for "best of" events in their areas and plans call for similar links in Latin America, Asia and Europe." (Id.) The article continued, "Beginning in spring 1998, Fox will begin airing vignettes directing viewers to call a 900 number to vote on their choices in more than 100 categories, including music, film, political leaders, events, sports and fads. Celebrities, many of them Fox network stars, likely will host the 30-second interstitial segments; Fox plans to produce more than 300 of them, a la "Bicentennial Moments."" (Id.) The article concluded that plaintiff Best20 had "trademarked the "Best of" idea and brought it to Fox as a marketing opportunity." (Id.)

30. The BRANDWEEK News Article (Exhibit B), essentially placed by defendants Fox Broadcasting and NewsCorp and based upon said defendants' December 1997 Press Release (Exhibit A), had the effect of preventing and precluding plaintiff Best20 from marketing, exploiting, developing, or otherwise selling the Millennium Project with any other television network, third party, or interested person. Plaintiff Best20 is informed and believes, and thereon alleges, that said consequence was the specific effect intended by defendants Fox Broadcasting and NewsCorp.

31. As further evidence that defendants Fox Broadcasting and NewsCorp believed that a contractual relationship, a partnership, and a joint venture had, in fact, been created with plaintiff Best20 with respect to the Millennium Project, defendants Fox Broadcasting and NewsCorp, in furtherance of such agreements and contractual relationships, scheduled and conducted formal sales meetings with prospective major national advertisers, including but not limited to: Chrysler, Ford, General Motors, Toyota, Nissan, Volkswagen, Anheuser-Busch, Miller, Pepsi,

Dr. Pepper, Coca-Cola, Coors Beer, Mars, Wendy's, Nabisco, Mercedes/Clarion, Levi's, Nike, Reebok, Adidas, American Home Products, IBM, VISA, Subway, Kentucky Fried Chicken, Burger King, McDonald's, Taco Bell, Pizza Hut, Sears, Wal-Mart, Target Stores, American Express, MasterCard, Nestle, Microsoft, and Gateway2000.

32. As further evidence that defendants Fox Broadcasting and NewsCorp believed that a contractual relationship, a partnership, and a joint venture had, in fact, been created with plaintiff Best20 with respect to the Millennium Project, defendants Fox Broadcasting and NewsCorp, in furtherance of such agreements and contractual relationships, sold, distributed, marketed, licensed, and exploited plaintiff Best20's registered trademark ("The Best of the 20th Century, The Official National Survey®") between November of 1997 and approximately February of 1998, all without plaintiff Best20's express permission or authorization, and without advance notice to plaintiff Best20. Such conduct and actions by defendants also effectively prevented plaintiff Best20 from attempting to license, market, or exploit its registered trademark with any other third parties as it had become formally and universally associated with defendant Fox Broadcasting as part of the implied-in-fact contract between the parties.

33. As further evidence that defendants Fox Broadcasting and NewsCorp believed that a contractual relationship, a partnership, and a joint venture had, in fact, been created with plaintiff Best20 with respect to the Millennium Project, defendants Fox Broadcasting and NewsCorp, in furtherance of such agreements and contractual relationships, began soliciting materials and services from third parties prior to March 1, 1998, which materials and services were being sought by defendants in support of the Millennium Project.

34. On or about November 12, 1997, Senior Vice President Rich Vokulich presented plaintiff Best20 with a revised proposal, which modified the proposal originally presented August 15, 1997. While some of the basic terms were modified, the November 12, 1997 revised proposal was essentially identical to the proposal presented August 15, 1997 in that it proposed an exclusive joint agreement between plaintiff Best20 and defendant Fox Broadcasting to develop, promote and produce the Millennium Project. A true and correct copy of the November 12, 1997, revised proposal (hereafter the "November 1997 Proposal") is attached as Exhibit C and incorporated in this Complaint by this reference.

35. On or about November 27, 1997, plaintiff Best20 wrote to defendant Fox Broadcasting's Senior Vice President Rich Vokulich and stated, "Upon receipt of the 12 November 1997 Revision of the proposal, The Best 20 Group agrees in principle to the proposed arrangement with a number of slight revisions" A true and correct copy of this written acceptance of defendants' November 1997 Proposal is attached as Exhibit D and incorporated in this Complaint by this reference.

36. Subsequent to plaintiff Best20's November 27, 1997, acceptance of defendants' November 1997 Proposal, plaintiff Best20 and defendants Fox Broadcasting and NewsCorp created several further revisions of the November 1997 Proposal, in which various terms were changed or amended; however, the proposal, as it passed back and forth between the parties in November, 1997, December, 1997, and January, 1998, never changed its basic structure: that of an exclusive joint agreement between plaintiff Best20 and defendant Fox Broadcasting to develop, promote and produce the Millennium Project.

37. As a result of the December 1997 Press Release (Exhibit A), various news articles appeared in the general press. These news articles were forwarded by plaintiff Best20 to defendant Fox Broadcasting after their publication and at no time did defendant Fox Broadcasting, or any other defendant, or any of the defendants' officers, directors, agents, or employees, ever notify plaintiff Best20, the newspapers involved, the reporters involved, or any other person, that the information, representations, statements of fact, and allegations made in such news articles were faulty, incorrect, incomplete, taken out of context, inappropriate, or misleading. Such news articles included:

a. The Sun of Baltimore, Maryland, ran an article on December 12, 1997, entitled, "Westminster man seeks century's best." Such article stated, among other things:

1. "Higgs [i.e., plaintiff Best20's chief executive officer at the time, Benjamin Higgs] is providing the idea and the research to make it happen. In return, he gets half of all profit from everything except the television vignettes and prime-time special that Fox will produce."
2. "The success of the venture rests on the credibility of the [Best of the 20th Century] survey, said Jim Osterman, editor of the Southeast edition of Adweek magazine. Corporations won't sign on if they think the survey will collapse. The Fox backing, however, makes the survey immediately viable, he said."
3. "Fox started making presentations to potential sponsors in New York Wednesday. Contracts should be signed by January, Higgs said."
4. "The success of year-end, "best of" specials indicates that this survey will be popular with consumers, said David Blum, vice president for strategic planning at the Baltimore advertising agency Eisner & Associates. He expected there will be numerous efforts to capitalize on the new millennium, but by starting this so early, Fox is taking a leadership position and ensuring credibility." [Italics added.]

b. The Baltimore Business Journal of Baltimore, Maryland, ran an article on December 12-18, 1997, entitled, "Fox buying into idea of the century." Such article stated, among other things:

1. "A tiny Westminster [Maryland] marketing company has signed a deal with Fox Broadcasting which could generate millions of dollars in sponsorship money before the year 2000. . . ."
2. "Benjamin Higgs, the owner of Westminster-based Best 20 Group, has partnered with Fox to launch Best 20's plan for a national survey in which Americans will be polled on the most entertaining things from the past 100 years. . . ."
3. "Voting is expected to begin in spring 1998 and will carry through until November 1999. The results will be aired on a two-hour prime time special on Fox at the end of 1999."
4. "Higgs, 47, is still shocked that a mega-media company like Rupert Murdoch's News Corp., owner of the Fox Broadcasting Co., was interested in his quirky idea."
5. "'If you're going to have a partner, [NewsCorp] is a hell of a partner to have,' said Higgs."
6. "Yet a partner such as Fox was exactly what Higgs needed to get the idea off the ground."
7. "The payoff came just before Thanksgiving, when Fox signed the partnership with the Best 20 Group. . . ." [Emphasis added.]

As the foregoing news articles, among others, made statements of fact and representations which have never been repudiated or denied by defendants, and which were based largely upon defendant Fox Broadcasting's December 1997 Press Release and other representations to the public, such news articles (and the statements contained therein) constitute adoptive and authorized admissions by defendants with respect to its involvement with the Millennium Project and its status as a contracting partner and/or joint venturer with plaintiff Best20.

38. Based upon all of the foregoing representations of, and the dealings with, defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10, the circumstances surrounding defendants Fox Broadcasting's and NewsCorp's agreements to become intricately involved in the Millennium Project proposed and developed by plaintiff Best20, and the representations from defendants Fox Broadcasting and NewsCorp (both implicit and explicit), it was evident to both plaintiff Best20 on the one hand, and to defendants Fox Broadcasting and NewsCorp on the other hand, and understood and agreed by all such parties, that defendant Fox Broadcasting was the exclusive producer of the Millennium Project and that plaintiff Best20 would not attempt to market its project elsewhere or to encumber it such that it would become impossible for defendant Fox Broadcasting and all of its affiliated entities to exploit all exclusive rights in such project. All of the aforementioned conduct, representations, agreements, promises, and statements resulted in the creation of an implied-in-fact contract as between plaintiff Best20 on the one part and defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 on the other part.

39. Defendants Fox Broadcasting and NewsCorp fully understood the conditions under which plaintiff Best20 provided ideas, information, marketing, skills, and other services and fully accepted such goods and services, on an exclusive basis to the exclusion of all others, with a full understanding of such conditions.

40. In or about May of 1998, defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 breached the implied-in-fact contract and agreement existing between themselves and plaintiff Best20 by communicating to plaintiff Best20, and its attorneys, that defendant Fox Broadcasting had decided not to continue its involvement in the Millennium Project and by refusing to compensate plaintiff Best20 for any of the goods and services it had provided pursuant to such implied-in-fact contract and agreement. Since May of 1998, and continuing to this date, defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 have refused and failed to continue their involvement in the Millennium Project, despite requests to do so communicated by both plaintiff Best20 and its attorneys.

41. Plaintiff Best20 has performed all conditions and covenants to be performed by it under the implied-in-fact contract with defendants Fox Broadcasting, NewsCorp and DOES 1 through 10.

42. All conditions with respect to the performance of defendants, and each of them, including any performance obligations of plaintiff Best20, have been satisfied, save those which have been waived or which are otherwise excused or discharged.

43. As a result of the aforesaid breach of contract by defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10, plaintiff Best20 has suffered irreparable damages and economic losses, and will continue to suffer such irreparable damages and economic losses in the future. Such damages and economic losses include, but are not limited to: (1) the economic value of the Millennium Project to plaintiff Best20 had defendants not breached their implied-in-fact contract with plaintiff Best20; (2) the amount of compensation, revenue, profits, income, and commissions which plaintiff Best20 had reasonably anticipated receiving and earning (and which plaintiff Best20 was reasonably likely to have received and earned) had the Millennium Project continued with the involvement of defendant Fox Broadcasting; (3) the reasonable value of the goods, ideas, intellectual property, marketing plans, strategies, and services which plaintiff Best20 provided to defendants Fox Broadcasting, NewsCorp and DOES 1 through 10; (4) the amount of the expenses which plaintiff Best20 incurred in reasonable reliance upon defendants' implied-in-fact contract and agreement with plaintiff Best20 relative to the Millennium Project; and (5) the economic value of the Millennium Project to plaintiff Best20 had plaintiff Best20 been able to sell and market its Millennium Project to entities other than defendants. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of

interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

COUNT TWO
SECOND CAUSE OF ACTION BY PLAINTIFF BEST 20 FOR BREACH OF ORAL CONTRACT
AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10

44. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 43, inclusive, as though set forth in full, except for those allegations which are inconsistent with a cause of action for breach of oral contract.

45. During the extensive discussions and negotiations between plaintiff Best20 and defendants concerning the Millennium Project, including (but not limited to) those discussions and negotiations set forth in the foregoing paragraphs, plaintiff Best20 entered into an oral agreement and contract with defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 whereby plaintiff Best20 would provide a variety of goods and services, as outlined in the foregoing paragraphs to, on behalf of, and for the benefit of defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10. By the terms of this oral contract and agreement, plaintiff Best20 was to provide defendants Fox Broadcasting and NewsCorp with the exclusive use of its registered trademarks, with marketing ideas, strategies, and support, and with the structure by which the Millennium Project could succeed as envisioned by the parties to such oral contract. In consideration of plaintiff Best20's goods and services, defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10, and each of them, agreed that they would jointly develop, promote, and exploit the Millennium Project together with plaintiff Best20, on a joint exclusive arrangement whereby plaintiff Best20 would not market, sell, or otherwise encumber its trademarks, its goods, its services, or its involvement in the Millennium Project, all to the benefit, and for the benefit, of defendants Fox Broadcasting, NewsCorp and DOES 1 through 10, and that said defendants would compensate plaintiff Best20 therefor.

46. In or about May of 1998, defendants Fox Broadcasting, News Corp., and DOES 1 through 10 breached the oral contract and agreement existing between themselves and plaintiff Best20 by communicating to plaintiff Best20, and its attorneys, that they had decided not to continue their involvement in the Millennium Project and by refusing to compensate plaintiff Best20 for any of the goods and services plaintiff Best20 had provided to-date pursuant to such oral contract and agreement. Since May of 1998, and continuing to this date, defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 have refused and failed to continue their involvement in the Millennium Project, despite requests to do so communicated by both plaintiff Best20 and its attorneys.

47. Plaintiff Best20 has performed all conditions and covenants to be performed by it under the oral contract with defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10.

48. All conditions with respect to the performance of defendants, and each of them, and any performance obligations of plaintiff Best20, have been satisfied, save those which have been waived or which are otherwise excused or discharged.

49. As a direct and foreseeable result of the aforesaid breach of contract by defendants, plaintiff Best20 has suffered irreparable damages and economic losses, and will continue to suffer such irreparable damages and economic losses in the future. Such damages and economic losses include, but are not limited to: (1) the economic value of the Millennium Project to plaintiff Best20 had defendants not breached their oral contract with plaintiff Best20; (2) the amount of compensation, revenue, profits, income, and commissions which plaintiff Best20 had reasonably anticipated receiving and earning (and which plaintiff Best20 was reasonably likely to have received and earned) had the Millennium Project continued with the involvement of defendants; (3) the reasonable value of the goods, ideas, intellectual property, marketing plans, strategies, and services which plaintiff Best20 provided to defendants; (4) the amount of the expenses which plaintiff Best20 incurred in reasonable reliance upon the oral contract and agreement between the parties relative to the Millennium Project; and (5) the economic value of the Millennium Project to plaintiff Best20 had plaintiff Best20 been able to sell and market its Millennium Project with entities other than defendants. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

COUNT THREE
THIRD CAUSE OF ACTION BY PLAINTIFF BEST 20 FOR BREACH OF WRITTEN CONTRACT
AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10

50. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 43, inclusive, as though set forth in full.

51. During the extensive discussions and negotiations between plaintiff Best20 and defendants concerning the Millennium Project, including (but not limited to) those discussions and negotiations set forth in the foregoing paragraphs, plaintiff Best20 entered into a written agreement and contract with defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10. Such written contract is represented by defendant Fox Broadcasting's

November 1997 Proposal (Exhibit C) and by plaintiff Best20's written acceptance thereof (Exhibit D). By the terms of this written contract and agreement, plaintiff Best20 was to provide defendants Fox Broadcasting and NewsCorp with the exclusive use of its registered trademarks, with marketing ideas, strategies, and support, and with the structure by which the Millennium Project could succeed as envisioned by the parties to such oral contract. In consideration of plaintiff Best20's goods and services, defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10, and each of them, agreed that they would jointly develop and promote the Millennium Project with plaintiff Best20, on a joint exclusive arrangement whereby plaintiff Best20 would not market, sell, or otherwise encumber its trademarks, its goods, its services, or its involvement in the Millennium Project, all to the benefit, and for the benefit, of defendants Fox Broadcasting, NewsCorp and DOES 1 through 10, and that said defendants would compensate plaintiff Best20 therefor as set forth in the written contract (i.e., Exhibits C and D).

52. In or about May of 1998, defendants Fox Broadcasting, News Corp., and DOES 1 through 10 breached the written contract and agreement existing between themselves and plaintiff Best20 by communicating to plaintiff Best20, and its attorneys, that they had decided not to continue their involvement in the Millennium Project and by refusing to compensate plaintiff Best20 for any of the goods and services plaintiff Best20 had provided to-date pursuant to such written contract and agreement. Since May of 1998, and continuing to this date, defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 have refused and failed to continue their involvement in the Millennium Project, despite requests to do so communicated by both plaintiff Best20 and its attorneys.

53. Plaintiff Best20 has performed all conditions and covenants to be performed by it under the written contract with defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10.

54. All conditions with respect to the performance of defendants, and each of them, and any performance obligations of plaintiff Best20, have been satisfied, save those which have been waived or which are otherwise excused or discharged.

55. As a direct and foreseeable result of the aforesaid breach of contract by defendants, plaintiff Best20 has suffered irreparable damages and economic losses, and will continue to suffer such irreparable damages and economic losses in the future. Such damages and economic losses include, but are not limited to: (1) the economic value of the Millennium Project to plaintiff Best20 had defendants not breached their oral contract with plaintiff Best20; (2) the amount of compensation, revenue, profits, income, and commissions which plaintiff Best20 had reasonably anticipated receiving and earning (and which plaintiff Best20 was reasonably likely to have received and earned) had the Millennium Project continued with the involvement of defendants; (3) the reasonable value of the goods, ideas, intellectual property, marketing plans, strategies, and services which plaintiff Best20 provided to defendants; (4) the amount of the expenses which plaintiff Best20 incurred in reasonable reliance upon the oral contract and agreement between the parties relative to the Millennium Project; and (5) the economic value of the Millennium Project to plaintiff Best20 had plaintiff Best20 been able to sell and market its Millennium Project to entities other than defendants. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

COUNT FOUR

FOURTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR PROMISSORY ESTOPPEL AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10

56. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 55, inclusive, as though set forth in full, except those allegations which are inconsistent with a cause of action for promissory estoppel.

57. As a result of the extensive discussions and negotiations between plaintiff Best20 and defendants concerning the Millennium Project, including (but not limited to) those discussions and negotiations set forth in the foregoing paragraphs, defendants Fox Broadcasting and NewsCorp made representations and promises which said defendants should have reasonably expected would induce plaintiff Best20 to engage in actions and to forbear from other actions in reliance thereof.

58. In detrimental reliance on such representations and promises made by defendants, plaintiff Best20 was in fact induced to act and to forbear from acting, as a direct and foreseeable result of defendants' representations and promises. As alleged above, based upon defendants' representations and promises, plaintiff Best20 worked for many months in putting together the Millennium Project for defendants' sole benefit and use and was precluded from attempting to market, sell, develop, or otherwise exploit its Millennium Project with any third parties.

59. Injustice can only be avoided by enforcement of the promises and representations made by defendants.

60. Given the late date of defendants' breaches and refusals to continue their involvement, and given the lack of sufficient time left between defendants' breaches and the end of the Millennium, plaintiff Best20 requests, as an alternative to specific performance, an award of damages to compensate plaintiff Best20 for its losses and damages.

61. As a direct and foreseeable result of the aforesaid breaches and refusals of defendants, plaintiff Best20 has suffered irreparable damages and economic losses, and will continue to suffer such irreparable damages and economic losses in the future. Such damages and economic losses include, but are not limited to: (1) the economic value of the Millennium Project to plaintiff Best20 had defendants not breached their oral contract with plaintiff Best20; (2) the amount of compensation, revenue, profits, income, and commissions which plaintiff Best20 had reasonably anticipated receiving and earning (and which plaintiff Best20 was reasonably likely to have received and earned) had the Millennium Project continued with the involvement of defendants; (3) the reasonable value of the goods, ideas, intellectual property, marketing plans, strategies, and services which plaintiff Best20 provided to defendants; (4) the amount of the expenses which plaintiff Best20 incurred in reasonable reliance upon the oral contract and agreement between the parties relative to the Millennium Project; and (5) the economic value of the Millennium Project to plaintiff Best20 had plaintiff Best20 been able to sell and market its Millennium Project to entities other than defendants. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

COUNT FIVE
FIFTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR BREACH OF WRITTEN CONTRACT
AGAINST DEFENDANTS FOX BROADCASTING AND DOES 1 THROUGH 10

62. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 49, inclusive, as though set forth in full

63. On or about March 4, 1998, plaintiff Best20 and defendants Fox Broadcasting and DOES 1 through 10 entered into a written contract and agreement, a true and correct copy of which is attached as Exhibit E and which is incorporated in this Complaint by this reference (hereafter "the March Contract").

64. By the express terms of the March Contract with plaintiff Best20, defendant Fox Broadcasting was obligated to pay plaintiff Best20 the total sum ("fixed compensation") of \$606,500 as set forth in detail in said contract (Exhibit E). Certain conditions precedent were specified controlling defendant Fox Broadcasting's duty and obligation to make the partial payments of \$50,000, \$50,000, \$100,000, and \$406,500 towards the full amount owed to plaintiff Best20 by defendant Fox Broadcasting under the March Contract. One of the conditions precedent was defendant "FOX [Broadcasting]'s election to proceed with the [Millennium] Project," which mandated (under paragraph 3(a)(iv) (at page 3) of the March Contract) a payment of \$406,500.00 by defendant Fox Broadcasting to plaintiff Best20. Defendant Fox Broadcasting did, in fact, exercise its "election to proceed with the [Millennium] Project" on countless occasions, including (but not limited to) the following: in or about November and December, 1997, at the time of defendant Fox Broadcasting's December 1997 Press Release; at the same time it executed the March Contract; and shortly thereafter by manifesting and expressing to plaintiff Best20 and third parties its intent, consent, election, and determination to proceed with the Millennium Project. Defendant Fox Broadcasting's many indications of its "election to proceed" with the Millennium Project included (but are not limited to) the following examples:

a. In the December 1997 Press Release defendant Fox Broadcasting stated, in unequivocal terms, "FOX Broadcasting and The Best 20 Group today announced an unprecedented entertainment and marketing partnership. . . ." (December 1997 Press Release, Exhibit A, page 1);

b. At the time of the mutual execution of the March Contract, defendant Fox Broadcasting's Senior Vice President Rich Vokulich instructed Minna Taylor of defendant Fox Broadcasting to "prepare a long-form agreement," which was contemplated by the March Contract to formally set forth and memorialize all of the terms surrounding the contractual agreements between plaintiff Best20 and defendant Fox Broadcasting;

c. In a telephone conversation on or about March 30, 1998, Senior Vice President Vokulich stated that plaintiff Best20's attorneys would receive a draft of the "long form agreement" by the end of the week, that he believed defendant Fox Broadcasting's first \$50,000 payment to plaintiff Best20 was being processed, and that plaintiff Best20 should expect to receive the first \$50,000 payment by the end of the week or by the beginning of the week of April 6, 1998;

d. On April 8, 1998, Senior Vice President Vokulich stated in a letter to plaintiff Best20's attorneys, "we are . . . preparing a long form agreement;" and

e. In a telephone conversation on or about April 14, 1998, Senior Vice President Vokulich stated that the first payment of \$50,000 to plaintiff Best20 "will be forthcoming sometime in the future."

65. Implicit in the March Contract between plaintiff Best20 and defendant Fox Broadcasting, and implied from the extensive discussions, representations and negotiations between plaintiff Best20 and defendant Fox Broadcasting, was the implied covenant that defendant Fox Broadcasting would not terminate its involvement with plaintiff Best20 in the Millennium Project except for a material deficiency in the structure, promotion, or anticipated success of the

Millennium Project. For example, the March Contract provides that "If [defendant] FOX [Broadcasting] elects to terminate this Agreement [i.e., the March Contract] on or before July 15, 1998 (e.g., FOX's inability to engage a reasonable number of national advertisers), then FOX shall have no further financial obligation" to plaintiff Best20. (March Contract, Exhibit E, paragraph 5, pages 7-8.) (Italics added.) The foregoing italicized example, included at the request and insistence of defendant Fox Broadcasting, demonstrates and confirms the mutual intent of plaintiff Best20 and of defendant Fox Broadcasting that defendant Fox Broadcasting could terminate the March Contract only for a material deficiency in the structure, promotion, or anticipated success of the Millennium Project (such as defendant Fox Broadcasting's "inability to engage a reasonable number of national advertisers").

66. The March Contract provides that in the event of termination of the agreement by defendant Fox Broadcasting, defendant Fox Broadcasting "shall return all data material described in sub-paragraph 4 a)ii) above." (March Contract, Exhibit E, paragraph 5, page 8.) The data material described in sub-paragraph 4(a)(ii) of the March Contract includes, by its express terms, "all data and materials prepared by [plaintiff] B[est]20 or other entities in anticipation of the [Millennium] Project." (March Contract, Exhibit E, paragraph 4(a)(ii), page 6.)

67. Beginning on or about March of 1998, and continuing to this date, defendants Fox Broadcasting and DOES 1 through 10 have breached the March Contract existing between themselves and plaintiff Best20 by refusing and failing to make any of the payments which they were obligated to make under the March Contract.

68. In or about May of 1998, and continuing to this date, defendants Fox Broadcasting and DOES 1 through 10 breached the March Contract existing between themselves and plaintiff Best20 by communicating to plaintiff Best20, and its attorneys, that they have decided to terminate the March Contract. None of the supposed reasons advanced by defendant Fox Broadcasting in support of its decision to terminate the March Contract indicates that a material deficiency existed or was reasonably believed to have existed as to the structure, promotion, or anticipated success of the Millennium Project.

69. In or about May and June of 1998, and continuing to this date, defendants Fox Broadcasting and DOES 1 through 10 breached the March Contract existing between themselves and plaintiff Best20 by refusing and failing to return all data and materials prepared by plaintiff Best20 and other entities with respect to the Millennium Project. While defendant Fox Broadcasting has claimed that it has returned some of the data and materials, it has refused and failed to return all such materials specifically demanded and has indicated that it has further made and retained photocopies of some of the materials, although the March Contract provided defendant Fox Broadcasting with no right or permission to photocopy such materials before returning them to plaintiff Best20.

70. Plaintiff Best20 has performed all conditions and covenants to be performed by it under the March Contract with defendant Fox Broadcasting.

71. All conditions with respect to the performance of defendants Fox Broadcasting and DOES 1 through 10, including any performance obligations of plaintiff Best20, have been satisfied, save those which have been waived or which are otherwise excused or discharged.

72. As a result of the aforesaid breaches of written contract by defendants, plaintiff Best20 has suffered irreparable damages and economic losses, and will continue to suffer such irreparable damages and economic losses in the future. Such damages and economic losses include, but are not limited to: (1) the \$606,500.00 "fixed compensation" due and owing under the March Contract; (2) the economic value of the Millennium Project to plaintiff Best20 had defendant Fox Broadcasting not breached the March Contract by terminating it; (3) the amount of compensation, revenue, profits, income, and commissions which plaintiff Best20 had reasonably anticipated receiving and earning (and which plaintiff Best20 was reasonably likely to have received and earned and had been reasonably promised) had the Millennium Project continued with the involvement of defendant Fox Broadcasting; (4) the reasonable value of the goods, ideas, intellectual property, marketing plans, strategies, and services which plaintiff Best20 provided to defendant Fox Broadcasting; (5) the amount of the expenses which plaintiff Best20 expended in reasonable reliance upon the March Contract; (6) the reasonable value of the "contingent compensation" to be derived from the Millennium Project including (but not limited to) those categories of income and revenue specified in paragraph 3(b) of the March Contract (at pages 3-6); and (7) economic losses and damages proximately and legally sustained by plaintiff Best20 as a result of defendant Fox Broadcasting's refusal and failure to return all data and materials as required under the March Contract and by its unauthorized photocopying of portions thereof. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

73. The March Contract provides that "This Agreement includes all other terms and conditions customarily included in agreements of this type . . ." (The March Contract, Exhibit E, paragraph 6, page 8.) One term and condition which is customarily included in agreements of the same type as the March Contract, and which was contemplated to have been included by plaintiff Best20 and by defendant Fox Broadcasting per paragraph 6 of the March Contract, was an agreement that the prevailing party in any suit brought to enforce any of the terms of the March Contract would be entitled to recover reasonable attorneys' fees and costs of suit. Accordingly, plaintiff Best20 seeks

to recover its reasonable attorneys' fees and costs of suit incurred as a result of defendant Fox Broadcasting's breaches and this resultant litigation.

COUNT SIX

SIXTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR RESCISSION AGAINST DEFENDANTS FOX BROADCASTING AND DOES 1 THROUGH 10

74. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 73, inclusive, as though set forth in full.

75. Defendants Fox Broadcasting and DOES 1 through 10 have refused and have failed to make any of the payments required under the March Contract.

76. Plaintiff Best20 is informed and believes, and thereon alleges, that at the time that defendant Fox Broadcasting entered into the March Contract with plaintiff Best20, defendant Fox Broadcasting falsely and fraudulently represented to plaintiff Best20 that it would make the payments as specified therein, that it intended to continue, and would continue, with its involvement in the Millennium Project with plaintiff Best20, and that it would use its best efforts to execute and deliver a "Long Form Agreement." Plaintiff Best20 is informed and believes, and thereon alleges, that defendant Fox Broadcasting made such false and fraudulent representations, knowing the representations to be false and with the full knowledge and intent to deceive plaintiff Best20 and to induce plaintiff Best20 to execute the March Contract. Plaintiff Best20 is informed and believes, and thereon alleges, that one of the reasons behind the false inducement to enter into the March Contract was defendant Fox Broadcasting's apparent desire to create a written agreement that it intended to use to supersede the oral, implied-in-fact, and written contracts already in place between plaintiff Best20 and defendants Fox Broadcasting and NewsCorp as well as to create a written agreement that provided for a means by which defendant Fox Broadcasting could arguably terminate its involvement with the Millennium Project without any or further financial or contractual obligation to plaintiff Best20.

77. The contractual representations made by defendant Fox Broadcasting were in fact false. The true facts were that defendant Fox Broadcasting had no intention of making any payments of any kind to plaintiff Best20, had no intention of proceeding with the Millennium Project in joint venture with plaintiff Best20, and intended to breach and terminate its implied-in-fact, oral, and written contracts with plaintiff Best20. Defendant Fox Broadcasting has actually proceeded with several facets of the Millennium Project subsequent to the termination of the March Contract and without plaintiff Best20's participation, consent, or involvement.

78. At the time the representations were made and at the time plaintiff Best20 entered into the March Contract, plaintiff Best20 did not know the representations were false, but believed them to be true and reasonably relied upon them. Had plaintiff Best20 known the true facts and intent, it would not have entered into the March Contract and would have proceeded, as before, pursuant to the implied-in-fact, oral, and written contracts already in place with defendants Fox Broadcasting and NewsCorp, and would not have consented to entering into a written contract that arguably provided defendant Fox Broadcasting with a means by which it could terminate its contractual agreements.

79. Plaintiff Best20 has performed all conditions precedent and covenants to be performed by it under the March Contract.

80. Since March of 1998, defendant Fox Broadcasting has refused and failed to pay plaintiff Best20 the money due to plaintiff Best20 under the March Contract and has unilaterally terminated the March Contract and disavowed any contractual responsibility under the aforementioned implied-in-fact, oral, and written contracts between plaintiff Best20 and defendants Fox Broadcasting and NewsCorp.

81. Plaintiff Best20 will suffer substantial harm and injury under the March Contract if it were not rescinded in that as a result of the conduct of defendant Fox Broadcasting, plaintiff Best20 will be deprived of its bargain and will be unable to receive any income, revenue, or profits from the Millennium Project and, given the lateness of defendant Fox Broadcasting's fraudulent and bad faith termination and breaches of the March Contract, will be prevented, and has been prevented, from marketing, selling, or otherwise exploiting its Millennium Project elsewhere in the timely fashion necessary to effectively produce a product synchronized with the coming of the year 2000.

82. Plaintiff Best20 intends service of the summons and complaint in this action to serve as notice of rescission of the March Contract, and hereby demands that defendant Fox Broadcasting restore the consideration furnished by plaintiff, specifically, the exclusive right to pursue the Millennium Project, and further demands that the parties be restored to their status quo (i.e., with the parties' aforementioned implied-in-fact, oral, and written contracts in place), in addition to any other compensation, damages, and losses to which plaintiff Best20 is otherwise entitled.

COUNT SEVEN

SEVENTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR FRAUD AGAINST DEFENDANTS FOX BROADCASTING AND DOES 1 THROUGH 10

83. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 82, inclusive, as though set forth in full.

84. Pursuant to the aforementioned implied-in-fact, oral, and written contracts, including (but not limited to) the March Contract, defendant Fox Broadcasting was obligated, contractually and otherwise, to make certain payments to plaintiff Best20 and to proceed with the Millennium Project. Plaintiff Best20 is informed and believes, and thereon alleges, that defendant Fox Broadcasting falsely and fraudulently represented to plaintiff Best20 that it intended to honor the March Contract, that it intended to continue with its involvement in the Millennium Project, and that plaintiff Best20 could expect to receive not only the "fixed compensation" of \$606,500.00, but also "contingent compensation" as outlined in detail in the March Contract.

85. With respect to the false and fraudulent representations made to plaintiff Best20 by defendant Fox Broadcasting, as alleged in the preceding paragraph, such oral representations and statements were made by defendant Fox Broadcasting and its officers, directors, agents and employees, which persons were authorized to speak for all other defendants on account of their positions with said defendants as officer, partner, director, shareholder, managing agent, employee, and fiduciary.

86. Defendant Fox Broadcasting concealed and suppressed certain facts, including but not limited to, that it never intended to continue with the Millennium Project after execution of the March Contract, that it never intended to make payment to plaintiff Best20 of the contingent compensation specified in the March Contract (totaling \$606,500.00), and that it in fact intended to terminate the March Contract in an effort to extinguish the aforementioned implied-in-fact, oral, and written contracts that were already in place between plaintiff Best20 and defendants Fox Broadcasting and NewsCorp. Each such concealment and suppression of certain facts occurred during the negotiations surrounding the execution of the March Contract.

87. Defendant Fox Broadcasting made representations to plaintiff Best20 with knowledge of or in reckless disregard of their falsity and with the full knowledge and intent to defraud and deceive plaintiff Best20 into acting and proceeding in reliance on these representations.

88. Without knowledge of the concealment and suppression of the facts stated above, plaintiff Best20 was, at all times relevant, ignorant of the falsity of defendant Fox Broadcasting's representations and therefore believed them to be true. In reasonable and justifiable reliance on these representations, plaintiff Best20 acted upon the inaccurate representations by failing to market, sell, and otherwise exploit its Millennium Project elsewhere, by becoming contractually committed to certain third parties for and on behalf of the Millennium Project in joint venture with defendant Fox Broadcasting, and by agreeing to execute the March Contract which purported to provide defendant Fox Broadcasting with an option to terminate the March Contract.

89. The failure to disclose information and suppressions of information alleged in this Complaint to have been made by defendant Fox Broadcasting were made with the full knowledge and intent to induce plaintiff Best20 to act in a certain manner, that is, to believe that the aforementioned implied-in-fact, oral, and written contracts were superseded and of no effect, to agree to execute a written contract which purportedly gave defendant Fox Broadcasting the option to terminate the March Contract, and to forego any attempt to market or otherwise exploit its Millennium Project to any other third party.

90. As a proximate and legal result of the fraud and deceit of defendant Fox Broadcasting, plaintiff Best20 has been damaged in an amount in excess of \$100,000,000 (One Hundred Million Dollars), exclusive of interest and costs, the precise amount of which is presently unknown to plaintiff Best20. Upon ascertainment of the true amount of plaintiff Best20's damages, plaintiff Best20 will seek leave of Court to amend this complaint to set forth the full and complete amount thereof.

91. Defendant Fox Broadcasting had advance and continuing knowledge of the fraud and deceit of defendants and its employees, directors, officers, and agents, and yet continued to engage in the negotiation and execution of the March Contract, thereby ratifying the wrongful conduct of defendant Fox Broadcasting's employees, officers, and agents.

92. In doing the acts alleged in this Complaint, defendant Fox Broadcasting acted fraudulently, oppressively, and maliciously. Plaintiff Best20 is therefore entitled, in addition to actual damages, to punitive and exemplary damages in an amount to punish and deter defendant Fox Broadcasting, which amount should be in excess of \$500,000,000 (Five Hundred Million Dollars).

COUNT EIGHT
EIGHTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR FALSE DESIGNATION AND
DESCRIPTIONS AGAINST DEFENDANTS FOX BROADCASTING AND DOES 1 THROUGH 10
[15 U.S.C. §1125(a)]

93. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 16, inclusive,

as though set forth in full.

94. The claim of plaintiff Best20 arises under section 43 of the Lanham Act, 15 U.S.C. §1125(a).

95. Plaintiff Best20 is the owner of a service mark and trademark registration of the name, "The Best of the 20th Century, The Official National Survey®," a copy of which is attached as Exhibit F and incorporated in this Complaint by this reference (hereafter, "Plaintiff Best20's Registered Mark"). This registration (USPTO Registration No. 2,038,216, registered February 18, 1997) was duly and lawfully issued by the United States Patent and Trademark Office and remains in full force and effect. Plaintiff Best20 is also the owner of a service mark and trademark application of the name, "The Best of the 20th Century, The Official National Survey®," with plaintiff Best20's star logo. This application has been approved for publication by the United States Patent and Trademark Office, serial number 75/413630, and was filed on January 5, 1998.

96. Plaintiff Best20 first adopted and used the name "The Best of the 20th Century, The Official National Survey®" and the ribbon and star logos to identify its Millennium Project in or about 1995.

97. Plaintiff Best20 has used continuously and without interruption, in interstate commerce, the name, service mark and trademark, "The Best of the 20th Century, The Official National Survey®" as well as its ribbon and star logos since 1995 to identify its polling, advertising, merchandising, brand impression and event promotion goods and services with respect to its Millennium Project and related projects. In this connection, plaintiff Best20 uses its name ("The Best of the 20th Century, The Official National Survey®"), service mark and trademark, and its ribbon and star logos, on promotional materials, advertising, commercial products, and commercial services.

98. Plaintiff Best20's goods and services have been and continue to be advertised and provided throughout the United States, including California. By virtue of advertising, licensing, and sales, together with consumer acceptance and recognition, plaintiff Best20's name, Registered Mark, trademark application, and ribbon and star logos identify specifically plaintiff Best20's goods and services only, and distinguish them from goods and services provided by others. Plaintiff Best20's name, Registered Mark, trademark application, and ribbon and star logos have thus become and are valuable and unique assets symbolizing plaintiff Best20, its good, its services, its Millennium Project(s), and its goodwill.

99. This cause of action is alleged in the alternative to plaintiff Best20's foregoing causes of action. If defendants should repudiate the contracts and agreements set forth above, and/or assert as a defense thereto that no such contracts or agreements in fact existed, plaintiff Best20 alleges this cause of action as an alternative to the foregoing causes of action.

100. In or about November, 1997, through approximately February, 1998, Defendant Fox Broadcasting and DOES 1 through 10, and each of them, have used in commerce the name "The Best of the 20th Century, The Official National Survey" as well as plaintiff Best20's ribbon and star logos, have used in commerce a false and misleading description of fact, and have used a false and misleading representation of fact, all of which are likely to cause confusion, to cause mistake, and to deceive as to the affiliation, connection, and association of such defendants with other persons (to wit, plaintiff Best20), and which are likely to cause confusion, to cause mistake, and to deceive as to the sponsorship and approval of defendants' goods, services, and commercial activities by other persons (to wit, plaintiff Best20). With constructive and actual notice of plaintiff Best20's ownership of the service mark and trademark, "The Best of the 20th Century, The Official National Survey®," and its name, trademark application, and ribbon and star logos, defendants Fox Broadcasting and DOES 1 through 10 have sold, produced, manufactured, licensed, and distributed goods, promotional items (such as Millennium clocks), and services under the name "The Best of the 20th Century, The Official National Survey®," and using plaintiff Best20's logos, throughout the United States without permission or authorization in violation of plaintiff Best20's Registered Mark and rights to its name, trademark application, and ribbon and star logos.

101. As a proximate and legal result of the above-described actions and conduct of defendants Fox Broadcasting and DOES 1 through 10, and each of them, plaintiff Best20 has suffered damages and losses. Furthermore, by exclusively linking plaintiff Best20's Registered Mark, name, trademark application, and ribbon and star logos (without authorization or permission) with the name, logos, and backing of defendant Fox Broadcasting, defendants have deprived and precluded plaintiff Best20 from being able to market, distribute, or otherwise use its registered service mark, trademark, name, trademark application, and ribbon and star logos with third parties interested in its Millennium Project. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

102. Unless restrained by this Court, defendants Fox Broadcasting and DOES 1 through 10 will continue to engage in false designations and descriptions with respect to the use of the name "The Best of the 20th Century, The Official National Survey®," as alleged above, thus engendering a multiplicity of judicial proceedings, and pecuniary compensation will not afford plaintiff Best20 adequate relief for the damages caused and likely to be caused by such conduct and actions on the part of said defendants.

COUNT NINE

NINTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR BREACH OF CONFIDENCE AGAINST DEFENDANTS FOX BROADCASTING, NEWS CORP, TV GUIDE, McWHORTER-DRISCOLL, MCWHORTER, DRISCOLL, AND DOES 1 THROUGH 10

103. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 73, inclusive, as though set forth in full.

104. In the course of plaintiff Best20's extensive discussions, representations, contacts, and negotiations with defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10, plaintiff Best20 offered creative and unique ideas, strategies, marketing plans, business plans, and concepts to said defendants in confidence concerning the Millennium Project.

105. Plaintiff Best20's creative and unique ideas, strategies, marketing plans, business plans, and concepts offered and delivered to defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 in confidence were, in fact, voluntarily received and accepted by said defendants, in confidence, with the understanding that they were not to be disclosed or marketed to others without plaintiff Best20's permission and consent, and with the understanding that they were not to be used by said defendants for purposes beyond the limits of the confidence without plaintiff Best20's permission and consent.

106. During the contacts between plaintiff Best20 and defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10, as alleged previously, a confidential relationship was created and existed between plaintiff Best20 and said defendants as a result of the implied-in-fact, oral and written contracts between plaintiff Best20 and defendants Fox Broadcasting and NewsCorp; as a result of the fact that the creative and unique ideas, strategies, marketing plans, business plans, and concepts submitted and delivered by plaintiff Best20 were protected by reason of sufficient uniqueness, novelty and elaboration; and as a result of the fact that plaintiff Best20 and said defendants were partners, joint venturers, contractual partners, and buyer and seller with respect to the creation of the Millennium Project and its structure and anticipated marketing, promotion, production, service and trademarks.

107. Since defendant Fox Broadcasting's election to terminate the March Contract in May of 1998, defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 have breached the aforesaid confidence that existed between each of them and plaintiff Best20 by marketing, selling, using, and exploiting plaintiff Best20's creative and unique ideas, strategies, marketing plans, business plans, and concepts as if they were said defendants' own; by disclosing such confidential creative and unique ideas, strategies, marketing plans, business plans, and concepts to third parties without the permission and consent of plaintiff Best20 and without compensating plaintiff Best20 for such unauthorized disclosures; and by capitalizing on and profiting from plaintiff Best20's confidential creative and unique ideas, strategies, marketing plans, business plans, concepts, and ideas without plaintiff Best20's permission and consent and to the detriment and exclusion of plaintiff Best20.

108. As a result of the aforesaid breach of confidence by said defendants, plaintiff Best20 has suffered irreparable damages and economic losses, and will continue to suffer such irreparable damages and economic losses in the future. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

COUNT TEN

TENTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR MISAPPROPRIATION OF TRADE SECRETS AGAINST DEFENDANTS FOX BROADCASTING, NEWS CORP, TV GUIDE, McWHORTER-DRISCOLL, McWHORTER, DRISCOLL, AND DOES 1 THROUGH 10

109. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 73, inclusive, and paragraphs 103 through 108, inclusive, as though set forth in full.

110. In the course of developing plaintiff Best20's marketing and business plans, plaintiff Best20 developed a synergistic marketing strategy and plan by which an end-of-the-Millennium project was to be created on a global basis and across all media and in all mediums. This synergistic marketing strategy and plan centered around balloting the general public's voting for the "Best of" in a number of categories using a 900 telephone number service with a number of specific marketing and advertising tie-ins, all of which would generate revenue, income, and profits for plaintiff Best20 and its licensees, investors, contractors, partners, and joint venturers. Plaintiff Best20's Millennium Project was to include a number of "Best of the 20th Century" televised vignettes and would culminate in the production and televising of one or more "Best of the 20th Century" television programs and specials at or near the turn of the Century. This entire synergistic marketing strategy and plan (hereafter the "Confidential Millennium Project") and all confidential information pertaining thereto (hereafter the "Confidential Information") had never been accomplished before in such a manner, by such means, and on as far-reaching a basis as proposed, promoted, and developed by plaintiff Best20 and is accordingly extremely valuable to plaintiff Best20. As defendant Fox

Broadcasting admitted in its December 1997 Press Release issued on or about December 4, 1997, by quoting plaintiff Best20's then officer, Benjamin Higgs: "We are providing a mechanism for capitalizing on this opportunity through a high profile, unique and distinguishable program." (December 1997 Press Release, Exhibit A, page 2.)

111. The "Confidential Millennium Project" and the "Confidential Information" were, and now are, valuable proprietary assets of plaintiff Best20. Plaintiff Best20 has taken substantial and appropriate measures to protect the confidential and proprietary nature of the "Confidential Millennium Project" and the "Confidential Information," including restricting access thereto.

112. The above-described "Confidential Millennium Project" and "Confidential Information" constitute commercial trade secrets belonging to plaintiff Best20 within the meaning of the Uniform Trade Secret Act (California Civil Code §§3426 et seq.).

113. Commencing in or after 1996, defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 acquired a position of trust and confidence as to plaintiff Best20 with respect to plaintiff Best20's "Confidential Millennium Project" and "Confidential Information" by engaging in detailed, far-reaching, and extensive negotiations and development discussions with respect to the Millennium Project. These negotiations and discussions included (but are not limited to) the following:

a. As part of those negotiations and discussions, defendants Fox Broadcasting and NewsCorp requested, and plaintiff Best20 agreed, that plaintiff Best20 would not encumber its Millennium Project and would pursue a formal contractual relationship with said defendants on an exclusive basis. During the course of these negotiations, as also alleged in the foregoing paragraphs, defendants Fox Broadcasting and NewsCorp represented to plaintiff Best20 that "the deal is done" and that defendant Fox Broadcasting had, in fact, become plaintiff Best20's exclusive partner and joint venturer with respect to the Millennium Project. As alleged in the foregoing paragraphs, defendants Fox Broadcasting and NewsCorp entered into an implied-in-fact contract, an oral contract, and a written contract with plaintiff Best20. Defendant Fox Broadcasting further evidenced its affirmation by public announcement in the media and Press, including "BRANDWEEK," of the joint venture with plaintiff Best20.

b. Defendant TV Guide engaged in extensive discussions and negotiations with plaintiff Best20. Defendants Fox Broadcasting, NewsCorp, and TV Guide presented defendant TV Guide (an affiliate of defendant Fox Broadcasting and a division of defendant NewsCorp) as part of the "Fox Team" which would market, sponsor, promote, exploit, and produce the Millennium Project.

c. Defendants McWhorter-Driscoll, McWhorter, and Driscoll at various times worked for plaintiff Best20 as independent contractors providing marketing and development services. Said defendants have at times represented themselves to be equity partners and joint venturers with plaintiff Best20 in the development and promotion of the Millennium Project, and at other times have represented themselves to be part of plaintiff Best20.

114. Having thereby acquired a position of trust and confidence as to plaintiff Best20 as plaintiff Best20's exclusive partners and joint venturers and independent contractors and team-members, defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 owed fiduciary duties to plaintiff Best20 to utilize or disclose the "Confidential Millennium Project" and the "Confidential Information" exclusively pursuant to plaintiff Best20's business interests and to avoid self-dealing with respect thereto in derogation of plaintiff Best20's legal and proprietary rights.

115. Despite said defendants' fiduciary duties to plaintiff Best20 as partner, contractual partner, joint venturer, independent contractor, and team-member in possession of the "Confidential Information," and in violation of the explicit and implicit terms and conditions upon which such "Confidential Information" was disclosed and provided to said defendants, defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 have chosen to develop, market, exploit, promote, develop, proceed with, and produce various broadcasting and media projects which use, exploit, are derived from, rely upon, and are based upon the "Confidential Millennium Project" and the "Confidential Information" which plaintiff Best20 had previously disclosed, provided and delivered to said defendants.

116. Following the misappropriation of plaintiff Best20's "Confidential Millennium Project" and "Confidential Information," defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 have threatened to utilize and/or disclose and continue to threaten to utilize and/or disclose such confidential trade secrets.

117. The material, proximate, legal, and foreseeable result of the conduct of said defendants is to substantially damage and interfere with plaintiff Best20's interests, rights, and reasonable commercial expectations concerning the ownership, control, marketing, development, and exploitation of the "Confidential Millennium Project" and the

"Confidential Information." Plaintiff Best20 has thereby suffered economic damages and losses, including consequential damages and losses incurred in attempting to market and exploit its trade secrets to other third parties. Plaintiff Best20 has also suffered economic damages and losses as a result of said defendants' misappropriation and use of its confidential trade secrets in developing, marketing, promoting, developing, exploiting, and producing said defendant' related projects to the exclusion of plaintiff Best20. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

118. As a further material, proximate, legal and foreseeable result of the conduct of said defendants, defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 have each been unjustly enriched by the utilization and disclosure or threatened utilization and disclosure of plaintiff Best 20's "Confidential Millennium Project" and "Confidential Information," and will continue to be so unjustly enriched in the future. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

119. As a further material, proximate, legal and foreseeable result of said defendants' wrongful misappropriation and threatened commercial exploitation and use of plaintiff Best20's "Confidential Millennium Project" and "Confidential Information," all of which constitutes a willful and malicious misappropriation within the meaning of California Civil Code §3426.4, plaintiff Best20 is entitled to and hereby requests an award of reasonable attorneys' fees and costs incurred in the prosecution of this action.

120. Plaintiff Best20 is informed and believes, and thereon alleges, that the aforementioned acts of defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 in misappropriating and utilizing the "Confidential Millennium Project" and the "Confidential Information" for their own self interests, and to the exclusion of plaintiff Best20, and in disclosing some or all of such confidential trade secrets to unauthorized third parties, are and were malicious and intentionally designed to interfere with plaintiff Best20's legitimate rights to such trade secrets and commercial expectations. Plaintiff Best20 is therefore entitled to an award of punitive damages in an amount which is sufficient to deter said defendants from the repetition of such wrongful acts and conduct in the future, but no less than \$500,000,000 (Five Hundred Million Dollars).

121. Plaintiff Best20 has no adequate remedy at law and monetary damages are inadequate to compensate plaintiff Best20 for the wrongful actions of said defendants in that the "Confidential Millennium Project" and the "Confidential Information" constitute the principal elements of plaintiff Best20's business operations. Said confidential trade secrets represent years of research, development, marketing, and planning, all of which would be irreparably damaged and permanently lost by any further wrongful disclosure or adverse use of plaintiff Best20's confidential trade secrets.

122. Additionally, and without limitation, plaintiff Best20 has no adequate remedy at law, absent the granting of the requested injunctive relief herein set forth, as a multiplicity of legal actions for monetary damages will be necessary to address each disclosure, each threatened disclosure, each adverse use, and each threatened adverse use by defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 in the future.

123. Injunctive relief is also necessary and proper to militate defendants' threatened exploitation of the "Confidential Millennium Project" and the "Confidential Information" as authorized by California Civil Code §3426.2.

124. Unless defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 are each preliminarily and permanently enjoined as herein requested, from continuing their predatory and willfully harmful conduct, plaintiff Best20 will continue to be irreparably harmed.

COUNT ELEVEN

ELEVENTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR UNFAIR COMPETITION AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, TV GUIDE, McWHORTER-DRISCOLL, McWHORTER, DRISCOLL, AND DOES 1 THROUGH 10

124a. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 73, inclusive, and paragraphs 103 through 124, inclusive, as though set forth in full.

124b. The wrongful conduct of defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10, as previously described in the foregoing paragraphs, including the theft and misappropriation of plaintiff Best20's confidential trade secrets, and subsequent acts to utilize, develop, exploit, produce, and market the wrongfully acquired confidential trade secrets in furtherance of said defendants' own business interests in competition with plaintiff Best20, constitutes unfair competition under the common law.

125. Additionally, and without limitation, commencing on or about May of 1998, defendants Fox Broadcasting,

NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 have each falsely represented to members of the general public, both orally and in writing, that the "Confidential Millennium Project" and ideas and marketing strategies developed therefrom were the result of said defendants' research, creativity, and development.

126. The above-stated misrepresentations by defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 were made with the intent to deceive the general public as to the actual development of the "Confidential Millennium Project," and ideas and marketing strategies developed therefrom, and constitutes "reverse palming off" pursuant to the common law of unfair competition.

127. The material, probable, legal, and foreseeable consequences of the wrongful acts of said defendants alleged in this Complaint is to cause confusion, deception and mistake in the marketplace as to the proper legal ownership, creativity, and development of the "Confidential Millennium Project," and ideas and marketing strategies developed therefrom, and wrongfully deprive plaintiff Best20 of attribution rights associated with the development thereof.

128. As the proximate and legal result of said defendants' unfair competition, plaintiff Best20 has incurred economic damages and losses. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

129. The aforementioned acts of said defendants in misappropriating and utilizing the "Confidential Millennium Project" and the "Confidential Information" for their own self interests, and to the exclusion of plaintiff Best20, and in acting in commercial competition with plaintiff Best20 and with the intent of injuring plaintiff Best20's relations with members of the general public and, more particularly, with plaintiff Best20's actual and potential licensees, investors, customers, contractors, partners, and joint venturers, were maliciously and intentionally designed to interfere with plaintiff Best20's legitimate rights to its trade secrets and commercial expectations. Plaintiff Best20 is therefore entitled to an award of punitive damages in an amount which is sufficient to deter said defendants from the repetition of such wrongful acts and conduct in the future, but no less than \$500,000,000 (Five Hundred Million Dollars).

130. Plaintiff Best20 has no adequate remedy at law and monetary damages are inadequate to compensate plaintiff Best20 for the wrongful actions of defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 in that the "Confidential Millennium Project" and the "Confidential Information" constitute the principal elements of plaintiff Best20's business operations. Said confidential trade secrets represent years of research, development, marketing, and planning, all of which would be irreparably damaged and permanently lost by any further wrongful disclosure or adverse use of plaintiff Best20's confidential trade secrets.

131. Additionally, and without limitation, plaintiff Best20 has no adequate remedy at law, absent the granting of the requested injunctive relief set forth in this Complaint, as a multiplicity of legal actions for monetary damages will be necessary to address each disclosure, each threatened disclosure, each adverse use, and each threatened adverse use by said defendants in the future.

132. Unless defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 are each preliminarily and permanently enjoined as herein requested from continuing their predatory and willfully harmful conduct, plaintiff Best20 will continue to be irreparably harmed.

COUNT TWELVE

TWELFTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR VIOLATION OF CALIFORNIA UNFAIR BUSINESS PRACTICES ACT (UNFAIR COMPETITION) AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, TV GUIDE, McWHORTER-DRISCOLL, McWHORTER, DRISCOLL, AND DOES 1 THROUGH 10

133. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 73, inclusive, and paragraphs 103 through 132, inclusive, as though set forth in full.

134. Plaintiff Best20's claim arises under the California Unfair Business Practices Act, California Business & Professions Code §§17200, et seq.

135. The conduct and actions of defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 constitute deception, misrepresentation, and false advertising as to the source, ownership, and authorship of the Millennium Project, and the ideas and strategies developed therefrom; and constitute acts of unfair competition in violation of California Business & Professions Code §§17200, et seq.

136. Plaintiff Best20 has been and continues to be damaged by said defendants' activities and conduct. Defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 have

profited thereby and unless their wrongful conduct is enjoined, plaintiff Best20 will suffer irreparable injury which cannot be adequately calculated or compensated solely by money damages.

COUNT THIRTEEN

THIRTEENTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR BREACH OF FIDUCIARY DUTY AND TRUST AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, McWHORTER-DRISCOLL, McWHORTER, DRISCOLL AND DOES 1 THROUGH 10

137. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 136, inclusive, as though set forth in full.

138. As previously set forth, defendants Fox Broadcasting and NewsCorp, occupied a position of trust with plaintiff Best20, by virtue of their contractual arrangements with plaintiff Best20, by virtue of their representations, and by virtue of their positions and roles as partner and joint venturer in the partnership and joint venture that was created between plaintiff Best20 and defendant Fox Broadcasting. As previously set forth, defendant TV Guide engaged in extensive discussions and negotiations with plaintiff Best20, and defendants Fox Broadcasting and NewsCorp represented to plaintiff Best20 that defendant TV Guide (an affiliate of defendant Fox Broadcasting and a division of defendant NewsCorp) would be part of the "Fox Team" which would market, sponsor, promote, exploit, and produce the Millennium Project. As previously set forth, defendants McWhorter-Driscoll, McWhorter, and Driscoll at various times worked for plaintiff as independent contractors providing marketing and development services. Said defendants have at times represented themselves to be equity partners and joint venturers with plaintiff Best20 in the development and promotion of the Millennium Project. Accordingly, plaintiff Best20 reasonably placed trust and confidence in defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 and a fiduciary relationship existed between said defendants and plaintiff Best20 as to the development, marketing, promotion, production, and exploitation of the Millennium Project.

139. By virtue of the acts complained of in this Complaint, defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 breached their respective duty of trust and fiduciary responsibilities to plaintiff Best20.

140. The material, proximate, legal, and foreseeable result of the above breaches of said defendants is to substantially damage and interfere with plaintiff Best20's interests, rights, and reasonable commercial expectations concerning the ownership, control, marketing, development, and exploitation of the "Confidential Millennium Project" and the "Confidential Information." Plaintiff Best20 has thereby suffered economic damages and losses, including consequential damages and losses incurred in attempting to market its trade secrets to other third parties. Plaintiff Best20 has also suffered economic damages and losses as a result of said defendants' misappropriation and use of its confidential trade secrets in developing, marketing, and producing said defendants' related projects to the exclusion of plaintiff Best20. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

141. As a further material, proximate, legal and foreseeable result of the misconduct of defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10, said defendants have been unjustly enriched by the utilization and disclosure or threatened utilization and disclosure of plaintiff Best20's "Confidential Millennium Project" and "Confidential Information," and will continue to be so unjustly enriched in the future. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

142. The aforementioned acts of defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 were maliciously and intentionally designed to interfere with plaintiff Best20's legitimate rights to such trade secrets and commercial expectations. Plaintiff Best20 is therefore entitled to an award of punitive damages in an amount which is sufficient to deter said defendants from the repetition of such wrongful acts and conduct in the future, but not less than \$500,000,000 (Five Hundred Million Dollars).

143. Plaintiff Best20 has no adequate remedy at law and monetary damages are inadequate to compensate plaintiff Best20 for the wrongful actions of said defendants in that the "Confidential Millennium Project" and the "Confidential Information" constitute the principal elements of plaintiff Best20's business operations. Said confidential trade secrets represent years of research, development, marketing, and planning, all of which would be irreparably damaged and permanently lost by any further wrongful disclosure or adverse use of plaintiff Best20's confidential trade secrets.

144. Additionally, and without limitation, plaintiff Best20 has no adequate remedy at law, absent the granting of the requested injunctive relief herein set forth, as a multiplicity of legal actions for monetary damages will be necessary to address each disclosure, each threatened disclosure, each adverse use, and each threatened adverse use by said defendants in the future.

145. Injunctive relief is also necessary and proper to militate said defendants' threatened exploitation of the "Confidential Millennium Project" and the "Confidential Information" as authorized by California Civil Code §3426.2.

146. Unless defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll, and DOES 1 through 10 are each preliminarily and permanently enjoined as herein requested from continuing their predatory and willfully harmful conduct, plaintiff Best20 will continue to be irreparably harmed.

COUNT FOURTEEN

FOURTEENTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10

147. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 146, inclusive, as though set forth in full.

148. An economic relationship existed between plaintiff Best20 and third parties containing a probable future economic benefit or advantage to plaintiff Best20 in that said third parties, and others, were actively interested in pursuing, developing, marketing, exploiting, and utilizing plaintiff Best20's "Confidential Millennium Project" and "Confidential Information" which, if successfully developed and exploited, would have resulted in future economic benefits and advantages to plaintiff Best20.

148a. Defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 knew of the existence of these relationships and intentionally engaged in acts and conduct designed to interfere, disrupt, and terminate these relationships, namely, by representing to plaintiff Best20 that "the deal is done;" by requesting and securing from plaintiff Best20 a commitment to keep its Millennium Project unencumbered, and to enter into an exclusive relationship with defendant Fox Broadcasting in its stead; and by representing to plaintiff Best20 (and others) that defendant Fox Broadcasting was its partner and joint venturer with respect to the Millennium Project. By wrongfully terminating its involvement with the Millennium Project at such a late date, as alleged in the foregoing paragraphs, defendants precluded plaintiff Best20 from obtaining future economic benefits and advantages with respect to the Millennium Project.

149. As a direct, proximate, and legal result of the actions and conduct of defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10, these relationships were, in fact, interfered with, disrupted, and terminated, in that actual and potential licensees, customers, investors, contractors, partners, and joint venturers lost interest in pursuing any involvement with plaintiff Best20's Millennium Project, and in that such actions and conduct deprived plaintiff Best20 of the economic benefits and advantages to which it would have been entitled had there been no such wrongful termination (at such a late date) of defendant Fox Broadcasting's involvement in the Millennium Project.

150. As a direct, legal, proximate and foreseeable result of the wrongful acts of defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10, plaintiff Best20 has suffered, and continues to suffer, economic damages and losses, including but not limited to the financial loss of the benefits of the prospective economic relationships. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

151. In committing the wrongful acts and conduct alleged in the preceding paragraphs, defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 acted oppressively, fraudulently, maliciously, wilfully and in conscious disregard of plaintiff Best20's rights, and with the intention of causing, or in reckless disregard of the probability of causing economic damages and losses to plaintiff Best20. Furthermore, defendants Fox Broadcasting and NewsCorp, upon being informed of the oppressive, fraudulent and malicious conduct of their employees, officers, directors, agents, subordinates and management, ratified, approved and authorized such conduct. Accordingly, plaintiff Best20 is entitled to an award of punitive and exemplary damages against defendants Fox Broadcasting and NewsCorp to serve as a punishment and deterrent as a result of such wrongful acts and conduct, but no less than \$500,000,000 (Five Hundred Million Dollars).

COUNT FIFTEEN

FIFTEENTH CAUSE OF ACTION BY PLAINTIFF BEST20 FOR NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10

152. Plaintiff Best20 realleges and incorporates by this reference the allegations of paragraphs 1 through 146, inclusive, as though set forth in full.

153. An economic relationship existed between plaintiff Best20 and third parties generating a probable future economic benefit or advantage to plaintiff Best20 in that said third parties, and others, were actively interested in

pursuing, developing, marketing, exploiting, and utilizing plaintiff Best20's "Confidential Millennium Project" and "Confidential Information" which, if successfully developed and exploited, would have resulted in future economic benefits and advantages to plaintiff Best20.

154. Defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 knew of the existence of these relationships and were aware or should have been aware that if they did not act with due care their actions would interfere with these relationships and cause plaintiff Best20 to lose in whole or in part the probable future economic benefit or advantage of the relationships. However, defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10 breached such duty to act with due care and, in fact, acted negligently.

155. As a direct, proximate, and legal result of the negligence of defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10, these relationships were, in fact, interfered with, disrupted, and terminated in that actual and potential licensees, customers, investors, contractors, partners, and joint venturers lost interest in pursuing any further involvement with plaintiff Best20's Millennium Project and in that such actions and conduct deprived plaintiff Best20 of the economic benefits and advantages to which it would have been entitled had there been no such wrongful termination at such a late date by defendant Fox Broadcasting.

156. As a direct, legal, proximate and foreseeable result of the negligence of defendants Fox Broadcasting, NewsCorp, and DOES 1 through 10, plaintiff Best20 has suffered, and continues to suffer, economic damages and losses, including but not limited to the financial loss of the benefits of the prospective economic relationships with third parties. The precise amount of plaintiff Best20's damages and losses will be proven at trial but, upon information and belief, plaintiff Best20 alleges that its damages and economic losses, exclusive of interest and costs, will total in excess of \$100,000,000 (One Hundred Million Dollars).

PRAYER FOR RELIEF

WHEREFORE, plaintiff Best20 prays:

AS TO PLAINTIFF'S FIRST CAUSE OF ACTION FOR BREACH OF IMPLIED-IN-FACT CONTRACT AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10:

157. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

158. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

159. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S SECOND CAUSE OF ACTION FOR BREACH OF ORAL CONTRACT AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10:

160. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

161. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

162. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S THIRD CAUSE OF ACTION FOR BREACH OF WRITTEN CONTRACT AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10:

163. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

164. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

165. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S FOURTH CAUSE OF ACTION FOR PROMISSORY ESTOPPEL AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, AND DOES 1 THROUGH 10:

166. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

167. That the Court order specific performance of the contracts alleged in this Complaint.

168. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

169. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S THIRD CAUSE OF ACTION FOR BREACH OF WRITTEN CONTRACT AGAINST DEFENDANTS FOX BROADCASTING AND DOES 1 THROUGH 10:

170. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

171. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

172. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S SIXTH CAUSE OF ACTION FOR RESCISSION AGAINST DEFENDANTS FOX BROADCASTING AND DOES 1 THROUGH 10:

173. That the Court issue an order rescinding the March Contract, and issue an order that defendants Fox Broadcasting and DOES 1 through 10 restore to plaintiff Best20 the consideration furnished by plaintiff Best20, and that the Court issue an order returning the parties to the status quo which existed prior to the March Contract.

174. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars) exclusive of costs and interest.

175. That costs of this action, attorneys' fees, and prejudgment interest be awarded plaintiff Best20.

176. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S SEVENTH CAUSE OF ACTION FOR FRAUD AGAINST DEFENDANTS FOX BROADCASTING AND DOES 1 THROUGH 10:

177. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

178. That the Court award plaintiff Best20 punitive damages in an amount which is sufficient to deter said defendants from the repetition of defendants' wrongful acts and conduct in the future, but in an amount no less than \$500,000,000 (Five Hundred Million Dollars).

179. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

180. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S EIGHTH CAUSE OF ACTION FOR FALSE DESIGNATIONS AND DESCRIPTIONS AGAINST DEFENDANTS FOX BROADCASTING AND DOES 1 THROUGH 10:

181. That this Court grant an injunction enjoining and restraining defendants Fox Broadcasting and DOES 1 through 10, and each of such defendants' agents, servants, and employees, from directly or indirectly using the name, "The Best of the 20th Century, The Official National Survey®," or any other mark, word, or name similar to plaintiff Best20's mark (as well as plaintiff Best20's ribbon or star logo) which is likely to cause confusion or mistake or to deceive.

182. That this Court, pursuant to the powers granted it under 15 U.S.C. §1118, order that all goods, promotional items, and things in the possession of defendants Fox Broadcasting and DOES 1 through 10 bearing the mark, "The Best of the 20th Century, The Official National Survey®" and all plates, molds, matrices and other means of making the same, shall be delivered up and destroyed.

183. That defendants Fox Broadcasting and DOES 1 through 10 be required to account to plaintiff Best20 for any and all profits derived by said defendants from the sale of their goods and for all damages sustained by plaintiff Best20 by reason of said acts.

184. That the Court award plaintiff Best20 treble the amount of actual damages suffered by plaintiff Best20 as provided for under 15 U.S.C. §1117.

185. That the Court award plaintiff Best20 punitive damages to punish defendants for their conduct in an amount to be determined at trial, but in an amount no less than \$500,000,000 (Five Hundred Million Dollars).

186. That costs of this action, attorneys' fees and prejudgment interest be awarded plaintiff Best20.

187. That this is an exceptional case under 15 U.S.C. §1117(a), and that plaintiff Best20 be awarded its reasonable attorneys' fees.

188. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S NINTH CAUSE OF ACTION FOR BREACH OF CONFIDENCE AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, TV GUIDE, McWHORTER-DRISCOLL, McWHORTER, DRISCOLL, AND DOES 1 THROUGH 10:

189. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

190. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

191. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S TENTH CAUSE OF ACTION FOR MISAPPROPRIATION OF TRADE SECRETS AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, TV GUIDE, McWHORTER-DRISCOLL, McWHORTER, DRISCOLL AND DOES 1 THROUGH 10:

192. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

193. That the Court award plaintiff Best20 punitive damages in an amount which is sufficient to deter said defendants from the repetition of defendants' wrongful acts and conduct in the future, but in an amount no less than 500,000,000 (Five Hundred Million Dollars).

194. That the Court grant an injunction enjoining and restraining defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll and DOES 1 through 10, and each of such defendants' agents, servants, and employees from continuing to use, exploit, appropriate, market, develop, and disclose the "Confidential Millennium Project" and the "Confidential Information."

195. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

196. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S ELEVENTH CAUSE OF ACTION FOR UNFAIR COMPETITION AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, TV GUIDE, McWHORTER-DRISCOLL, McWHORTER, DRISCOLL AND DOES 1 THROUGH 10:

197. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

198. That the Court award plaintiff Best20 punitive damages in an amount which is sufficient to deter said defendants from the repetition of defendants' wrongful acts and conduct in the future, but in an amount no less than \$500,000,000 (Five Hundred Million Dollars).

199. That the Court grant an injunction enjoining and restraining defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll and DOES 1 through 10, and each of such defendants' agents, servants, and employees from continuing to use, exploit, appropriate, market, develop, and disclose the "Confidential Millennium Project" and the "Confidential Information."

200. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

201. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S TWELFTH CAUSE OF ACTION FOR VIOLATION OF CALIFORNIA UNFAIR BUSINESS PRACTICES ACT (UNFAIR COMPETITION) AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, TV GUIDE, McWHORTER-DRISCOLL, McWHORTER, DRISCOLL AND DOES 1 THROUGH 10:

202. That the Court grant an injunction enjoining and restraining defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll and DOES 1 through 10, and each of such defendants' agents, servants, and employees from continuing to use, exploit, appropriate, market, develop, and disclose the "Confidential Millennium Project" and the "Confidential Information" and further enjoining and restraining said defendants, and each of such defendants' agents, servants, and employees from continuing to engage in deception, misrepresentation, and false advertising as to the source, ownership, and authorship of the Millennium Project, and the ideas and strategies developed therefrom.

203. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

204. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S THIRTEENTH CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY AND TRUST AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP, TV GUIDE, McWHORTER-DRISCOLL, McWHORTER, DRISCOLL AND DOES 1 THROUGH 10:

205. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

206. That the Court award plaintiff Best20 punitive damages in an amount which is sufficient to deter said defendants from the repetition of defendants' wrongful acts and conduct in the future, but in an amount of no less than \$500,000,000 (Five Hundred Million Dollars).

207. That the Court grant an injunction enjoining and restraining defendants Fox Broadcasting, NewsCorp, TV Guide, McWhorter-Driscoll, McWhorter, Driscoll and DOES 1 through 10, and each of such defendants' agents, servants, and employees from continuing to use, exploit, appropriate, market, develop, and disclose the "Confidential Millennium Project" and the "Confidential Information."

208. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

209. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S FOURTEENTH CAUSE OF ACTION FOR INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE AGAINST DEFENDANTS FOX BROADCASTING, NEWSCORP AND DOES 1 THROUGH 10:

210. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

211. That the Court award plaintiff Best20 punitive damages in an amount which is sufficient to deter said defendants from the repetition of defendants' wrongful acts and conduct in the future, but in an amount of no less than \$500,000,000 (Five Hundred Million Dollars).

212. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

213. That the Court grant such other and further relief as it shall deem just.

AS TO PLAINTIFF'S FIFTEENTH CAUSE OF ACTION FOR NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE AGAINST DEFENDANTS FOX BROADCASTING, N AND DOES 1 THROUGH 10:

214. That the Court award plaintiff Best20 monetary damages in an amount to be proven at trial in excess of \$100,000,000 (One Hundred Million Dollars).

215. That costs of this action, reasonable attorneys' fees and prejudgment interest be awarded plaintiff Best20.

216. That the Court grant such other and further relief as it shall deem just.

DEMAND FOR JURY TRIAL

Plaintiff Best20 hereby demands a jury trial as to all issues raised by this Complaint.

Dated: July 1, 1998

DRYDEN, MARGOLES, SCHIMANECK, KELLY & WAIT

MICHAEL C. OSBORNE

Attorneys for plaintiff

THE BEST OF THE TWENTIETH CENTURY, INC.

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