

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:15-cv-09581-SVW-JPR Date March 14, 2016

Title *Abdullah v. Walt Disney Company et al*

JS-6

Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE

Paul M. Cruz

N/A

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

N/A

N/A

**Proceedings:** IN CHAMBERS ORDER GRANTING MOTION TO DISMISS [43].

Plaintiff Muneefa Abdullah brings this copyright infringement action against Defendants Walt Disney Company; Walt Disney Pictures; Walt Disney Motion Pictures Group Inc.; Disney Enterprise Incorporated; Jennifer Lee; Walt Disney Animation Studios; and Buena Vista Home Entertainment Inc. (collectively "Defendants"). Presently before the Court is Defendants' motion to dismiss. For the reasons stated below, the Court GRANTS the motion.

**I. Factual and Procedural Background**

Plaintiff is a well-known children's author in Kuwait. (First Amended Complaint ("FAC") ¶ 12). In 2007, Plaintiff wrote and published a book entitled *New Fairy Tales*, which contains three children's stories including *The Snow Princess*. (*Id.*). Defendants began production of an animated film, *Frozen*, in or around 2011-2012, and released the film in 2013. (FAC ¶ 26). Plaintiff alleges that *Frozen* infringed her copyright in *The Snow Princess*. (FAC ¶ 13).

Plaintiff alleges that Defendants had access to *The Snow Princess* because the book has been available for sale worldwide since 2007. (FAC ¶ 23). In addition, Plaintiff alleges that the following chain of events shows that Defendants had access to her book. In 2007, *New Fairy Tales* was released through Trafford Publishing. (FAC ¶ 69). In 2009, Trafford Publishing was acquired by Author Solutions, Inc., which was then acquired by Penguin Group (*Id.*). In 2013, Random House Publishing merged with Penguin Group. (*Id.*). Plaintiff alleges that Defendant Jennifer Lee ("Lee") served as the screenwriter and co-producer for *Frozen*, and worked at Random House Publishing in the past. (FAC ¶

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14). Therefore, Lee had a reasonable opportunity to observe *The Snow Princess* before she began writing *Frozen*.

Plaintiff also alleges a list of seventeen (17) similarities between *The Snow Princess* and *Frozen*, discussed below.

**A. *The Snow Princess***

*The Snow Princess* is a nine-page short story. It begins with Prince Adrian's return to his kingdom after a three-year absence. Upon his arrival, Prince Adrian notices the kingdom is unusually quiet and discovers snow sculptures everywhere. He encounters a young woman (the Snow Princess), whose beautiful singing has enchanted everyone in the kingdom and made them statue-like. He confronts her, but becomes enchanted by her beautiful voice as well. The next day, Prince Adrian's sister and mother tell him the young woman is actually a fairy who began to appear on winter nights three years ago to sing her enchanted song and to build snow sculptures in the streets. Prince Adrian becomes determined to prove she is a human rather than a fairy and orders his soldiers to scatter sharp pins in the snow. The next day the snow sculptures are covered in blood, but Prince Adrian is unable to find the Snow Princess because many women in the kingdom cut their hands in hopes of meeting Prince Adrian. Prince Adrian attempts his plan again with a rare paint that is difficult to remove, but his plan fails for the same reason. Prince Adrian's sister then comes up with a plan to leave an expensive dress and locket on one of the snow sculptures, believing that if the Snow Princess takes the material goods, she is a young woman rather than a fairy. The items are gone the following morning.

Prince Adrian's sister invites the entire kingdom to a celebration in the royal palace to lure the Snow Princess. The Snow Princess arrives wearing the expensive dress. Before Prince Adrian can approach her, he is interrupted and taken to meet Prince John at the kingdom gates. Prince John explains that he has been hunting a mountain witch whom he believes is now in Prince Adrian's kingdom. Prince John recounts a moment in his childhood when he and his sister had accidentally awakened the mountain witch. They had traveled to the top of a mountain where an evil witch lay dormant. Their father had attempted to deter them by sending a talking dove to warn them about the witch, but they ignored the dove. At the top of the mountain, Prince John had asked his sister to sing and did not realize her voice was magical. Her voice awakened the witch, who proceeded to destroy their kingdom. However, at the request of Prince John's sister, the witch spared him. Prince John explains that his sister and the witch shared a connection.

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Prince Adrian and Prince John realize that Prince John’s sister is the Snow Princess who enchanted Prince Adrian’s kingdom with her singing. They rush back to the celebration and Prince John and the Snow Princess reunite. She warns Prince John to leave the kingdom before the mountain witch arrives, but he refuses to do so. Then, the kingdom becomes very cold, the earth begins to shake, and a heavy wind begins to blow. The Snow Princess cuts off a lock of her hair and gives it to Prince John and Prince Adrian. The Snow Princess is carried off by the wind, which freezes everyone in the kingdom except for Prince John and Prince Adrian.

Prince John and Prince Adrian then embark on a journey up a mountain to search for the Snow Princess. They find a castle made of snow, modeled after Prince John’s and the Snow Princess’s childhood palace, guarded by snow soldiers. Prince John and Prince Adrian elude the snow soldiers, enter the castle, and find the Snow Princess frozen in a block of ice. They prepare to hack away the ice with their swords when the same dove that previously warned Prince John and the Snow Princess when they were children appears to stop them. The dove warns them that the only way to melt the ice is to talk to it and tell the Snow Princess of good memories and beautiful things. Prince John and Prince Adrian melt the ice by talking to it, but the mountain witch arrives. Prince John flees with the Snow Princess, while Prince Adrian battles the witch. Just as the witch attempts to kill Prince Adrian with a sword, the Snow Princess returns to the castle and throws herself in front of Prince Adrian. The Snow Princess is stabbed instead. The mountain witch screams and loses her powers as a result of the Snow Princess’s selfless act and because her life force is connected with the Snow Princess. The castle begins to collapse and the Snow Princess, Prince Adrian, and Prince John flee. The Snow Princess is unharmed, the kingdom returns to its normal state, and Prince Adrian takes the Snow Princess as his princess.

**B. Frozen**

*Frozen* is a 102-minute animated film. It begins with two princesses, Elsa and Anna, in the kingdom of Arendelle. Elsa, the older sister, possesses magical powers that allow her to produce ice and snow. While the two are playing, Elsa accidentally strikes Anna with an ice beam, causing a strand of Anna’s hair to turn white. The king and queen seek help from a group of trolls who heal Anna and destroy her memories of Elsa’s magic. The trolls tell the King and Queen that Anna was lucky to have been struck on her head rather than her heart. Following this incident, the King and Queen separate Elsa and Anna and isolate them in the castle. They reduce the number of people in contact with Elsa and close the kingdom gates. The sisters become estranged and one day the King and Queen die at sea.

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Three years later, the kingdom prepares to crown Elsa as the Queen of Arendelle. Anna meets Prince Hans, a guest from the Southern Isles, and the two quickly appear to fall in love. When they immediately become engaged, Elsa refuses to bless the marriage and the sisters have an argument. Elsa then inadvertently reveals her powers in an emotional outburst in front of the kingdom's citizens. Elsa flees the kingdom in panic and accidentally plunges Arendelle into a permanent winter. Once in the mountains, Elsa uses her powers to build an ice castle and begins to feel empowered and confident in her abilities.

Anna sets out to find her sister and leaves Prince Hans in charge of Arendelle. Anna meets several companions along the way: (1) Kristoff, an ice harvester, (2) Sven, Kristoff's reindeer, and (3) Olaf, a walking, talking snowman who Elsa and Anna used to build when they were children. Olaf leads them to Elsa's castle. Anna attempts to convince Elsa to return to Arendelle, but Elsa refuses as she is still afraid she cannot control her powers. Elsa accidentally strikes Anna with another ice beam. The ice beam hits Anna in the heart, causing Anna's hair to whiten and her body to begin to freeze. Elsa summons a snow monster named Marshmallow to drive Anna, Kristoff, Sven, and Olaf away from the castle.

Kristoff takes Anna to see the trolls who saved her life as a child. The trolls turn out to be Kristoff's adoptive parents as well. The head troll explains that because Elsa has frozen Anna's heart, only an act of true love can save her before she completely turns to ice. Assuming that Prince Hans is Anna's true love, Kristoff races her back to Arendelle to be kissed by Prince Hans.

Meanwhile, Prince Hans and his soldiers capture Elsa at her castle. When Anna arrives, she begs Prince Hans to kiss her to save her, but he refuses and reveals his true intentions are to exploit and take over Arendelle. Elsa escapes onto frozen ice. Prince Hans finds Elsa and draws his sword to kill her but Anna throws herself in front of Elsa just as she is freezing solid. Anna saves Elsa's life and begins to thaw because her sacrifice constitutes an act of true love. Elsa realizes that love is the key to control her powers and reverses the winter in Arendelle. Prince Hans is deported to face punishment for his crimes and Elsa and Anna live happily ever after.

**II. Legal Standard**

A motion to dismiss under Rule 12(b)(6) challenges the legal sufficiency of the claims stated in the

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complaint. *See* Fed. R. Civ. P. 12(b)(6). To survive a motion to dismiss, the plaintiff's complaint "must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678. A complaint that offers mere "labels and conclusions" or "a formulaic recitation of the elements of a cause of action will not do." *Id.*; *see also Moss v. U.S. Secret Service*, 572 F.3d 962, 969 (9th Cir. 2009) (citing *Iqbal*, 556 U.S. at 678).

"When a party submits an indisputably authentic copy of a document, and the document is referred to in the complaint, the Court does not have to convert the motion into a summary judgment motion." *Rose v. Chase Manhattan Bank USA*, 396 F. Supp. 2d 1116, 1119 (C.D. Cal. 2005), *aff'd*, 513 F.3d 1032 (9th Cir. 2008). Rather, "documents whose contents are alleged in a complaint and whose authenticity no party questions, but which are not physically attached to the pleading, may be considered in ruling on a Rule 12(b)(6) motion to dismiss." *Branch v. Tummell*, 14 F.3d 449, 454 (9th Cir. 1994), *overruled on other grounds in Galbraith v. County of Santa Clara*, 307 F.3d 1119 (9th Cir. 2002).

**III. Discussion**

**A. Elements of Copyright Infringement**

To prevail on a claim for copyright infringement, a plaintiff must prove three essential elements: (1) plaintiff's ownership of a valid copyright, (2) defendant's access to the copyrighted work, and (3) "substantial similarity" between plaintiff's copyrighted work and defendant's allegedly infringing work. *See Funky Films, Inc. v. Time Warner Entertainment Co., L.P.*, 462 F.3d 1072, 1076 (9th Cir. 2006); *Three Boys Music Corp. v. Bolton*, 212 F.3d 477, 481 (9th Cir. 2000); *Sid and Marty Krofft Television Productions, Inc. v. McDonald's Corp.*, 562 F.2d 1157, 1162 (9th Cir. 1977). Because each of the three elements must be established in order to prevail, the inability to establish any one element can be fatal.

**B. Substantial Similarity**

For the purposes of the motion, Defendants do not challenge Plaintiff's claim that she owns a

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valid copyright in *The Snow Princess*. The Court also defers ruling on the issue of access.<sup>1</sup> Instead, the Court focuses solely on whether Plaintiff's *The Snow Princess* is substantially similar to Defendants' *Frozen*.

The Court engaged in a detailed analysis of the works at issue. The Court reviewed: (1) Plaintiff's short story, *The Snow Princess*; (2) Defendants' film, *Frozen*; and (3) Plaintiff's FAC, wherein Plaintiff alleges seventeen (17) similarities between the two works. After considering Plaintiff's arguments and evaluating the similarity of the works on its own, the Court concludes that the two works are not substantially similar as a matter of law.

**1. Legal Standard**

To determine whether two works are substantially similar, the Ninth Circuit applies a two-part test consisting of intrinsic and extrinsic components. *Rice v. Fox Broadcasting Co.*, 330 F.3d 1170, 1174 (9th Cir. 2003). The extrinsic test involves an objective comparison of the two works. The Court must consider "whether [the works] share a similarity of ideas and expression as measured by external, objective criteria." *Swirsky v. Carey*, 376 F.3d 841, 845 (9th Cir. 2004).

Where literary works such as films, screenplays, and television series are at issue, the extrinsic test is an objective evaluation of "the articulable similarities between the plot, themes, dialogue, mood,

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<sup>1</sup> Because the two works are not substantially similar as a matter of law (discussed *infra*), Plaintiff's FAC must be dismissed with prejudice. Therefore, the Court need not rule on the issue of access. The Court notes, however, that as currently pled, Plaintiff's two theories of access are not plausible. First, Plaintiff alleges her work was widely disseminated because it was available for sale on the internet. However, Plaintiff has not alleged any facts surrounding the dissemination of her book such as where it was sold, how many copies were sold, and whether it was advertised. Second, Plaintiff alleges the following chain of events shows access: (1) Plaintiff's work was published by Trafford Publishing in 2007; (2) Author Solutions, Inc. acquired Trafford Publishing in 2009; (3) Penguin Group acquired Author Solutions thereafter; (4) Random House Publishing merged with Penguin Group in 2013; and (5) Defendant Jennifer Lee, the screenwriter for *Frozen*, worked at Random House Publishing in the past. However, Plaintiff also alleges that Disney "began production of *Frozen* in or around 2011-2012." (FAC ¶ 26). Without any additional allegations, it is not plausible that a corporate merger in 2013 facilitated access to Plaintiff's work one or two years earlier.

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setting, pace, characters, and sequence of events.” *Id.* In applying the test, the court must distinguish between protectable and unprotectable material, because a party claiming infringement may not rely on expressions from unprotected elements. *Rice*, 330 F.3d at 1174. For example, general plot ideas are not protectable and cannot give rise to a copyright infringement claim. *Berkic v. Chrichton*, 761 F.2d 1289, 1293 (9th Cir. 1985) (“General plot ideas are not protected by copyright law; they remain forever the common property of artistic mankind.”). Further, the doctrine of *scenes a faire* “holds that expressions indispensable and naturally associated with the treatment of a given idea ‘are treated like ideas and are therefore not protected by copyright.’” *Rice*, 330 F.3d at 1175. Accordingly, the extrinsic test examines “not the basic plot ideas for stories, but the actual concrete elements that make up the total sequence of events and the relationships between the major characters.” *Berkic*, 761 F.2d at 1293.

The intrinsic component relies on the subjective judgment of the ordinary person and, therefore, must be left to the jury. *Swirsky*, 376 F.3d at 845. Nevertheless, because the plaintiff must satisfy both the extrinsic and intrinsic components of the substantial similarity test to establish infringement, a finding of lack of extrinsic similarity is fatal to the plaintiff’s case.

Finally, “when the copyrighted work and the alleged infringement are both before the court, capable of examination and comparison, non-infringement can be determined on a motion to dismiss.” *Christianson v. West Pub. Co.*, 149 F.2d 202, 203 (9th Cir. 1945); *see also Zella v. E.W. Scripps Co.*, 529 F. Supp. 2d 1124, 1130 (C.D. Cal. 2007) (“The Court may assess copyright infringement as a matter of law on the [ ] motion to dismiss.”); *Shame on You Productions, Inc. v. Elizabeth Banks*, 2015 WL 4885221, at \*32 (C.D. Cal. Aug. 14, 2015) (concluding there was no substantial similarity between plaintiff’s and defendants’ works and dismissing plaintiff’s copyright claims with prejudice).

**2. The Works Are Not Substantially Similar As A Matter Of Law**

Plaintiff includes a list of seventeen (17) alleged similarities between *The Snow Princess* and *Frozen* that purport to show similarities in plot, sequence of events, characters, themes, setting, mood, pace, and dialogue. (FAC ¶ 54). However, upon a detailed review of the works, Plaintiff’s alleged similarities only amount to mischaracterizations of the works or *scenes a faire* to fairy tales such as princes, princesses, castles, magical powers, love, betrayal, and a protagonist who seeks to conceal a characteristic from the public. In fact, both works depict clear influences by and similarities to Hans Christian Andersen’s classic 1845 fairy tale, *The Snow Queen*, a fairy tale filled with snow castles, snow guards, a wintery setting, trolls, magic, and the power of love over evil.

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Ultimately, *The Snow Princess* and *Frozen* are only similar at the highest level of generality. To demonstrate the lack of substantial similarity, the Court discusses each of the alleged similarities in turn:

1. A princess who possesses magical ice powers

This alleged similarity mischaracterizes the works. While *Frozen*'s Elsa is certainly a princess who possesses magical ice powers, *The Snow Princess* does not have a comparable character. The evil mountain witch possesses magical ice powers, but she is not a princess and she is the villain of the story rather than the protagonist. Moreover, although the Snow Princess possesses a beautiful voice that has the magical ability to enchant people, her voice is not a magical ice power similar to that possessed by either the mountain witch or Elsa. Plaintiff argues that the Snow Princess possesses magical ice powers indirectly because her voice awakened the witch, she and the witch share a connection, and the witch ultimately uses her ice powers to freeze the kingdom. However, this forced characterization of the work cannot reasonably lead to an interpretation that the Snow Princess, therefore, possesses magical ice powers. Thus, the only similarity is that the two works contain a character that has magical ice powers, which is too generic to be afforded copyright protection. *See Rice*, 330 F.3d at 1175.

2. Unintended and harmful results caused by the princess's magical ice powers

As discussed above, the Snow Princess does not possess magical ice powers. Plaintiff argues that in both works, the princess's magical powers result in the kingdom turning to ice. However, even this apparent similarity is expressed differently. In *Frozen*, Elsa inadvertently plunges Arendelle into a permanent winter with her powers, but no citizens are frozen as a result. In *The Snow Princess*, the Snow Princess inadvertently awakens the mountain witch with her voice, but it is the mountain witch who uses her powers to freeze Prince Adrian's kingdom and citizens. Thus, the only similarity between the two works is the concept of magic's unintended and harmful consequences, which is a generic theme common to almost every literary work involving magic or supernatural powers.

3. The same circumstances surrounding the characters' isolation

This similarity does not exist between the two works. Elsa's fear of harming others with her powers is the impetus behind her isolation during both her youth (when she locks herself in her room) and after she flees from Arendelle (when she stays in her ice castle). In contrast, there is no indication

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that the Snow Princess isolates herself and, if so, does so out of fear of harming others with her powers. The Snow Princess appears voluntarily in the kingdom on winter nights to build snow sculptures and to sing. Moreover, she attended the royal celebration where the entire kingdom was present. In addition, although Plaintiff argues that Prince Adrian experienced difficulty in capturing the Snow Princess because of her desire to stay isolated, the difficulty stemmed more from the other women in the kingdom cutting their hands and placing paint on their hands in an attempt to trick Prince Adrian into thinking they were the Snow Princess. Thus, although the Snow Princess has an elusive quality, she did not isolate herself.

4. The fear of inadvertently causing harm with magical powers

This character trait is too generic to be afforded protection and does not even appear in *The Snow Princess*. In *Frozen*, Elsa’s fear is a driving force behind many of her actions including isolating herself. In contrast, the Snow Princess does not possess or express any fear of causing harm with her voice. While her magical voice inadvertently caused harm by awakening the mountain witch when she was a child, the Snow Princess does not fear causing additional harm with her voice as evidenced by her continued visits to Prince Adrian’s kingdom to sing on winter nights. Plaintiff contends that the Snow Princess’s fear is reflected in her going into hiding directly after awakening the mountain witch. However, *The Snow Princess* only suggests that she and Prince John did not see each other for several years; there is no indication that the Snow Princess went into hiding and, even if she did, that it was out of fear of her powers.

5. Royal balls that are interrupted by supernatural and magical occurrences, which ultimately scare away the magical character

An event interrupted by magic is a generic plot point in literary works. For example, in *Cinderella*, Cinderella flees the royal ball once the clock strikes midnight because her fairy godmother’s magic begins to run out. More importantly, this generic similarity is expressed differently in *Frozen* and *The Snow Princess*. In *Frozen*, Elsa’s coronation as Queen of Arendelle is interrupted when she has an emotional argument with Anna and accidentally reveals her magical powers. In *The Snow Princess*, Prince Adrian’s royal celebration, which was planned for the purpose of luring the Snow Princess, is interrupted when the mountain witch attacks the kingdom and freezes the citizens. Moreover, while in *Frozen*, Elsa panics and flees Arendelle on her own, in *The Snow Princess*, the mountain witch abducts the Snow Princess with a strong gust of wind; the Snow Princess is not “scare[d] away.” Thus, not only

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is the similarity of a royal event interrupted by magic too generic to be afforded protection, but the manner in which this similarity is expressed is not substantially similar.

6. An icy castle surrounded by mountains and snow guards

A castle with guards is a *scene a faire* in fairy tales. For example, Hans Christian Andersen’s classic fairy tale, *The Snow Queen*, also depicts a castle made of snow and ice guarded by snow creatures. Moreover, the castles are expressed differently in the two works. In *Frozen*, Elsa builds an ice castle with her magical powers and guards it with a single giant snow monster named Marshmallow. In *The Snow Princess*, the mountain witch, rather than the Snow Princess, owns an ice castle and guards it with dozens of snow soldiers.

7. A difficult journey up a mountain by one sibling, while accompanied by another, in search and rescue of the other sibling with the magical ice powers

A difficult journey up a mountain while accompanied by another is a generic plot point common in countless literary works from *The Lord of the Rings* to *Shrek*. Moreover, this alleged similarity is expressed in vastly different ways in the two works. In *The Snow Princess*, Prince John embarks on a journey up a mountain with Prince Adrian to rescue his sister<sup>2</sup> who was abducted by the mountain witch. In *Frozen*, Anna embarks on a journey up a mountain with Kristoff, an ice harvester, Sven, his reindeer, and Olaf, a walking, talking snowman. Anna does not attempt to rescue Elsa—after all, Elsa left Arendelle on her own. Rather, Anna seeks to convince Elsa to return to Arendelle and to reverse the permanent winter there. Therefore, while *The Snow Princess* follows a traditional storyline about a prince who rescues a princess or damsel in distress, *Frozen* does not contain a comparable rescue mission.

8. A sibling with magical ice powers warning the other sibling to remain distant in order to avoid potential and accidental harm, and the other sibling’s refusal to leave

One character warning another to leave to avoid danger, and the other character’s refusal to do so is a stock scene in dramatic works that cannot be afforded protection. Moreover, this plot point is

<sup>2</sup> As discussed above, contrary to Plaintiff’s contention, the Snow Princess does not have magical ice powers.

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expressed differently in the works. In *Frozen*, Elsa warns Anna to stay away to protect Anna from herself. In *The Snow Princess*, the Snow Princess warns Prince John to leave the royal celebration before the mountain witch arrives.

9. Attempts by one sibling to get around snowy guards in order to enter an icy castle at the top of a mountain, where the sibling with magical powers is located

This is a mischaracterization of the two works. In *The Snow Princess*, Prince John and Prince Adrian formulate a plan to elude the dozens of snow soldiers guarding the mountain witch's castle. However, in *Frozen*, Anna enters Elsa's castle easily because it is initially unguarded. Elsa's snow monster Marshmallow is only summoned later to chase Anna, Kristoff, Sven, and Olaf from Elsa's castle. While later in the film Prince Hans attempts to get around Marshmallow to capture Elsa, the context in which this attempt occurs in *Frozen* (i.e., capture by a villain) is clearly different from how it occurs in *The Snow Princess* (i.e., rescue by a sibling).

10. The idea that only love is capable of defeating evil

This is one of the most common and generic themes in literature and cannot be afforded copyright protection.

11. Significance attributed to strands of hair

That significance is attributed to hair is too generic to be afforded protection (*see, e.g.,* Rapunzel's hair). Moreover, the role of hair is not substantially similar in the two works. In *The Snow Princess*, the Snow Princess's hair has magical qualities that prevent Prince John and Prince Adrian from becoming frozen by the mountain witch's magic. In *Frozen*, any significance attributed to hair is limited to Anna's hair slowly turning white as a visual representation of how much time she has before she is frozen solid.

12. The duration of three years between occurrences of significant events

In *Frozen*, three years elapse between the date of Elsa's and Anna's parents' death and the date of Elsa's coronation as Queen. In *The Snow Princess*, Prince Adrian had been away from his kingdom for three years prior to returning to his kingdom. The works do not attribute any significance to the

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three-year duration and Plaintiff cannot copyright a number of years.

- 13. Verbal warnings given by the same non-human characters, on two different occasions, in regard to saving the life of the character with the magical ice powers

Anthropomorphized non-human characters that give verbal warnings to a protagonist are commonplace in literary works and cannot be afforded protection. Moreover, the role of these types of characters is expressed differently in the two works. In *The Snow Princess*, Prince John's father first sends a magical dove to warn Prince John and the Snow Princess not to travel to the top of the mountain where the mountain witch lays dormant. There is no warning to save the life of the Snow Princess. Regardless, they ignore the dove. Later, the dove appears again to warn Prince Adrian and Prince John not to use their swords to hack away the ice in which the Snow Princess is entombed, but to talk to the ice about beautiful things and good memories to melt it. They listen to the dove and succeed. In *Frozen*, after Elsa first strikes Anna with an ice beam as a child, a troll shaman gives instructions on how to heal Anna. Elsa's and Anna's parents heed the troll shaman's advice and subsequently isolate Elsa. Later, when Elsa again accidentally strikes Anna with an ice beam, Kristoff takes Anna to the troll shaman and it is revealed that the trolls are Kristoff's adoptive family. The troll shaman advises that because Anna was struck in the heart, only an act of true love can prevent her from freezing completely.

- 14. The depiction of a character with the magical ice powers singing on a wintery night

This is a mischaracterization of the works. In *The Snow Princess*, the only character to sing is the Snow Princess who, as stated above, does not have any magical ice powers. In *Frozen*, Elsa possesses magical ice powers and sings, but her singing is a result of *Frozen* being a musical film. There is no significance attached to Elsa singing in *Frozen* given that almost every character in the film sings, whereas in *The Snow Princess*, the Snow Princess's singing is significant as her voice has magical qualities.

- 15. An empty and isolated kingdom that eventually reverts to its ordinary state

A kingdom under enchantment is a stock scene germane to fairy tales. Moreover, the enchantment in *The Snow Princess* follows a more traditional sequence of: (1) a villain placing an enchantment on the village; (2) the protagonist defeating the villain; and (3) the enchantment disappearing upon the villain's defeat. In *Frozen*, (1) Elsa (the protagonist) causes the enchantment over

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Arendelle, (2) Elsa learns to control her powers through love, and (3) Elsa reverses the enchantment with the same magical powers. Therefore, even if enchantment over a kingdom was a protectable plot point, the two works are not substantially similar in their expression of this idea.

- 16. The idea that the character with magical ice powers may have a superhuman side (e.g., the reference that the Snow Princess may be “connected to the witch,” and the accusations against Elsa for being a witch)

This similarity begins and ends with the generic inclusion of a character possessing magical abilities, which necessarily makes them “superhuman.” To the extent that both works contain references to a witch, they are expressed differently as evidenced by Plaintiff’s own allegation. In *The Snow Princess*, there are two references to the Snow Princess having an unexplained connection to the mountain witch. However, in *Frozen*, Elsa is simply accused of being a monster when citizens observe her magical powers. While there are comments on Elsa’s apparent sorcery, there is no accusation that she is a witch.

- 17. The selfless sacrifice of oneself for the purpose of saving another from being struck by a sword, and its relationship to defeating evil

A heroic or personal sacrifice for a loved one is a common theme and plot point in literary works, as demonstrated by Gerda’s love saving Kai in Hans Christian Andersen’s *The Snow Queen*, John Smith diving in front of Chief Powhatan in *Pocahontas*, or Lily Potter sacrificing herself for Harry Potter and defeating Voldemort<sup>3</sup> in *Harry Potter and the Sorcerer’s Stone*. This generic plot point is not protectable by copyright. Moreover, the works express this plot point differently. In *The Snow Princess*, the Snow Princess sacrifices herself to save Prince Adrian from the mountain witch and presumably does so out of love as the two wed at the end of the story. In *Frozen*, Anna sacrifices herself to save Elsa from Prince Hans, emphasizing the power of sisterly love.

**3. There Are No Additional Similarities**

Plaintiff does not allege any additional similarities in plot, sequence of events, themes, dialogue, mood, setting, pace, and characters, and the Court does not see how Plaintiff could do so. The alleged

<sup>3</sup> At least in part.

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:15-cv-09581-SVW-JPR Date March 14, 2016

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similarities in plot and sequence of events are either *scenes a faire* to fairy tales or expressed in vastly different ways, as discussed above. There are no characters that bear resemblance to each other. For example, (1) the character possessing magical ice powers is the evil mountain witch in *The Snow Princess*, but the protagonist princess in *Frozen*; and (2) neither Prince Adrian nor Prince John resembles Prince Hans (who is a villain) or Kristoff (who is an ice harvester and does not come from royalty). The only similarities in themes, mood, and setting stem from the generic idea of a fairy tale set in winter. There is no similarity in pace as *The Snow Princess* is a nine-page short story while *Frozen* is a 102-minute film. And there is no similarity in dialogue whatsoever.

At its core, *The Snow Princess* is a short story about an evil mountain witch who abducts a princess, and a pair of princes who rescue her. *Frozen* is a full-length film about a princess who learns to control her powers through self-acceptance and love, and a celebration of sisterhood. For the reasons outlined above, no reasonable jury could conclude that there are substantial similarities in the plot, sequence of events, characters, mood, pace, setting, theme, or dialogue between *The Snow Princess* and *Frozen*.

**IV. Conclusion**

For the foregoing reasons, the Court GRANTS Defendants' motion to dismiss WITH PREJUDICE.

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