

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK; COMMERCIAL DIVISION**

TURNER BROADCASTING SYSTEM, INC.
and WARNER BROS. DISCOVERY, INC.,

PLAINTIFFS,

vs.

NATIONAL BASKETBALL ASSOCIATION,
NBA MEDIA VENTURES, LLC, and NBA
PROPERTIES, INC.,

DEFENDANTS.

Index No.

COMPLAINT

JURY TRIAL DEMANDED

PRELIMINARY STATEMENT

1. Turner Broadcasting System, Inc. (“TBS”) and Warner Bros. Discovery, Inc. (“WBD”) bring this action against the National Basketball Association (“NBA”) to enforce TBS’s contractual rights to distribute NBA games through the 2035-2036 season. TBS, now a WBD subsidiary, has been telecasting NBA games for nearly 40 years and is considered an “Incumbent” under the language of the October 2014, ten-year NBA/TBS Agreement (together with all exhibits, the “Agreement,” attached hereto as Exhibit 1). As an “Incumbent,” TBS has the right to match any “Third Party Offer” for future NBA telecast rights. TBS timely exercised these matching rights by accepting a Third Party Offer on the same material terms and conditions that the NBA was willing to accept from Amazon. The NBA, however, has breached the Agreement and deliberately refused to honor TBS’s rights, forcing TBS and WBD to seek judicial intervention.

2. Under the Agreement, TBS has paid the NBA an average of \$ [REDACTED] billion each year for the rights to distribute a package of NBA games on the TNT Network (“TNT”) through the 2024-2025 season. TBS’s current rights package includes at least 64 regular season games (including Thursday night doubleheader games and some Tuesday night games) and at least 30 playoff games (including one Conference Finals) each season, among other things. *See* Agreement § IV.

3. TBS has a vested interest in maintaining these distribution rights and its carefully developed 40-year brand. On top of the billions of dollars it pays the NBA for the distribution rights, TBS has invested hundreds of millions of dollars in production and talent, including its award-winning *Inside the NBA* program with Ernie Johnson, Charles Barkley, Shaquille O’Neal, and Kenny Smith. TBS’s productions have been widely acclaimed for their best-in-class content and quality and have won over 20 Sports Emmys.

4. Moreover, NBA telecast rights are a unique asset that cannot be replaced. Each NBA game is a one-of-a-kind live sporting event. The ability to telecast NBA games not only drives significant viewership and ratings on TNT (which affects the price TBS and WBD can charge to their advertisers and downstream distributors that license TNT), it also provides a halo effect that is used to promote other content and drive attention and viewership to other TBS and WBD channels, networks, and properties. In addition, the NBA rights provide TBS with other competitive advantages. For example, having the rights to show NBA games on TNT makes TBS and WBD more likely to successfully negotiate rights to telecast

other sports leagues' events and to obtain more favorable terms with TBS's own downstream distributors.

5. Given the significance of these NBA telecast rights, the Agreement gives TBS the right to match offers from third parties who might seek to obtain TBS's distribution rights. Agreement § XXIV. Those matching rights are a material provision of the Agreement and are set forth in detail in Exhibit C to the Agreement. *See id.*, Ex. C (the "Matching Rights Exhibit" or "MRE").

6. Under the MRE, the NBA may "not enter into an agreement or agreements with any third party or parties" relating to future NBA telecast rights "without first giving" TBS an opportunity to accept a "Third Party Offer." MRE § B.1(a). If TBS "accepts a Third Party Offer," then TBS, not the third party, "shall have the right and obligation" to exercise the NBA distribution rights "provided for in the Third Party Offer." *See id.* § B.1(b).

7. TBS did just that here. On July 17, 2024, the NBA presented TBS with a Third Party Offer reflecting the terms and conditions that the NBA was willing to accept from Amazon: an average of \$ [REDACTED] billion per year for [REDACTED] regular season games (including games on [REDACTED]), [REDACTED] games, [REDACTED] [REDACTED] playoff games each year through the 2035-36 season, as well as [REDACTED] Conference Finals in [REDACTED] (the "Amazon Offer"). TBS responded by letter dated July 22, 2024, stating that TBS has elected to match the Amazon Offer and agrees to enter into a licensing agreement on the same material terms and conditions, consistent with TBS's rights and obligations under the

Agreement (including the MRE). TBS's timely and valid acceptance of the Amazon Offer plainly constituted a "Match" as defined in Section B.1(b) of the MRE, and, as a result, TBS now has the rights to distribute the games provided for in the Amazon Offer. *See* MRE §§ B.1(b), B.3(a)(i).

8. The NBA, however, has refused to honor TBS's Match. Not only that, despite TBS's clear match, the NBA has purported to grant the rights to Amazon in direct breach of the Agreement. Unless the NBA is ordered to specifically perform its obligations before the 2025-2026 season, TBS will lose the unique and valuable distribution rights that the Agreement (including the MRE) was designed to protect, as well as the many intangible and incalculable benefits that those rights bring to Plaintiffs' business. Plaintiffs thus have no choice but to bring this action.

9. Through this action, Plaintiffs seek: (a) a judicial declaration that TBS Matched the Amazon Offer in accordance with the Agreement (including the MRE); (b) specific performance of the NBA's obligations under the Agreement (including the MRE); (c) preliminary and permanent injunctive relief to prohibit the NBA from licensing these unique and irreplaceable rights to any third party; and (d) if and to the extent that injunctive and equitable relief is not granted, or is not sufficient to provide a full and complete remedy, monetary damages.

PARTIES

10. Plaintiff TBS is a corporation organized under the laws of the State of Delaware with its principal place of business in Atlanta, Georgia.

11. Plaintiff WBD is a corporation organized under the laws of the State of Delaware with its principal place of business in New York, New York, and the parent company of TBS.

12. Defendant NBA is an unincorporated association with its principal place of business in New York, New York, and whose members are the 30 NBA teams.

13. Defendant NBA Media Ventures, LLC is a Delaware limited liability corporation with its principal place of business in New York.

14. Defendant NBA Properties, Inc. is a New York corporation with its principal place of business in New York (together with NBA Properties, Inc., the “Defendant Affiliates”).

JURISDICTION AND VENUE

15. This Court has personal jurisdiction over Defendants pursuant to CPLR § 301 because the NBA and the Defendant Affiliates have their principal places of business in, and/or regularly transact business in, New York.

16. This Court also has personal jurisdiction over the NBA because the NBA has “irrevocably submit[ted] to personal jurisdiction in” this Court pursuant to Section XVIII of the Agreement.

17. Venue in this Court is proper pursuant to CPLR § 503(a) because the NBA has its principal place of business in New York County.

18. Venue in this Court is also proper pursuant to CPLR § 501 because TBS and the NBA agreed to litigate disputes arising under the Agreement “in the

State Courts of New York sitting in New York City,” and to “waive any defense of improper venue or inconvenient forum.” Agreement § XVIII.

19. Venue is appropriate in the Commercial Division because the amount in controversy exceeds \$500,000.

FACTUAL ALLEGATIONS

A. TBS and WBD

20. WBD is a global leader in the delivery of premium sports content, with a portfolio of expansive, multi-platform partnerships with the NBA, MLB, NCAA, NHL, US Soccer, and NASCAR.

21. TBS, a wholly owned subsidiary of WBD, operates the TNT video programming network, which distributes live sports, original scripted programming, and other video content to tens of millions of households across the country. TNT is widely recognized for its award-winning productions and the immersive content experiences it delivers.

22. TNT is distributed to a variety of consumer devices (TVs, mobile devices, tablets, personal computers, etc.) through various different distribution mediums, including, but not limited to, traditional wired-cable distribution (e.g., Spectrum), fiber optic and IPTV transmissions (e.g., Verizon Fios), satellite broadcast (e.g., DirecTV), and internet streaming to virtual multi-video programming distributors (e.g., YouTubeTV and Hulu Live), among others.

23. TNT live sports programs are also simulcast on Max, an internet-delivered subscription video and on-demand (“SVOD”) streaming service owned and operated by WBD that distributes premium content—including TNT’s live sports

programs—to tens of millions of subscribers in the United States, and millions more worldwide. Max is distributed to, among other things, home televisions and other devices that allow viewers to watch streamed content. Max consistently ranks as one of the most popular SVOD streaming services in the United States.

24. TBS distributes live sports content, including its assigned package of NBA games, through each of these various distribution mediums.

B. The NBA

25. The NBA is the world's preeminent professional basketball league, and is comprised of thirty member teams located in the United States and Canada.

26. The NBA grants licenses to programmers like TBS, giving them the exclusive right to distribute certain packages of NBA games on a national basis.

27. The NBA reaps billions of dollars through its distribution agreements with programmers. Indeed, the NBA earned approximately \$ [REDACTED] billion in revenue from licensing NBA game distribution rights between the 2014-2015 and 2024-2025 seasons, and is expected to earn over \$ [REDACTED] billion in revenue from licensing NBA game distribution rights between the 2025-2026 and [REDACTED] seasons.

28. In exchange, NBA telecast rights provide programmers like TBS and WBD with unique content that brings significant viewership and ratings. During the 2023-24 season, national broadcasts of NBA regular season games averaged 1.6 million viewers per game.

C. The Agreement

29. TBS has contracted with the NBA for the rights to distribute professional basketball games on TNT since 1989.

30. TBS and the NBA entered into the Agreement on or about October 3, 2014.

31. Through the Agreement, the NBA grants TBS the rights to distribute on TNT, via “Non-Broadcast Television,” at least 64 regular season games, at least 30 playoff games, and other game and non-game content through the end of the 2024-2025 NBA season. Agreement § I.A.1; *see also id.* § IV.

32. The Agreement defines “Non-Broadcast Television” to include “any method of television or video distribution or transmission (other than Broadcast Television), whether now known or hereafter developed, including, but not limited to, all forms of Cable Television (as defined in subparagraph (iv) [therein]), fiber optics, Premium TV, Hotel Pay TV, MDS, MMDS, SMATV, Closed Circuit TV, HDTV, satellite, DBS, microwave, Internet, IPTV, broadband, ‘on-line’, interactive, wireless and telephone transmission.” Agreement § I.B.1(c)(iii).

33. Live sports contests like NBA games command significant value because they are one-time events, with a one-time outcome. NBA games drive significant viewership and ratings, as consumers are more likely to watch games live, in real time. This, in turn, affects the price TBS and WBD can charge to their advertisers and downstream distributors that license TNT for transmission to their customers.

34. NBA telecast rights provide halo benefits to both TBS and WBD. NBA games draw large audiences, many of whom would not otherwise tune in to TNT. This gives TBS a unique opportunity to promote and advertise its other shows and

networks on TNT to consumers that it would not otherwise reach. WBD also can promote and advertise its other networks (such as Discovery Channel, HGTV, and Animal Planet) and properties (e.g., Warner Bros. Studios films and WB Games) to NBA fans during games shown on TNT. NBA distribution rights thus give both TBS and WBD the ability to grow their brands and reach a larger group of consumers that only NBA games bring.

35. NBA telecast rights also give TBS and WBD a competitive advantage over other programmers, particularly when negotiating with other leagues for sports rights. Sports leagues want to partner with programmers that deliver high viewership, which NBA games help deliver. Because the NBA is the second-largest domestic sports league, and because its games help drive viewership and ratings, TBS is better positioned to market itself to other sports leagues who might otherwise partner with one of TBS's competitors. Featuring the NBA also provides TBS and WBD with an advantage when negotiating distribution rights with downstream distributors who pay to carry TNT and other WBD networks.

36. On top of the billions of dollars in fees paid to the NBA under the Agreement, TBS has made substantial investments to develop its NBA brand and provide consumers with a premium product. For example, TBS created the widely acclaimed *Inside the NBA* studio show, featuring some of the most iconic figures in sports broadcasting. The show is hosted by the popular Ernie Johnson, Charles Barkley, Shaquille O'Neal, and Kenny Smith, and regularly features other NBA

greats such as Reggie Miller, Grant Hill, and Vince Carter. NBA Commissioner Adam Silver has stated: “Inside the NBA is the greatest sports show on television.”

D. TBS’s Matching Rights Under the Agreement

37. Recognizing TBS’s significant investment in its NBA product and the importance of the NBA rights to TBS, the Agreement grants TBS “the negotiating and ‘matching’ rights set forth in Exhibit C [t]hereto” (i.e., the MRE). Agreement § XXIV.

38. The MRE provides that the NBA “shall not enter into an agreement or agreements with any third party or parties” relating to “Cable Rights (or any subset of such rights) without first giving . . . the Incumbents . . . a five (5) day opportunity (‘Match Window’) to enter into a license agreement or license agreements with NBA on the terms and conditions offered to such third party or parties (each, a ‘Third Party Offer’).” MRE § B.1(a) (emphasis added).

39. TBS is an “Incumbent” under the MRE, along with ESPN, Inc., American Broadcasting Companies, Inc., and NBA TV, LLC. MRE § A.2.

40. “Cable Rights” under the MRE are the rights that TBS, ESPN, and NBA TV are granted under their current NBA agreements—i.e., “TNT Rights, ESPN Rights, [and] NBA TV Rights”—as well as “any other national cable network telecast rights to NBA game and related non-game programming.” MRE § A.4(b).

41. “TNT Rights,” in turn, means “all rights licensed under this Agreement with respect to the TNT national cable network,” MRE § A.1(a), including the right

to distribute a specified package of NBA games “on TNT . . . via Non-Broadcast Television.” Agreement § I.A(1).¹

42. As noted above, the Agreement defines “Non-Broadcast Television” to include “any method of television or video distribution or transmission (other than Broadcast Television), whether now known or hereafter developed, including, but not limited to, all forms of Cable Television (as defined in subparagraph (iv) [therein]), fiber optics, Premium TV, Hotel Pay TV, MDS, MMDS, SMATV, Closed Circuit TV, HDTV, satellite, DBS, microwave, Internet, IPTV, broadband, ‘on-line’, interactive, wireless and telephone transmission.” Agreement § I.B.1(c)(iii).

43. Thus, if a third party makes an offer relating to rights which TBS, ESPN, or NBA TV currently enjoy, TBS has the right to match that offer and obtain the rights for itself.

44. The MRE makes clear that TBS “may” accept “any” Third Party Offer for Cable Rights (or “any subset of such rights”). MRE § B.1(a). And if TBS “accepts a Third Party Offer by entering into a license agreement on the terms and conditions provided for in the Third Party Offer during the Match Window (a ‘Match’),” then TBS “shall have the right and obligation . . . to exercise the [rights] provided for in the Third Party Offer.” MRE § B.1(b).

45. The MRE further provides that, “[i]n the event that TBS Matches a Third Party Offer that includes Cable Rights” and no other Incumbent matches,

¹“ESPN Rights” and “NBA TV Rights” are likewise defined as the rights granted to those entities under their current-term agreements.

“then TBS shall have the exclusive right and obligation to exercise the Cable Rights provided for (and on the same terms set forth) in the Third Party Offer.” MRE § B.3(a)(i).

46. That is exactly what happened here: Amazon made an offer for Cable Rights as defined in the MRE, and TBS matched it. But, in breach of the Agreement, the NBA has refused to honor TBS’s match.

E. TBS Matches the Amazon Offer

47. The NBA provided TBS with the Amazon Offer by letter dated July 17, 2024. The NBA’s July 17, 2024 letter is attached hereto as Exhibit 2, and the Amazon Offer is attached hereto as Exhibit 3.

48. The Amazon Offer set forth a proposed agreement between Amazon and the Defendant Affiliates.

49. TBS had until 11:59 p.m. ET on Monday, July 22, 2024 to Match the Amazon Offer. *See* Ex. 2.

50. The Amazon Offer unmistakably was a Third Party Offer relating to “Cable Rights” as defined in the Agreement, which TBS had the right to Match. The Amazon Offer is for an exclusive license to distribute a package of NBA games, including games within TBS’s existing package (e.g., [REDACTED]), via the Internet and other means, *see* Ex. 3 §§ 2, 10, 11, all of which are forms of “Non-Broadcast Television,” *see* Agreement § IV. The Amazon Offer thus provides for “Cable Rights,” including “TNT Rights,” and TBS was entitled to Match it. *See* MRE §§ A.1(a), A.4, B.1(a)-(b).

51. The MRE provides that, if a “Third Party Offer relates solely to Cable Rights,” as was the case here, then TBS need only “accept each term of the Third Party Offer that relates to . . . Cable Rights.” MRE § B.1(a). TBS was not required to accept terms that do not relate to Cable Rights. MRE § C.5(a).

52. By letter dated July 22, 2024, TBS informed the NBA that it “has elected to match Amazon’s offer,” and attached a signed agreement reflecting all of the same Cable Rights-related terms and conditions as the Amazon Offer. TBS’s July 22, 2024 letter is attached hereto as Exhibit 4. TBS’s signed agreement is attached hereto as Exhibit 5, and a redline of the TBS agreement compared against the Amazon Offer is attached hereto as Exhibit 6.

53. As reflected in its signed agreement, TBS agreed to pay the same fees for the same games provided for in the Amazon Offer. *See* Ex. 5 § 2. TBS also agreed to distribute games on TNT and Max. *See id.* § 10(a).

54. TBS properly effectuated a “Match” in accordance with the Agreement (including the MRE).

55. The NBA had no right not to honor TBS’s Match.

56. This should be the end of the story. Amazon bid for Cable Rights and TBS, as was its right, matched, giving TBS the exclusive right “to exercise the Cable Rights provided for” in the Amazon Offer, MRE § B.3(a)(i), including the right to distribute those games via “Non-Broadcast Television” on TNT and Max, one of the most popular SVOD streaming services, through the 2035-2036 season.

F. The NBA Refuses to Honor TBS's Match

57. Notwithstanding the clear contractual mandate triggered by TBS's match, the NBA has informed TBS that it will not honor TBS's match and instead has licensed the rights to Amazon. But the NBA cannot do that since it has already granted those rights to TBS.

58. The NBA has asserted that because Amazon proposed to distribute NBA games on its Prime Video platform, TBS could not match by telecasting the games on TNT and Max, citing Section C.4 of the MRE. But the NBA is wrong.

59. TBS properly matched the Amazon Offer by agreeing to telecast the games on both TNT and Max. Section B.3(a)(i) of the MRE states that, “[i]n the event that TBS Matches a Third Party Offer that includes Cable Rights” and no other Incumbent matches, as was the case here, “then TBS shall have the exclusive right and obligation to exercise the Cable Rights provided for (and on the same terms set forth) in the Third Party Offer.” MRE § B.3(a)(i). The Amazon Offer provides for Cable Rights, including TNT Rights, because the offer is for games that TBS currently has the right to distribute on TNT via Non-Broadcast Television, which includes both cable and Internet distribution, pursuant to the Agreement. TBS thus has an exclusive right “to exercise the Cable Rights provided for” in the Amazon Offer, MRE § B.3(a)(i). Agreement § I.A.

60. The NBA also has claimed that TBS, which operates a cable television network, cannot match the offer of Amazon, an “over the top” distributor, because TBS has not agreed to distribute games via the “specified form of combined audio

and video distribution” utilized by Amazon—drawing on a phrase found in Section C.4 of the MRE. That Section states:

Each Incumbent shall have the right, subject to the terms of this Paragraph (applied mutatis mutandis as necessary), to Match a Third Party Offer that provides for the exercise of rights to distribute NBA regular season and/or Playoff games (‘Game Rights’) via any form of combined audio and video distribution (e.g., Internet distribution). In the event that an Incumbent Matches a Third Party Offer that provides for the exercise of Game Rights via any specific form of combined audio and video distribution, such Incumbent shall have the right and obligation to exercise such Game Rights only via the specified form of combined audio and video distribution (e.g., if the specified form of combined audio and video distribution is Internet distribution, a Matching Incumbent may not exercise such Game Rights via television distribution) through a distributor reasonably acceptable to the NBA. MRE § C.4.

61. Section C.4, however, makes clear that TBS has the right to “Match a Third Party Offer that provides for the exercise of [NBA game rights] via *any* form of combined audio and video distribution.”

62. The Amazon Offer also did not provide for a “specific form of combined audio and video distribution” simply because Amazon proposed to put the games on Prime Video and the NBA apparently sought to limit Amazon’s distribution to only streaming over the Internet. TNT, Max, and Prime Video do not use different forms of combined audio and video distribution. TNT, Max, and Prime Video are distributed to a television because consumers can watch each of them on a television. Indeed, 70% of viewing on Prime Video occurs on a television. TNT, Max, and Prime Video *also* are distributed via the Internet, as consumers can stream

TNT, Max and Prime Video on their computers and mobile devices as well.² Put simply, consumers today can watch TNT and Max on all of the same devices as Prime Video.

63. Had TBS and the NBA intended to distinguish between the way distributed content was *transmitted* (such as through a specific medium like a cable wire) as opposed to the way in which distributed content was *viewed* by the end consumer, they could have distinguished between “cable television,” “internet television,” and “satellite television” in Section C.4. But they did not because that was not what was intended. “Television” is ubiquitous with content consumers watch on a television at home, in a sports bar, or virtually anywhere else, and that is how both TBS and Amazon would distribute games.³

² Notably, even Prime Video is not transmitted exclusively via the Internet. Prime Video also is distributed through satellite in some instances. *See* John Ourand, *DirecTV, Prime Video Reach Deal for ‘TNF’ in Bars*, Sports Business Journal, Aug. 23, 2022, available at: <https://www.sportsbusinessjournal.com/Daily/Morning-Buzz/2022/08/23/DirecTV-and-Prime-Video-agree-on-TNF-distribution-to-bars.aspx> (last accessed July 24, 2024). Pure “Internet distribution,” by contrast, refers to content that can *only* be viewed over the internet and not on television. For example, around the time the Agreement was signed, Verizon entered into an agreement with the NFL that allowed Verizon customers to view NFL games only via their mobile phones using cellular internet. *See* Terry Lefton and John Ourand, *Verizon Close to Four-Year, \$1B Extension of Rights to Stream NFL Games to Phones*, Sports Business Journal, Jun. 4, 2013, available at: <https://www.sportsbusinessjournal.com/Daily/Issues/2013/06/04/Media/Veriz> (last accessed July 24, 2024). Another example is the NCAA March Madness Tournament, which had, at least under prior arrangements, distributed certain games through television and distributed other games through the internet on the www.ncaa.com website. Games distributed solely through www.ncaa.com were not able to be seen on television, and, thus, would have been examples of non-televised “internet distributions.”

³ More likely the parenthetical phrase was intended to distinguish between different ways of *viewing* content, e.g., on a television versus on a website and other web-only (i.e., non-television) outlet, such as a mobile phone or a website (*see supra* note 2).

64. Further, the Amazon Offer specifically provided for the exercise of NBA game distribution rights via forms of distribution other than the Internet (e.g., satellite). *See* Ex. 3 § 11.

65. Upon information and belief, the NBA never intended to allow TBS to Match the Amazon Offer.

66. The NBA did not share the Amazon Offer with TBS or WBD until after the NBA's Board of Governors voted to approve the Amazon Offer.⁴

67. The NBA also did not share another Third Party Offer made by NBCUniversal (the "NBCU Offer") until after the NBA's Board of Governors voted to approve the NBCU Offer. The NBCU Offer is attached hereto as Exhibit 7.

68. Upon information and belief, the NBA had agreed terms with Amazon and NBCU months before July 17, 2024.⁵

69. Upon information and belief, the NBA delayed sending the Amazon and NBCU Offers to TBS to give it more time to craft provisions intended to thwart TBS's matching rights in both Offers.

70. Moreover, upon information and belief, the NBA carefully and meticulously crafted the Amazon Offer to circumvent TBS's rights under the MRE,

⁴ *See* Anthony Crupi, *TNT on the Clock as NBA Board of Governors Approves Media Deals*, Yahoo Finance, July 17, 2024, available at: <https://finance.yahoo.com/news/tnt-clock-nba-board-governors-122032269.html> (last accessed July 24, 2024).

⁵ *See* Tom Friend, *NBA formalizing deals with Disney, Amazon, NBC*, Sports Business Journal, May 22, 2024, available at: <https://www.sportsbusinessjournal.com/Articles/2024/05/22/nba-formalizing-media-rights-deals-disney-amazon-nbc> (last accessed July 24, 2024).

including by agreeing to include provisions in the Amazon Offer that the NBA believed TBS and WBD could not or would not perform.

71. In its July 17, 2024 letter, the NBA stated that it “[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].” Ex. 2. That argument ignores the plain definition of “Cable Rights” (which plainly includes “TNT Rights,” i.e., the rights to distribute games in the Amazon Offer via the Internet). It also undermines the NBA’s reliance on Section C.4, as that provision can only ever apply if there is a Third Party Offer.

72. The Amazon Offer requires that games be distributed via a NBA-approved SVOD service, with highly specific requirements targeted at describing only Prime Video. The SVOD service must, for instance, show either [REDACTED]

[REDACTED] or [REDACTED]

[REDACTED]. Ex. 3 § 10.a(i).

73. The Amazon Offer also needlessly [REDACTED]

[REDACTED]

[REDACTED] from being counted towards the minimum reach requirement of [REDACTED].

Ex. 3 § 10.a(i). This conspicuous exclusion serves no legitimate business purpose other than to prevent TBS from meeting the minimum reach requirement by

counting TNT and Max subscribers. *See id.* Indeed, if the concern were reach itself, TBS’s match more than satisfies any reasonable requirement.

74. The Amazon Offer also purports to prohibit all other forms of distribution, including even “[REDACTED] [REDACTED],” Ex. 3 § 10.a(ii), [REDACTED] [REDACTED]. *See* Ex. 3 § 11. Excluding all other forms of distribution, solely for residential consumers, makes no business sense and runs directly contrary to the NBA’s own interest in maximizing viewership. Section 11 reinforces that the Amazon Offer does not provide for a “specific method of combined video/audio distribution” under C.4 of the MRE.

75. It also is inconsistent with the NBA’s other licenses. Notably, the NBA granted NBCU the right to distribute NBA games via “[REDACTED] [REDACTED].” Ex. 7 § IX. Upon information and belief, the NBA structured the Amazon Offer differently for the sole purpose of attempting to thwart TBS’s matching rights.

76. Further, the Amazon Offer needlessly requires an onerous [REDACTED] [REDACTED], Ex. 3 § 26, which serves no purpose other than to unduly burden WBD. The Amazon Offer itself, if accepted by the NBA, contained a provision which provided for [REDACTED]

[REDACTED], *see id.* § 26(c), which is precisely the vehicle contained in the TBS matching offer, *see Ex. 5* § 26(c).

77. The NBA also agreed to other provisions in the Amazon Offer that are neither related to Cable Rights nor supported by any legitimate business justification, but rather are solely designed to thwart TBS's matching rights.

78. Upon information and belief, the NBA agreed to these provisions with the intent of thwarting TBS's Matching Rights.

79. Further, the NBA separately agreed with NBCU that [REDACTED]
[REDACTED]. *See* Exhibit 6 § IX. This was intentional and improper conduct by the NBA, and a bad faith effort to deprive TBS of its contractual rights.

80. By structuring the Amazon Offer in this manner, the NBA breached Section D.2. of the MRE, which requires that “[e]ach party shall exercise its rights and perform its obligations under this Exhibit in good faith and neither party shall take any action with respect to a Third Party Offer the primary purpose of which is to circumvent the terms of this Exhibit.”

G. The NBA's Conduct Will Cause Plaintiffs Irreparable Harm

81. Unless the NBA is ordered to specifically perform its obligations under the Agreement (including the MRE), TBS and WBD will suffer irreparable harm as a result of the NBA's actions.

82. Without enforcement of its rights under the Agreement (including the MRE), TBS will be deprived of its distribution rights for at least 11 years.

83. NBA telecast rights are unique and valuable. The loss of these rights and the intangible and incalculable benefits they bring cannot be fully quantified with money damages.

84. TBS will suffer irreparable harm unless the NBA is ordered to specifically perform its obligations. Among other things, TBS will lose the unique and valuable rights that the MRE was designed to protect, the “halo” benefits associated with telecasting such highly rated and successful content, its competitive advantages with sports leagues and distributors, market share in the sports licensing market, immeasurable goodwill, and the substantial sums it has invested in building its NBA brand.

85. WBD also will suffer irreparable harm if this dispute is not resolved by the NBA’s specific performance of its obligations, including by losing, among other things, the “halo” benefits that WBD uses to promote other WBD content, networks and properties, as well as its own goodwill, competitive advantages, and market share.

86. Indeed, this is not a mere case of losing one valuable sports property, but rather a case where the various implications of losing the NBA distribution rights are wide-ranging and not merely difficult, but impossible to fully calculate.

CAUSES OF ACTION

FIRST CAUSE OF ACTION (Breach of Contract – Specific Performance)

87. Plaintiffs repeat and reallege Paragraphs 1 through 86 of this Complaint as if fully set forth herein.

88. TBS and the NBA have a contractual relationship under the Agreement, which is a valid and binding contract that, among other things, provides TBS with the “matching” rights set forth in the MRE. Agreement § XXIV.

89. TBS properly exercised its matching rights by accepting a Third Party Offer in accordance with the MRE.

90. The NBA breached the Agreement, including the MRE, by refusing to honor TBS’s Match and agreeing to license the distribution rights to a third party.

91. The NBA should be required to specifically perform its obligations under the Agreement, including by honoring TBS’s Match and granting and/or directing the Defendant Affiliates to grant TBS the rights provided for in the Amazon Offer. TBS has fully performed its own contractual obligations, in reliance upon the NBA’s fulfillment of its obligations. Money damages would be inadequate to protect Plaintiffs’ expectation interest because such damages could not compensate for Plaintiffs’ inability to telecast NBA games—a rare and unique property interest—on its networks, channels, and/or streaming platforms through the 2035-2036 season. Absent specific performance, Plaintiffs would lose, among other things, immeasurable goodwill and “halo” benefits associated with telecasting such highly rated and successful content, their competitive advantage and market share in the sports licensing market, and the substantial sums they have invested in building their NBA brand. Granting specific performance compelling the NBA to honor TBS’s match would not impose an unreasonable hardship or injustice on the

NBA because the NBA is contractually bound, and previously agreed in exchange for valuable consideration that it has received, to grant TBS its matching rights.

92. Plaintiffs also are entitled to injunctive and equitable relief because the harm caused by the NBA's breach is not fully compensable by money damages.

**SECOND CAUSE OF ACTION
(Breach of Contract – Money Damages)**

93. Plaintiffs repeat and reallege Paragraphs 1 through 92 of this Complaint as if fully set forth herein.

94. TBS and the NBA have a contractual relationship under the Agreement, which is a valid and binding contract that, among other things, provides TBS with the "matching" rights set forth in the MRE. Agreement § XXIV.

95. TBS properly exercised its matching rights by accepting a Third Party Offer in accordance with the MRE.

96. The NBA breached the Agreement, including the MRE, by refusing to honor TBS's Match and agreeing to license the distribution rights to a third party.

97. If and to the extent that injunctive and equitable relief, including specific performance, is not granted, or is not sufficient to provide a full and complete remedy, Plaintiffs are entitled to monetary damages in an amount to be determined at trial.

**THIRD CAUSE OF ACTION
(Declaratory Judgment)**

98. Plaintiffs repeat and reallege Paragraphs 1 through 97 of this Complaint as if fully set forth herein.

99. TBS's rights under the Agreement are being placed in jeopardy by the NBA's actions.

100. TBS timely Matched the Amazon Offer pursuant to and in accordance with the Agreement (including the MRE), and, as a result, believes it now has the rights to telecast the games provided for in the Amazon Offer. TBS further contends that it may distribute the games provided for in the Amazon Offer on TNT and Max.

101. The NBA contends, among other things, that TBS failed to match the Amazon Offer pursuant to the terms of the MRE, and that TBS may only exercise the rights provided for in the Amazon Offer by distributing games via the Internet.

102. By virtue of the foregoing, there now exists actual, justiciable controversies of sufficient immediacy between TBS and the NBA relating to their respective legal rights, duties, and obligations, which controversy is ripe for adjudication.

103. Declaratory relief will resolve the legal issues between the parties pertaining to the parties' rights and obligations under the Agreement, including the MRE.

104. Plaintiffs thus request a judicial declaration that: (a) TBS timely Matched a Third Party Offer pursuant to the terms of the Agreement; and (b) TBS has the rights from the NBA and/or the Defendant Affiliates to distribute the NBA games provided for in Amazon's offer on TNT, Max, and other forms of Non-Broadcast Television.

FOURTH CAUSE OF ACTION
(Breach of Contract – Circumvention)

105. Plaintiffs repeat and reallege Paragraphs 1 through 104 of this Complaint as if fully set forth herein.

106. TBS and the NBA have a contractual relationship under the Agreement, which is a valid and binding contract that, among other things, provides TBS with the “matching” rights set forth in the MRE. Agreement § XXIV.

107. Section D.2 of the MRE states that “[e]ach party shall exercise its rights and perform its obligations under this Exhibit in good faith and neither party shall take any action with respect to a Third Party Offer the primary purpose of which is to circumvent the terms of this Exhibit.”

108. Upon information and belief, the NBA breached Section D.2 of the MRE by failing to exercise its rights and perform its obligations thereunder in good faith and by taking action for the purpose of circumventing the terms of the MRE,

including by, *inter alia*: (a) [REDACTED]

[REDACTED]; (b) [REDACTED]

[REDACTED]; (c) [REDACTED]

[REDACTED]; (d) [REDACTED]

[REDACTED]; and

(e) [REDACTED]

[REDACTED]. Upon

information and belief, the NBA and/or the Defendant Affiliates negotiated,

solicited, and/or helped to construct the Third Party Offers, including the Amazon

Offer, in these and other ways to try to circumvent TBS's matching rights with the intent to deprive TBS of those rights.

109. Plaintiffs are entitled to specific performance because the harm caused by the NBA's breach is not fully compensable by money damages.

110. If and to the extent that specific performance is not granted, or is not sufficient to provide a full and complete remedy, Plaintiffs are entitled to monetary damages in an amount to be determined at trial.

PRELIMINARY AND PERMANENT INJUNCTION

111. Plaintiffs repeat and reallege Paragraphs 1 through 110 of the Complaint as if fully set forth herein.

112. TBS and WBD are likely to succeed on the merits of their claims.

113. Should the issues presented in the Complaint not be resolved well in advance of the 2025-2026 NBA season, the NBA's breach of TBS's matching rights will cause irreparable harm to each of TBS and WBD for the reasons discussed above, including, but not limited to, the loss of a unique and valuable asset, and loss of goodwill, key talent, subscribers, and incalculable affiliate fees and advertising revenues.

114. The balance of equities tips in Plaintiffs' favor, including because Plaintiffs would suffer irreparable harm absent an injunction, whereas neither the NBA, the Defendant Affiliates, nor the public would be harmed if an injunction is granted.

115. Should the issues presented in the Complaint not be resolved well in advance of the 2025-2026 NBA season, Plaintiffs will seek a preliminary and

permanent injunction against the NBA enjoining the NBA and/or the Defendant Affiliates from granting TBS's rights to Amazon or any other party.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

- A. Enter judgment in Plaintiffs' favor on each cause of action;
- B. Declare that (a) TBS Matched the Amazon Offer in accordance with the Agreement (including the MRE), (b) TBS is contractually entitled to the telecast rights provided for in the Amazon Offer, and (c) TBS has the rights from the NBA and/or the Defendant Affiliates to distribute the games provided for in the Amazon Offer on TNT and Max via Non-Broadcast Television;
- C. Order the NBA to specifically perform its obligations under the Agreement, including by honoring TBS's Match and granting and/or directing the Defendant Affiliates to grant TBS the rights provided for in the Amazon Offer;
- D. Should the issues presented in the Complaint not be resolved well in advance of the 2025-2026 NBA season, preliminarily and permanently enjoin Defendants from licensing the telecast rights that TBS matched under the Agreement (including the MRE) to Amazon or any other third party;
- E. If and to the extent that injunctive and equitable relief is not granted, or is not sufficient to provide a full and complete remedy, award monetary damages in an amount to be determined at trial;

- F. Order Defendants to reimburse Plaintiffs' costs and expenses, including attorneys' fees, incurred through this action;
- G. Award prejudgment and post-judgment interest at the maximum legal rate;
and
- H. Grant such other relief as this Court may deem just and proper.

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Respectfully submitted,

By: 
David L. Yohai

Weil, Gotshal & Manges LLP
David L. Yohai
Theodore E. Tsekerides
A.J. Green
Zachary A. Schreiber
767 Fifth Avenue
New York, New York
Telephone: (212) 310-8000
Email: david.yohai@weil.com
theodore.tsekerides@weil.com
a.j.green@weil.com
zach.schreiber@weil.com

*Counsel for Plaintiffs Turner
Broadcasting System, Inc. and Warner
Bros. Discovery, Inc.*