

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

LUCIANNE M. WALKOWICZ,)	AMENDED COMPLAINT
)	
Plaintiff,)	
)	
v.)	CASE NO. 3:20-cv-00374-jdp
)	
AMERICAN GIRL, LLC ¹ , AMERICAN GIRL BRANDS, LLC, and MATTEL, INC.)	
)	
Defendants.)	JURY DEMAND

AMENDED COMPLAINT

NOW COMES the PLAINTIFF LUCIANNE M. WALKOWICZ (“Plaintiff” or “Dr. Walkowicz” or “Lucianne”), by and through her attorneys, Mudd Law Offices, and complains of DEFENDANTS AMERICAN GIRL, LLC, AMERICAN GIRL BRANDS, LLC, and MATTEL, INC. (collectively, “Defendants”), and states as follows:

NATURE OF ACTION

1. This is an action for the violation of right of publicity, false designation of origin in violation of 15 U.S.C. § 1125(a), unfair competition, and related claims.
2. By this action, Dr. Walkowicz seeks compensatory damages, punitive damages, statutory damages, reasonable attorney’s fees and costs, injunctive relief, and all other relief to which Lucianne may be entitled as a matter of law.

PARTIES

3. Dr. Walkowicz is a citizen of the State of Illinois and a resident of Cook County,

¹ In their Motion to Dismiss the Complaint, the Defendants explain that American Girl, Inc. converted to American Girl, LLC. Based on this representation, the Plaintiff has changed the entity name accordingly.

Illinois.

4. American Girl, LLC is a Delaware corporation with its principal place of business in Middleton, Wisconsin.

5. American Girl Brands, LLC is a Delaware corporation with its principal place of business in Middleton, Wisconsin.

6. Mattel, Inc. (“Mattel”) is a California corporation with its principal place of business in El Segundo, California.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the subject matter of the Plaintiff’s claims under 15 U.S.C. § 1125, as well as 28 U.S.C. §§ 1331 and 1338(a).

8. This Court also has jurisdiction over the subject matter of the Plaintiff’s claims pursuant to 28 U.S.C. § 1332 as (a) the Plaintiff and the Defendants are citizens of different states and (b) the amount in controversy exceeds \$75,000.00.

9. Defendants American Girl, LLC and American Girl Brands, LLC (collectively, “American Girl”) operate in and sell products within the State of Wisconsin.

10. Defendant Mattel purchased American Girl in 1998.

11. Defendant Mattel operates American Girl as subsidiaries in the State of Wisconsin.

12. Defendant Mattel sells products within the State of Wisconsin.

13. This Court may exercise personal jurisdiction over the Defendants because they have sufficient contacts with Wisconsin for this Court to exercise general personal jurisdiction over them and/or have engaged in specific conduct relating to the Plaintiff in this jurisdiction sufficient for this Court to exercise specific personal jurisdiction over them.

14. Venue in this district is proper pursuant to 28 U.S.C. § 1391 because (a) the Defendants American Girl operate within this district and (b) a substantial part of the events or omissions giving rise to the claims occurred in this district.

15. The Defendants engaged in intentional conduct that has harmed the Plaintiff.

16. The Plaintiff has been injured by the Defendants' conduct and has suffered damages resulting therefrom in an amount greater than \$75,000.00.

FACTUAL BACKGROUND

17. Dr. Lucianne Walkowicz is an astronomer and TED Senior Fellow at the Adler Planetarium.

18. Lucianne has spent much of her career involved with the NASA Kepler mission.

19. A significant component of the NASA Kepler mission involves studying the constellation Lyra at its center.

20. At the center of Lyra, Vega sits as the brightest star in the constellation.

21. Over the course of her career, Lucianne has discussed Vega numerous times.

22. In July 2011, Lucianne presented a TED talk in Scotland on "Finding Planets Around Other Stars."

23. This TED talk has been viewed at least 1.2 million times on the TED website.

24. On September 29, 2014, an advertisement appeared in the Wisconsin State Journal announcing Lucianne's visit to Monona Terrace as a TED speaker in relation to the Kepler mission.

25. On September 30, 2014, Lucianne presented a lecture at Monona Terrace in Madison, Wisconsin.

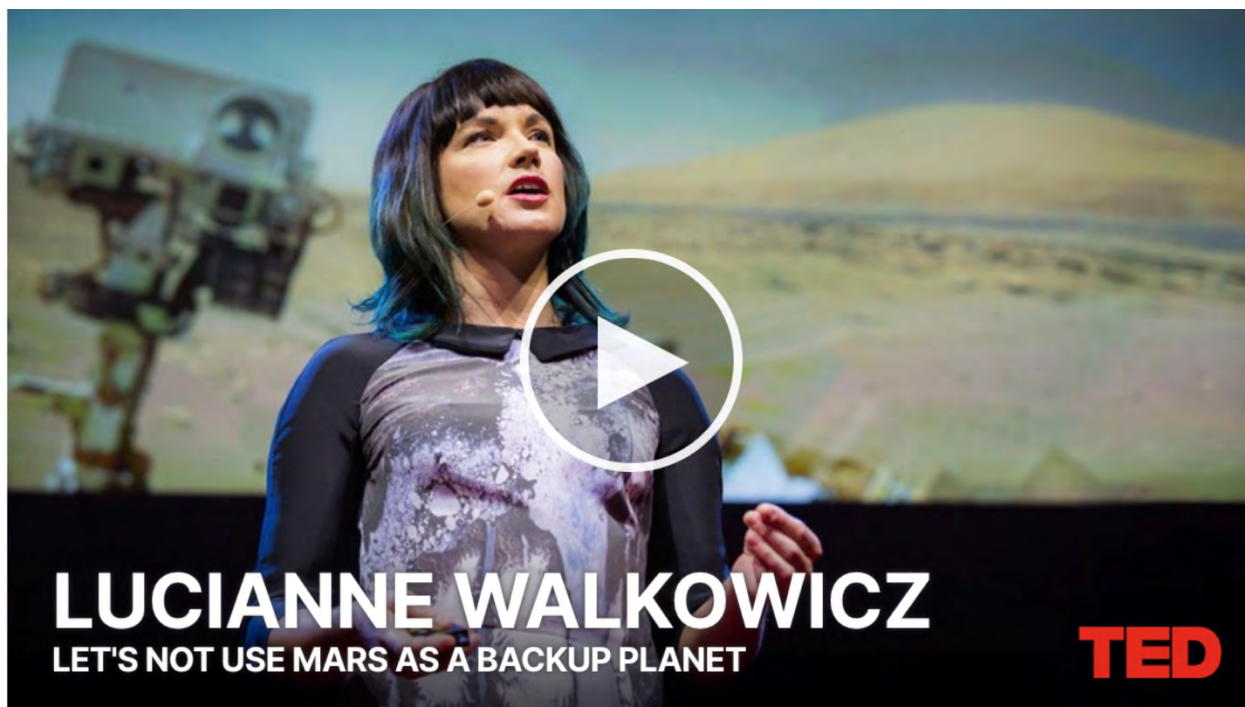
26. The introduction to the Lecture read:

It's really the starlight that sets the stage for the formation of life in the universe," says astrophysicist and TED Fellow Lucianne Walkowicz. She credits the tiny dimming as a planet passes in front of its sun that is key to finding planets – even habitable planets – around other stars. Walkowicz and the Kepler mission have found some 1,200 potential planetary systems. With new techniques, they may even find ones with the right conditions for life. Come hear Walkowicz's latest discoveries in this clear and interactive talk.

Speaker bio: Lucianne Walkowicz is a lifelong explorer who has been part of several space missions, including the Hubble Space Telescope and NASA's Kepler Mission, and is a leader in the future Large Synoptic Survey Telescope. Walkowicz holds a B.S. in Physics from Johns Hopkins University, a M.S. and Ph. D. from University of Washington, and was a fellow at UC Berkeley before becoming a Henry Norris Russell Fellow at Princeton University. She is a 2013 TED Senior Fellow, a 2011 National Academy of Sciences Kavli Fellow, and has been internationally recognized for her advocacy for conservation of dark night skies.

27. In March 2015, Lucianne presented a TED talk entitled "Let's Not Use Mars as a Backup Planet."

28. Lucianne's Mars TED talk has been viewed at least 2.2 million times on the TED website.



29. On April 12, 2016, Lucianne served as a panelist for the TED article entitled “4 Big Questions About the Race to Mars.”

30. On October 10, 2016, Lucianne participated as an expert in a day of space activities at the University of Wisconsin Space Place in Madison, Wisconsin.

31. During Lucianne’s time at the University of Wisconsin Space Place, many parents and teachers participated in astronomy activities led by Lucianne.

32. On October 11, 2016, Lucianne, as a representative of the Adler planetarium, presented at public science outreach events in Trempleau, Wisconsin as well as LaCrosse, Wisconsin.

33. On October 13, 2016, Lucianne, together with other leading innovators in the world, participated in the White House Frontiers Conference in Pittsburgh, Pennsylvania.

34. In July 2017, the United States Library of Congress named Lucianne its Astrobiology Chair at the Kluge Center.

Lucianne and Mars

35. Lucianne has long been affiliated with Mars.

36. In March 2015, Lucianne presented a TED talk entitled “Let’s Not Use Mars as a Backup Planet.”

37. On April 12, 2016, Lucianne served as a panelist for the TED article entitled “4 Big Questions About the Race to Mars.”

38. Lucianne has studied and continues to study the ethics of Mars exploration.

39. Indeed, the July 2017 Library of Congress announcement clearly identified Lucianne as studying the ethics of Mars exploration.

40. The announcement also indicated that Lucianne would work on a project titled “Fear of a Green Planet: Inclusive Systems of Thought for Human Exploration of Mars.”

41. In 2018, Lucianne appeared in National Geographic’s docudrama “Mars.”

Lucianne and Vega

42. Lucianne has long been affiliated with Vega.

43. Vega is the brightest star in the constellation of Lyra and sits at Lyra’s center.

44. Over the course of her career, Lucianne has devoted considerable research to the constellation Lyra.

45. Lucianne has publicly discussed Vega numerous times.

Distinctive Dress, Look, and Style

46. Over the course of her career, Lucianne adopted unique dress, look, and style.

47. In particular, Lucianne styled her dark hair with a purple streak on the right side.

48. Lucianne also regularly dressed in distinctive holographic shoes.

Beginning of the “Luciana” Trademark

49. Though various parties had applied for “Luciana” in diverse markets, Mattel first filed for “Luciana” as a mark in conjunction with “dolls, doll clothing and doll accessories” in July 2006 as an 1b application or with an “intent to use” status.

50. By filing with an “intent to use” status, Mattel represented that it had not yet begun to use the mark in commerce in conjunction with the class of goods for which it sought a registered trademark.

51. On August 23, 2010, after never having been registered, “Luciana” was abandoned, despite Mattel’s several requests to extend the time to file a statement of use.

52. In August 2006, Mattel, Inc. first filed for “Princess Luciana” in conjunction with “dolls, doll clothing and doll accessories” in August 2006 as an 1b or intent to use status.

53. On July 24, 2007, the USPTO issued the Notice of Allowance and Mattel, Inc.

filed a Statement of Use and specimen on November 26, 2007 in conjunction with a princess Barbie doll.

54. Mattel filed the following image as the 2007 specimen for “Princess Luciana”:



55. On January 22, 2008, the USPTO issued a registration certificate with Registration Number 3374432 for “Princess Luciana.”

56. On June 10, 2010, Mattel again filed for “Luciana” as a mark in conjunction with “dolls, doll clothing and doll accessories” as an 1b or intent to use status. And, again, Mattel filed for five (5) extensions of time in which to file a statement of use. Eventually, the USPTO marked the application as abandoned February 3, 2014.

57. In August 2014, the USPTO cancelled the registration for “Princess Luciana.”

58. On November 19, 2013, Mattel again filed for “Luciana” as a mark in conjunction with “dolls, doll clothing and doll accessories” as an 1b or intent to use status. Eventually, with Mattel having failed to file a statement of use, the USPTO marked the application as abandoned June 8, 2015.

59. On February 27, 2014, Mattel, Inc. filed a second application to register “Princess Luciana” as a mark in conjunction with “dolls, doll clothing and doll accessories” as an 1b or intent to use status. With Mattel failing to file a Statement of Use, the USPTO marked the application as abandoned September 21, 2015.

American Girl Dolls

60. Beginning in 2001, American Girl began producing its first American Girl “Girl of the Year” doll.

61. Each year thereafter, American Girl would typically produce a new American Girl “Girl of the Year” doll.

62. Apart from differences in skin tone, hair, and doll clothing and accessories, the American Girl “Girl of the Year” dolls were, essentially, the same model doll.

63. If not the same model, the “Girl of the Year” dolls were nearly the same model.

64. A comparison of the American Girl dolls demonstrates this point:



American Girl Names and Trademarks

65. The filing by American Girl of a trademark application for a girl's name does not, by itself, indicate that American Girl has a specific design or look in mind for the doll associated with that name.

66. In fact, over the course of the last thirty (30) years, American Girl has filed more than 100 trademark applications for names of girls associated with dolls.

67. In each of 2002 and 2010, American Girl filed eleven (11) trademark applications for unique personal names associated with dolls.

68. In each of 2013 and 2014, American Girl filed seven (7) trademark applications for unique personal names associated with dolls.

69. And, in 2015, American Girl filed thirteen (13) trademark applications for unique personal names associated with dolls.

70. In many of these cases, American Girl files the marks with an intent to use without a pre-existing specimen.

American Girl Access and Knowledge

71. The American Girl headquarters is approximately 8 miles from Monona Terrace Community and Convention Center ("Monona Terrace").

72. Most likely, many American Girl employees live within the vicinity of Monona Terrace.

73. Among these, Rebecca DeKuiper ("DeKuiper"), a Lead Designer of the "Girl of the Year" brand for American Girl, purchased residential property less than three miles from the Monona convention center in 2013.

74. At the time Lucianne provided her well-publicized TED talk at the Monona convention center, DeKuiper owned a residence less than three miles from Monona Terrace.

75. In fact, DeKuiper owned this property less than three miles from Monona Terrace until June 2018.

76. Quite possibly, DeKuiper and other American Girl employees attended Lucianne's well-publicized TED talk at the Monona Terrace.

77. At least one American Girl employee or consultant attended Lucianne's well-publicized TED talk at the Monona Terrace.

78. At least one American Girl employee or consultant attended the day of space activities at the University of Wisconsin Space Place in Madison, Wisconsin on October 10, 2016 in which Lucianne participated.

79. At least one American Girl employee or consultant attended the public science outreach events in Trempleau, Wisconsin as well as LaCrosse, Wisconsin at which Lucianne presented on October 11, 2016.

80. In each of these instances, DeKuiper may have attended an event at which Lucianne participated or presented.

81. On October 7, 2016, American Girl Brands, LLC, executed a contract with NASA to consult on the accuracy of its dolls.

82. On October 13, 2016, Ellen Stofan, a NASA doll consultant, attended the White House Frontiers Conference in Pittsburgh, Pennsylvania where Lucianne participated.

The New "Luciana" Trademark Applications

83. Next month, on November 23, 2016, American Girl filed an application for the mark "Luciana" in conjunction with "dolls and doll accessories" as an 1b or intent to use status.

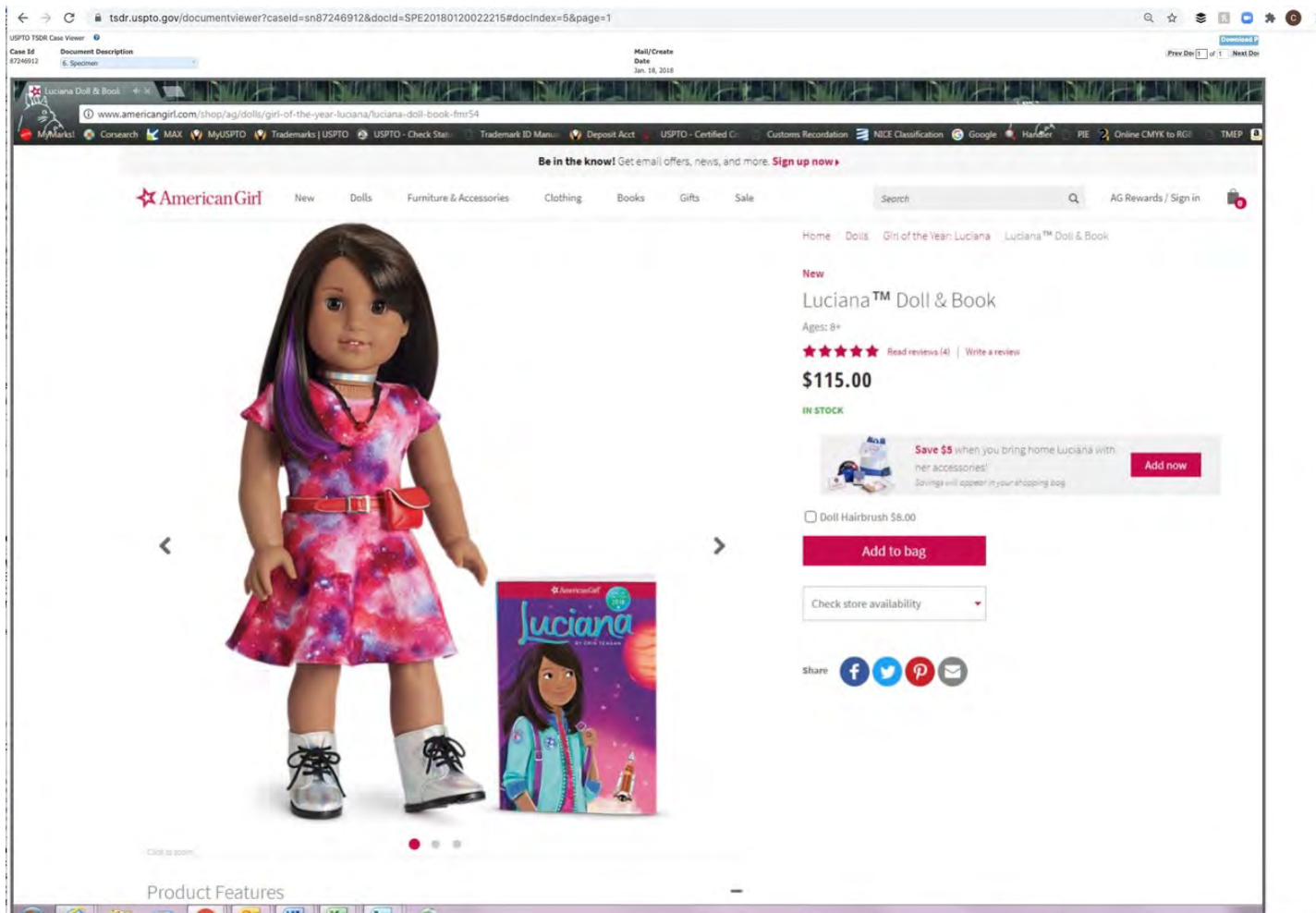
84. On December 15, 2016, American Girl filed an application for the mark “Luciana Vega” in conjunction with “dolls, doll clothing and doll accessories” as an 1b or intent to use status.

85. On April 11, 2017, the United States Patent and Trademark Office published the “Luciana” mark for opposition.

86. On January 3, 2018, American Girl first used the “Luciana” mark in commerce.

87. On January 18, 2018, American Girl filed its Statement of Use and specimen for the November 23, 2016 application for “Luciana.”

88. American Girl filed the following image as the 2018 specimen for “Luciana”:



89. A close-up of the specimen appears as:



90. The USPTO registered the “Luciana” mark on March 13, 2018 with registration number 5424449.

91. On March 28, 2018, American Girl filed its Statement of Use and specimen for the “Luciana Vega” trademark application.

92. American Girl filed the following image as the 2018 specimen for “Luciana”:



93. The USPTO registered the mark on June 12, 2018 with number 5493072.

“Luciana Vega”

94. In 2018, American Girl launched the Luciana Vega “Girl of the Year” doll (“Luciana Vega”).



95. The Luciana Vega doll appeared on the cover of American Girl’s January/February 2018 catalog.

96. The January/February 2018 catalog also featured the doll, a related book, and accessories across several pages.

97. Luciana Vega has dark hair with a purple hair streak on the right side of her face.



98. In describing Luciana Vega, American Girl states:

With a dream of becoming the first astronaut on Mars, Luciana Vega is excited for the chance to attend space training. But is she ready for the challenges—both physical and mental—that await?

Luciana’s adventures start off at Space Camp, where she learns that a love of science isn’t enough to lead a team to success—being a dependable partner is just as important. Luciana takes this lesson to a youth astronaut training camp, but during an underwater simulation, a crisis creates new fears she must conquer. Then, at the invitation of a friend, Luciana gets to visit a Mars habitat in the desert. But the friendship is tested when things don’t go as planned.

Join Luciana on her quest to reach Mars—and watch how she grows smarter and stronger along the way.

99. Advertisements for the Luciana Vega doll use a quote from Dr. Ellen Stofan, the NASA doll consultant who attended the White House Frontiers Conference in Pittsburgh, Pennsylvania at which Lucianne spoke.

100. Among accessories for Luciana Vega, American Girl provides a “Telescope Projector Set” (SKU#: FMC79):



101. Among accessories for Luciana Vega, American Girl provides a “Mars Habitat” (SKU#: FMC80):



102. Luciana Vega wears silver holographic shoes similar to holographic shoes worn by Lucianne.

Lucianne and “Luciana Vega”

103. Here, the Defendants used the name and likeness of Lucianne, a well-known figure in astronomy, space, and STEM, who particularly has studied the star Vega, in conjunction with the American Girl Doll “Luciana Vega” without obtaining Lucianne’s authorization.

104. Apart from the skin color, hair color, and doll clothing and accessories, every American Girl “Girl of the Year” is physically identical or, if not entirely identical, nearly identical to each other.

105. As such, the only physical differences between each “Girl of the Year” doll are represented by the skin color, hair color, and doll clothing and accessories.

106. Additionally, the name and background of each “Girl of the Year” doll typically differs.

107. Here, although the nationality and skin color of the “Luciana Vega” doll differ from those of Lucianne, the physical differences between them stop there.

108. Both “Luciana Vega” and Lucianne have dark brown hair.

109. Prior to the release of “Luciana Vega,” Lucianne’s dark brown hair featured a distinctive purple highlighted streak on the right side.

110. Like Lucianne, “Luciana Vega” features a distinctive purple highlighted streak on the right side.

111. In fact, the color purple has been a distinctive feature in Lucianne’s hair for many years

112. As Lucianne has regularly dressed in distinctive holographic shoes, so too does “Luciana Vega” sport holographic shoes.

113. The “Luciana Vega” accessories also include a holographic backpack.

114. As Lucianne has regularly worn space themed clothing, including space patterned dresses, so too does “Luciana Vega” also wear a space themed patterned dress.

115. Similar to Lucianne’s professional background in astronomy, space, and STEM, “Luciana Vega”’s background focuses on space.

116. Lucianne is an astronomer, and the accessories for Luciana Vega include a telescope, Telescope Projector Set, and star chart.

117. The accessories also include a space themed blanket for stargazing.

118. Lucianne has been involved in diverse matters related specifically to Mars.

119. A focus of Luciana Vega relates to travelling to Mars.

120. Lucianne has been involved in and appeared on the National Geographic television series “Mars” about colonization of Mars and Mars habitats.

121. Luciana Vega’s accessories include a Mars Habitat.

122. Additionally, in the book “Luciana: Out of This World,” Luciana Vega visits NASA scientists in a simulated Mars habitat.

123. The “Luciana Vega” accessories also include a flight suit and space suit.

124. As to their names, although the name “Lucianne” and “Luciana” differ slightly, they are very similar.

125. And, though Mattel had sought trademarks for “Luciana” to develop as either an undefined doll or a Barbie doll prior to American Girl applying for the same trademark, the timing for use of “Luciana” in conjunction with a doll interested in space exploration and a profession in space-centered sciences is striking.

126. The application for and use of the name “Luciana Vega” as a trademark becomes more striking and directly related to Lucianne given Vega represents a star that has been a significant focus of Lucianne’s studies.

127. In short, the Defendants used Lucianne’s persona – Lucianne’s name, likeness, image, and background in creating, producing, marketing, and selling the “Luciana Vega” doll.

Confusion with Plaintiff

128. Again, the Defendants incorporated the same color hair streak, shoes, and style of Lucianne in the Luciana Vega doll.

129. Following the public release of the Luciana Vega doll, Lucianne began receiving electronic mail and social media messages relating to the uncanny similarities between the “Luciana Vega” doll and Lucianne.

130. Each person who contacted Lucianne regarding the similarities did so based on the totality of the similarity to Lucianne's name, hair, dress, mannerisms, profession, and even specific aspects of Lucianne's research.

131. Lucianne's lifelong achievements regarding the ethics of Mars exploration and work on the Kepler Field are so distinctive to Lucianne's career that the Luciana Vega doll created confusion as to Lucianne's endorsement of the brand and product.

132. Indeed, Lucianne received inquiries as to Lucianne's endorsement of the brand and product.

133. There has been confusion as to the endorsement of the brand, product, and "Luciana Vega" doll by Lucianne.

134. Even among those people who believe Lucianne should see the doll as a compliment, the people perceive Lucianne's persona within the "Luciana Vega" doll.

135. There has been widespread recognition of the striking similarities between "Luciana Vega" and Lucianne.

136. The confusion led to interference with Lucianne's professional public persona.

137. Clearly, Lucianne appreciates any effort to encourage STEM among young girls.

138. However, Lucianne does not appreciate and, in fact, objects to the use of Lucianne's name, likeness, image, and persona without permission.

139. Further, Lucianne does not appreciate and, in fact, objects to the use of Lucianne's name, likeness, image, and persona without permission in an expensive doll outside the economic reach of many young girls and families.

Consistent Theme

140. The Defendants' conduct reflects a consistent pattern and theme.

141. The Defendants have used the names and likenesses of other well-known individuals without apparent authorization.

142. For instance, in 2017, Defendants used the likeness of a county music superstar for their Girl of the Year doll, Tenney Grant, which is sold with a guitar labeled with the brand name Taylor.

143. The author of Tenney's Journal sold with the Tenney Grant doll also published a biography of Taylor Swift.

144. Tenney Grant accessories include dresses much like those Taylor Swift has worn in public concerts.

COUNT ONE

AS AND FOR A FIRST CAUSE OF ACTION

VIOLATION OF RIGHT OF PRIVACY

WISCONSIN STATUTE 995.50

145. The Plaintiff incorporates paragraphs 1 through 144 above in this First Count as though fully set forth herein.

146. Lucianne is a living individual.

147. At some point prior to 2018, the Defendants came to learn of Lucianne as well as Lucianne's profession, research, and work in astronomy, space, and STEM.

148. The Defendants decided to model an American Girl doll on Lucianne.

149. More generally, the Defendants decided to model an American Girl doll an individual involved in astronomy, space, and STEM.

150. The Defendants created the Luciana Vega American Girl doll as one involved in astronomy, space, and STEM.

151. The Defendants used Lucianne's name and profession in the creation of the Luciana Vega American Girl doll.

152. Beyond Lucianne's name and profession, the Defendants used Lucianne's image, likeness, and persona (collectively, "likeness") including, but not limited to, Lucianne's uniquely colored hair, unique holographic styled shoes, and space themed clothing, particularly space patterned dresses.

153. The Defendants then began to sell the Luciana Vega American Girl doll.

154. The Defendants used Lucianne's name in the sale of their Luciana Vega doll.

155. The Defendants used Lucianne's name in the advertising and sale of their Luciana Vega doll.

156. The Defendants used Lucianne's name in the sale of their Luciana Vega doll accessories.

157. The Defendants used Lucianne's name in the advertising and sale of their Luciana Vega doll accessories.

158. The Defendants used Lucianne's likeness in the sale of their Luciana Vega doll.

159. The Defendants used Lucianne's likeness in the advertising and sale of their Luciana Vega doll.

160. The Defendants used Lucianne's likeness in the sale of their Luciana Vega doll accessories.

161. The Defendants used Lucianne's likeness in the advertising and sale of their Luciana Vega doll accessories.

162. The Defendants knew they used Lucianne's name and likeness.

163. The Defendants did not obtain Lucianne's consent to use her name or likeness.

164. Consequently, the Defendants used Lucianne's name or likeness without Lucianne's consent.

165. Based on the foregoing, the Defendants violated Lucianne's right of privacy under the State of Wisconsin's Right of Privacy statute.

166. WHEREFORE, the Plaintiff seeks an award of (a) compensatory damages arising from the Defendants violation of Lucianne's right to privacy; (b) attorney's fees; and (c) any such other and further relief as this Court may deem just and proper or to which Lucianne may be entitled as a matter of law and equity.

COUNT TWO

AS AND FOR A SECOND CAUSE OF ACTION

VIOLATION OF LANHAM ACT

15 U.S.C. § 1125

167. The Plaintiff incorporates paragraphs 1 through 144 above in this Second Count as though fully set forth herein.

168. The Defendants have used Lucianne's name in the sale and promotion of the Luciana Vega doll and accessories.

169. The Defendants have used Lucianne's likeness (again, image, likeness, and persona collectively) in the sale and promotion of the Luciana Vega doll and accessories.

170. The Defendants have used Lucianne's name and likeness in the licensing of any intellectual property associated with the Luciana Vega doll.

171. The Defendants used Lucianne's name and likeness without Lucianne's consent.

172. The Defendants used Lucianne's name and likeness in commerce.

173. The Defendants used Lucianne's name and likeness in connection with the sale of goods, namely the Luciana Vega doll and accessories.

174. The Defendants hold no valid mark to Luciana.

175. The Defendants hold no valid mark to Luciana Vega.

176. In their trademark applications for the marks "Luciana" and "Luciana Vega," the Defendants did not disclose that they based the marks on a particular living person.

177. In their trademark applications for the marks "Luciana" and "Luciana Vega," the Defendants did not disclose that they based the marks on Lucianne.

178. Because the marks Luciana and Luciana Vega are used in conjunction with a doll that portrays Lucianne, and because the marks utilize a diminutive version of Lucianne's name together with the name of a star that is the subject of Lucianne's research, the marks do identify a particular living individual.

179. Had they properly disclosed such information, the Defendants would have had to file a signed, written consent from Lucianne to register the marks.

180. Thus, the marks "Luciana" Reg. No. 5424449 and "Luciana Vega" Reg. No. 5493072 are invalid due to the Defendants' misrepresentations to the United States Patent and Trademark Office that the marks are not based on and do not identify a particular living individual.

181. The Defendants' use of Lucianne's name and likeness has caused confusion as to the affiliation, connection, or association of Lucianne with the origin, sponsorship, endorsement, and approval of the Luciana Vega doll and accessories.

182. The Defendants' conduct has harmed Lucianne in a commercial context and with respect to a commercial interest in sales and licensing of Lucianne's name and likeness.

183. Lucianne's loss of commercial interest in an applicable percentage of revenue from the sales of the Luciana Vega doll and accessories are proximately caused by the Defendants' conduct.

184. Lucianne's loss of commercial interest in a license fee for the use of her name and likeness in the sales of the Luciana Vega doll and accessories are proximately caused by the Defendants' conduct.

185. Additionally, the unauthorized use of Lucianne's name and likeness dilute the value of Lucianne's name and any competing product lines that Lucianne might legitimately endorse, an action well within her rights.

186. Based on the foregoing, the Defendants violated 15 U.S.C. § 1125(a).

187. WHEREFORE, the Plaintiff seeks an award of (a) compensatory damages arising from the Defendants' violation of 15 U.S.C. § 1125(a); (b) attorney's fees; (c) an accounting; (d) cancellation of Defendants' invalid marks Luciana and Luciana Vega; and (e) any such other and further relief as this Court may deem just and proper or to which Lucianne may be entitled as a matter of law and equity.

COUNT THREE

AS AND FOR A THIRD CAUSE OF ACTION

NEGLIGENCE

188. The Plaintiff incorporates paragraphs 1 through 144 above in this Third Count as though fully set forth herein.

189. The Defendants had a duty to refrain from using another person's name and likeness in their commercial products.

190. Additionally, the Defendants had a duty of care to ensure that they did not violate an individual's privacy or other rights by using an individual's name, likeness (again, image, likeness, and persona collectively).

191. The harm to an individual arising from the unauthorized use of the individual's name or likeness is foreseeable.

192. Thus, the harm to Lucianne was and is foreseeable.

193. If not foreseeable generally, the harm to Lucianne was and is foreseeable to the Defendants.

194. Indeed, the Defendants understand the need to protect against seeming endorsement of a product by another person.

195. One or more of the Defendants have filed suit against third parties because of alleged false endorsement perceptions.

196. By using Lucianne's name and likeness in commercial products and causing harm to Lucianne, the Defendants breached the foregoing duties.

197. The Defendants' breach of these duties proximately caused Lucianne to suffer damages.

198. WHEREFORE, the Plaintiff seeks an award of compensatory damages arising from the Defendants' negligence and any such other and further relief as this Court may deem just and proper or to which Lucianne may be entitled as a matter of law and equity.

COUNT FOUR

AS AND FOR A FOURTH CAUSE OF ACTION

NEGLIGENT SUPERVISION

199. The Plaintiff incorporates paragraphs 1 through 144 above in this Third Count as though fully set forth herein.

200. The Defendants had a duty to supervise their employees to ensure the employees refrained from using another person's name and likeness in their commercial products.

201. Additionally, the Defendants had a duty of care to supervise their employees to ensure the employees did not violate an individual's privacy or other rights by using an individual's name, likeness (again, image, likeness, and persona collectively).

202. The harm to an individual arising from the unauthorized use of the individual's name or likeness is foreseeable.

203. Thus, the harm to Lucianne was and is foreseeable.

204. If not foreseeable generally, the harm to Lucianne was and is foreseeable to the Defendants.

205. Indeed, the Defendants understand the need to protect against seeming endorsement of a product by another person.

206. One or more of the Defendants have filed suit against third parties because of alleged false endorsement perceptions.

207. By using Lucianne's name and likeness in commercial products, the Defendants breached these duties.

208. The Defendants' breach of these duties proximately caused Lucianne to suffer damages.

209. WHEREFORE, the Plaintiff seeks an award of compensatory damages arising from the Defendants' negligent supervision and any such other and further relief as this Court may deem just and proper or to which Lucianne may be entitled as a matter of law and equity.

GENERAL

210. Where conditions precedent are alleged, the Plaintiff avers that all conditions precedent have been performed or have occurred.

211. The Plaintiff demands a jury trial.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF LUCIANNE M. WALKOWICZ accordingly and respectfully prays for judgment against DEFENDANTS AMERICAN GIRL, LLC, AMERICAN GIRL BRANDS, LLC, AND MATTEL, INC. as follows:

1. That PLAINTIFF LUCIANNE M. WALKOWICZ be awarded compensatory damages in an amount to be determined at trial;
2. That PLAINTIFF LUCIANNE M. WALKOWICZ be awarded punitive damages in an amount to be determined at trial;
3. That PLAINTIFF LUCIANNE M. WALKOWICZ be awarded statutory damages in an amount to be determined at trial;
4. That PLAINTIFF LUCIANNE M. WALKOWICZ be awarded her reasonable attorney's fees and costs; and,
5. That PLAINTIFF LUCIANNE M. WALKOWICZ be awarded injunctive relief to the cancellation of marks Luciana and Luciana Vega; and
6. The PLAINTIFF LUCIANNE M. WALKOWICZ be awarded injunctive relief to cease and desist all sales of the Luciana Vega dolls and accessories
7. The PLAINTIFF LUCIANNE M. WALKOWICZ be awarded injunctive relief to cease and desist any licensing of the Luciana and Luciana Vega marks; and
8. That PLAINTIFF LUCIANNE M. WALKOWICZ be awarded any such other and further relief as this Court may deem just and proper or to which Plaintiff may be entitled as a matter of law and equity.

Dated: August 24, 2020
Chicago, Illinois

PLAINTIFF,
LUCIANNE M. WALKOWICZ,

/s/ Charles Lee Mudd Jr.
By: One of Her Attorneys
Charles Lee Mudd Jr.
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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

LUCIANNE M. WALKOWICZ,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 3:20-cv-00374-jdp
)	
AMERICAN GIRL, LLC., AMERICAN GIRL)	
BRANDS, LLC, and MATTEL, INC.)	
)	
Defendants.)	JURY DEMAND

JURY DEMAND

PLAINTIFF LUCIANNE M. WALKOWICZ demands trial by jury.

/s/Charles Lee Mudd Jr.
Charles Lee Mudd Jr.

CERTIFICATE OF SERVICE

I hereby certify that service of this **AMENDED COMPLAINT** shall be accomplished pursuant to Electronic Case Filing (“ECF”) as to ECF Users and shall be sent by First Class Mail to any non-ECF parties having filed appearances listed in the Service List below all on the 24th day of August 2020.

/s/ Charles Lee Mudd Jr.
Charles Lee Mudd Jr.

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SERVICE LIST

All parties in this matter are represented by counsel who are ECF users.