

By Ryan Faughnder, Meg James | August 3, 2021

Scarlett Johansson vs. Disney: How should talent be paid for streaming?



It's the biggest show in Hollywood: "Suing With the Stars."

After Scarlett Johansson filed [her blockbuster lawsuit against Walt Disney Co.](#) over the online release of "Black Widow," much of the entertainment media's focus quickly turned to the war of words between the popular actress' representatives and the world's most powerful entertainment company.

Saying there was "no merit whatsoever" to Johansson's breach of contract claims, Disney went on the attack, citing her \$20 million salary for the film, and accused her of "callous disregard" for the effects of the COVID-19 pandemic. Johansson's longtime agent, CAA

partner Bryan Lourd, hit back, saying Disney “shamelessly and falsely accused” her “of being insensitive” to the COVID-19 crisis.

The question of whether Johansson already has enough money is hardly meaningful in this context. More broadly important to the business is how the lawsuit exposed tensions over dramatic long-term changes in the entertainment industry that have converged here in spectacular public fashion.

One is the shifting balance of power between stars and intellectual property, which has become the dominant force of entertainment economics. But the overarching trend is how studios’ streaming strategies, accelerated by the pandemic, have upended the ways in which movies are released and thus how movie stars and filmmakers are paid.

Warner Bros. had to dole out tens of millions to stars after the company said it would release all its 2021 movies on HBO Max and in theaters at the same time. Parent company WarnerMedia compensated some high-profile talent for lost profit participation. That was a short-term solution to a specific problem. But it resembled how Netflix has long opted to pay filmmakers and stars big upfront sums, essentially buying out the “back end” participation the talent might have received from a traditional theatrical release or television run.

The big question is how future contracts will tie success on streaming to compensation for creators. Media company stock prices depend on subscriber numbers, but it’s not as if a filmmaker’s pay is tied to streaming service sign-ups.

“There’s this ongoing erosion of the relationship between the success of the product and the compensation of the artist,” said one top agent, who spoke on condition of anonymity to explain the situation without damaging relationships.

At the core of the Johansson-Disney dispute is changing release patterns. The Mouse House debuted Johansson’s Marvel movie “Black Widow” on Disney+ for a \$30 fee at the same time

as its theatrical release, rather than waiting the traditional 90 days before sending the film to home video.

Johansson's team has alleged that Disney broke its contract because Johansson had been promised a release exclusively in theaters. They said the actress was entitled to certain bonuses based on box office performance, which was hampered by the simultaneous release to Disney+. Marvel's biggest stars typically are rewarded with bonuses when their movie hits certain box office benchmarks.

There's little doubt that the simultaneous release ate into "Black Widow's" box office revenue, though how much is unknowable. Johansson's team reportedly thinks she's owed \$50 million. One agency source said those numbers were based on "pie in the sky" projections, given the effects of the pandemic on box office and the fact that Johansson's character was killed off in "Avengers: Endgame," possibly dampening interest.

Additionally, as entertainment attorney and Cinetic Media founder John Sloss points out, the \$30 video on-demand sales of "Black Widow" are most likely included in the formula that determines Johansson's compensation. Sloss said he believes Johansson would have a stronger legal case if Disney had offered "Black Widow" at no additional cost to Disney+ subscribers, similar to WarnerMedia's move to make Warner Bros.'s 2021 movies available to HBO Max streaming customers for no extra charge.

"When you look at what [WarnerMedia CEO] Jason Kilar did at Warner Bros., he took the entire small screen value and used it to generate subscriptions," Sloss said. "What Disney did is not that."

While what WarnerMedia did was arguably more egregious from the perspective of talent, the company quieted the dispute by paying out nearly \$300 million to cover would-be profit participation of talent such as Denzel Washington and Will Smith. Essentially WarnerMedia reverse-engineered its way into Netflix's strategy of paying certain filmmakers top dollar from

the jump. Sure, that was after stars and filmmakers cried foul, but it appeared to prevent any lawsuits.

The streaming revolution is the latest example of how changes in technology and business models inevitably lead to tension between studios and talent. The Johansson–Disney dispute also comes as the power of A-list actors fades in favor of intellectual property at the studios and their media conglomerate owners.

This shift was taking place long before streaming became the driving force of studio owners' stock prices. Before Disney started using Marvel and “Star Wars” to draw audiences to Disney+, marquee-level actors were already taking a back seat to such brands.

With studios seeing more value in established intellectual property than in faces on the movie poster, stars like Johansson go into negotiations with less leverage than they used to. As the theory goes, you're buying a ticket to see Captain America, not Chris Evans. “Talent does not have the leverage that it used to have,” said one top agent. “And Disney values their IP over everything else. They think the stars are their IP and not individual actors.”



Reese Witherspoon's production company Hello Sunshine sold for \$900 million.

Some actors have gotten ahead of that trend by establishing themselves as creators. [Reese Witherspoon sold Hello Sunshine](#), the production company behind “Big Little Lies” and “The Morning Show,” on Monday for \$900 million to a yet-unnamed company backed by Blackstone Group and run by former senior Disney executives Kevin Mayer and Tom Staggs.

Some agents, of course, dispute the notion that stars are losing cultural clout to intellectual property. Marvel isn't making a lot of movies without big-name stars, after all. Would Black Widow really be the same character without Johansson having played her since “Iron Man 2?”

The ScarJo-Disney dispute will likely end in some kind of settlement. Entertainment industry insiders were nonetheless surprised that Disney struck back so forcefully, and its response struck some as a personal attack on Johansson, prompting activist groups [Women in Film](#), [ReFrame](#) and [Time's Up](#) to [accuse the company of sexism](#). A person close to Disney denied it

was a personal attack, saying that it was Johansson who sued when the two sides were in negotiations — and when the movie was still in theaters.

A question on everyone’s lips: How did this dispute get so ugly so quickly? Johansson’s lawyers in the lawsuit said she gave Disney ample opportunity to negotiate and was ignored. Whether that’s true will be a key fact in the case. Also relevant is whether Disney’s promise of a “theatrical release” for “Black Widow” means the company had agreed to an “exclusive” theatrical run, as Johansson’s lawyers assert.

It also remains to be seen whether any other stars will follow Johansson’s lead. Dwayne Johnson and Emily Blunt’s “Jungle Cruise” was just released [in theaters and on Disney+ simultaneously this past weekend](#). Globally, it generated \$90 million in consumer spending, including \$34 million domestically, \$27.6 million at the international box office and more than \$30 million from Disney+.

Johnson took time to thank fans on Instagram, including those who watched at home on Disney+. At least one star sounds like a happy enough customer.