

1 JOEL McCABE SMITH (State Bar No. 50973)
 ELIZABETH L. SCHILKEN (State Bar No. 241231)
 2 LEOPOLD, PETRICH & SMITH, P.C.
 2049 Century Park East, Suite 3110
 3 Los Angeles, California 90067-3274
 Tel: (310) 277-3333 • Fax: (310) 277-7444
 4 Email: jsmith@lpsla.com; eschilken@lpsla.com
 Attorneys for Defendants and Counterclaimants
 5 WHACKO, INC. and CAROL BURNETT, and
 Counterclaimant MABEL CAT, INC.
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 8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**
 10 **WESTERN DIVISION**
 11

12 BOB BANNER ASSOCIATES, INC., a
 13 California corporation,

14 Plaintiff,

15 v.

16 WHACKO, INC., a California corporation;
 17 CAROL BURNETT, an individual; and
 DOES 1 through 100, inclusive,

18 Defendants.

19 _____
 20 MABEL CAT, INC., a California
 21 corporation; WHACKO, INC., a California
 corporation; and CAROL BURNETT, an
 individual,

22 Counterclaimants,

23 v.

24 BOB BANNER ASSOCIATES, INC., a
 25 California corporation, LEGENDARY
 ENTERTAINMENT ALLIANCE, LLC, a
 26 California limited liability company,
 previously sued herein as ROE 1, and ROES
 2 - 100, inclusive,

27 Counterdefendants.
 28

CASE NO.: CV13-00083 R (VBKx)

**ORDER OF PRELIMINARY
 INJUNCTION**

The Honorable Manuel L. Real

[PROPOSED] ORDER OF PRELIMINARY INJUNCTION

1 The Court has GRANTED the Motion of Counterclaimants Mabel Cat, Inc.,
2 Whacko, Inc., and Carol Burnett (“Counterclaimants”) for a Preliminary Injunction
3 (“Motion”) based on Counterclaimants’ claims of false advertising and false
4 designation of origin pursuant to 15 U.S.C. §1125(a), related to Counterdefendants
5 Bob Banner Associates, Inc.’s and Legendary Entertainment Alliance, LLC’s DVD
6 and musical album entitled *A Carol Burnett Christmas* (the “DVD” and “Album”).
7 The Court has determined that Counterclaimants have demonstrated a likelihood of
8 prevailing on the merits of their claims; there is a likelihood of irreparable harm to
9 Counterclaimants absent injunctive relief; the balance of the equities militates in favor
10 of injunctive relief; the public interest favors a preliminary injunction; and that
11 Counterclaimants are thus entitled to a Preliminary Injunction.

12
13 IT IS HEREBY ORDERED THAT:

14 1. Counterdefendants Bob Banner Associates, Inc. and Legendary
15 Entertainment Alliance, LLC (“Counterdefendants”) and their subsidiaries, officers,
16 agents, servants, directors, employees, partners, representatives, successors, assigns,
17 related companies, attorneys, and all persons acting in concert or participation with
18 them, are RESTRAINED and ENJOINED, during the pendency of Counterclaimants’
19 claims in this action, from displaying for sale or rental, marketing, advertising, selling,
20 renting, or commercially distributing the DVD or Album or any of the contents
21 thereof, under the title *A Carol Burnett Christmas*, on or through the Internet or in any
22 other manner or in any other medium or wholesale or retail outlet, whether in
23 electronic or hard copy form, or in any other manner.

24 2. This injunction shall take effect upon Counterclaimants’ posting a bond
25 in the total sum of \$10,000 for the payment of such costs and damages as may be
26 incurred or suffered by any party who is found to have been wrongfully enjoined or
27 restrained.

1
2 **IT IS HEREBY FURTHER ORDERED THAT:**

3 3. Within ten (10) days posting of the injunction bond relating to this
4 Order of Preliminary Injunction, each Counterdefendant shall file with the Court and
5 serve upon Counterclaimants' counsel a report setting forth the manner and form in
6 which Counterdefendants have complied with this Preliminary Injunction, including
7 the list of all wholesalers and retailers to whom they have given notice of this
8 injunction.

9
10 **SERVICE OF PROCESS**

11
12 A copy of this Order shall be served upon Counterdefendants via telecopier,
13 e-mail, or Federal Express or similar delivery service by not later than the second
14 business following the entry of this Order.

15
16 **IT IS SO ORDERED.**

17
18 Dated: August 26, 2013

19
20 

21 HON. MANUEL REAL

22 UNITED STATES DISTRICT COURT

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18
4 years and not a party to the within action. My business address is **2049 Century Park East, Suite
3110, Los Angeles, California 90067-3274.**

5 On August 26, 2013, I served the foregoing documents described as follows: **[PROPOSED]**
6 **ORDER OF PRELIMINARY INJUNCTION** on the interested parties in this action.

7 by placing the original and/or a true copy thereof enclosed in (a) sealed envelope(s),
8 addressed as follows:

9 **SEE ATTACHED SERVICE LIST**

10 **BY REGULAR MAIL:** I deposited such envelope in the mail at 2049 Century Park East,
11 Suite 3110, Los Angeles, California 90067-3274. The envelope was mailed with postage
12 thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and
13 processing correspondence for mailing. It is deposited with the U.S. Postal Service on that
14 same day in the ordinary course of business. I am aware that on motion of the party served,
15 service is presumed invalid if postal cancellation date or postage meter date is more than one
16 (1) day after date of deposit for mailing in affidavit.

17 **BY FACSIMILE MACHINE:** I transmitted a true copy of said document(s) by facsimile
18 machine, and no error was reported. Said fax transmission(s) were directed as indicated on
19 the service list.

20 **BY ELECTRONIC MAIL:** I transmitted a true copy of said document(s) by electronic
21 mail, and no error was reported. Said electronic mail transmission(s) were directed as
22 indicated on the service list.

23 **BY OVERNIGHT MAIL:** I deposited such documents at the Federal Express Drop Box
24 located at 2049 Century Park East, Suite 3110, Los Angeles, California 90067-3274. The
25 envelope was deposited with delivery fees thereon fully prepaid.

26 **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand to the above
27 addressee(s).

28 (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at
whose direction the service was made. I declare under penalty of perjury under the laws of
the State of California that the foregoing is true and correct.

Executed on August 26, 2013, at Los Angeles, California.

/s/ Robin Black

Robin Black

SERVICE LIST

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David R. Schwarcz, Esq.
Kathryn Lee Boyd, Esq.
Darcy R. Harris, Esq.
Sherli Shamtoub, Esq.
Schwarcz, Rimberg, Boyd & Rader, LLP
6310 San Vicente Boulevard, Suite 360
Los Angeles, CA 90048

*Counsel for Plaintiff and Counterdefendant
Bob Banner Associates, Inc. and
Counterdefendant Legendary Entertainment
Alliance, LLC*
Tel: 323-302-9488
Fax: 323-931-4990
Email: dschwarcz@srbr-law.com
Email: kboyd@srbr-law.com
Email: dharris@srbr-law.com
Email: sshamtoub@srbr-law.com

David Aronoff, Esq.
Amber Henry, Esq.
Lathrop & Gage LLP
1888 Century Park East, Suite 1000
Los Angeles, CA 90067

*Counsel for Counter-Defendant
Bob Banner Associates, Inc.*
Tel: 310-789-4600
Fax: 310-789-4601
Email: daronoff@lathropgage.com
Email: ahenry@lathropgage.com