

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

O

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

ROMYE ROBINSON, an individual;
and IMANI WILCOX, an individual,

Plaintiff,

v.

DELICIOUS VINYL RECORDS,
LLC, a California limited liability
company; TREVANT HARDSON, an
individual; DERRICK STEWART, an
individual; and DOES 1-50,

Defendants.

Case No.: 2:13-CV-04111-CAS-PLA

**AMENDED
PRELIMINARY INJUNCTION**

TO Defendants DELICIOUS VINYL, INC., TREVANT HARDSON, and
DERRICK STEWART:

Having considered the briefs and argument of counsel before this Court on
July 22, 2013, at 10:00 a.m., as well as defendants’ motion for clarification, the
Court ORDERS:

DELICIOUS VINYL, INC., TREVANT HARDSON, and DERRICK
STEWART ARE HEREBY RESTRAINED AND ENJOINED from using the
PHARCYDE common law trademark and service mark of Plaintiffs herein (the
“Pharcyde Marks”), or any derivative, or materially confusingly similar words or
phrases thereof, as well as the names, visual images, photos, likenesses, voices,

1 identities, or celebrity identities, of either or both Plaintiffs herein (the “Publicity
2 Rights”) as follows:

3 1. DELICIOUS VINYL, INC., its agents, employees, affiliates, and
4 assigns, including without limitation, its promoters, booking agents, and
5 performance venues (“DV”), shall not use the Pharcyde Marks or the Publicity
6 Rights in connection with the sale of tickets to, or advertising or promotion of, live
7 musical performances except as expressly set forth herein.

8 2. TREVANT HARDSON and DERRICK STEWART, individually, or
9 collectively, their agents, employees, related entities, and assigns, including without
10 limitation, promoters, booking agents, and performance venues (“HARDSON and
11 STEWART”), shall not use the Pharcyde Marks or the Publicity Rights, for any
12 purpose, except as expressly set forth herein.

13 3. DV shall inform all third parties, including promoters, booking agents
14 and performance venues with whom it contracts for the promotion, booking and
15 venues in connection with such performances that it is bound by the terms of this
16 injunction. If DV is made aware of a use of the Pharcyde Marks that violates this
17 injunction then DV will, no later than 48 hours of said notice, instruct said third
18 parties to immediately cease and desist from said conduct. If, after giving such a
19 cease and desist instruction, DV knows or has reason to know that said third parties
20 continue to advertise a performance in violation of this injunction, DV, HARDSON
21 and/or STEWART shall not proceed with the performance.

22 4. DV may use the Pharcyde Marks and prior approved Publicity Rights
23 in connection with the sales, advertising, or promotion of any musical recordings
24 recorded for DV or any of its affiliates, pursuant to any valid recording agreement
25 between Plaintiffs and DV or any of its affiliates. Such sales, advertising, and
26 promotion of musical recordings shall not include the live performance of music,
27 except as expressly set forth herein.

28 \\\

1 5. Prior to and including November 23, 2013, DV may use the Pharcyde
2 marks and its own copyrighted artwork featured in Bizarre Ride II the Pharcyde (the
3 “Album Art”) in connection with the live performance of music by HARDSON and
4 STEWART to promote the 20th anniversary release of the album Bizarre Ride II the
5 Pharcyde (which was released on November 24, 1992). Use of the Pharcyde marks
6 is limited to describing that a live performance is to feature songs from the Bizarre
7 Ride II the Pharcyde album. Such advertisements and promotional materials shall
8 make clear that such shows are not being performed by the Pharcyde. Any use of
9 the Pharcyde marks in a deceptive or confusing manner shall constitute a violation
10 of this Preliminary Injunction.

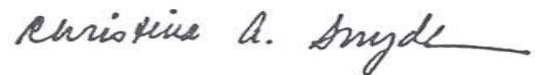
11 6. After November 23, 2013, DV shall not use the Pharcyde Marks or the
12 Album Art in connection with the live performance of music, and/or the promotion
13 or advertisement thereof. Notwithstanding the foregoing, DV may use the word
14 “Pharcyde” when referring to the album title “Bizarre Ride II the Pharcyde.”

15 7. HARDSON and STEWART may publicly assert that they are former
16 members of the Pharcyde (*e.g.*, “formerly of”), and to that extent, they may use the
17 name Pharcyde in making that assertion, provided that such disclosure is clearly
18 stated, as a description of HARDSON and STEWART’s former affiliation with the
19 Pharcyde. Any use of the Pharcyde marks in a materially deceptive, confusing, or
20 other manner, that suggests any other connection between the Pharcyde and
21 HARDSON and STEWART and/or any performance by HARDSON and/or
22 STEWART shall constitute a violation of this Preliminary Injunction.

23 The above Preliminary Injunction is effective on Plaintiffs’ filing an
24 undertaking in the sum of \$50,000.00.

25 IT IS SO ORDERED.

26 Date: September 24, 2013



Hon. Christina A. Snyder
United States District Court Judge

28