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NOTE: CHANGES MADE BY THE COURT

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LIVE NATION MERCHANDISE, INC.,)

Plaintiff,)

v.)

**JOHN DOES 1-5, JANE DOES 1-4 AND
XYZ COMPANY,**)

Defendants.)

Case No. 2:17-cv-07153 MWF

**TEMPORARY
RESTRAINING ORDER,
SEIZURE ORDER AND AN
ORDER TO SHOW CAUSE
WHY A PRELIMINARY
INJUNCTION AND SEIZURE
ORDER SHOULD NOT ISSUE**

Based upon the complaint, memorandum of points and authorities, Declaration of Paul Cummings, and the Certificate of Counsel and all other pleadings and proceedings heretofore had herein and good cause being shown:

IT IS HEREBY ORDERED that defendants, John Does 1-5, Jane Does 1-4 and XYZ Company their true identities being unknown (collectively "Defendants"), show cause before the Honorable Michael W. Fitzgerald, United States District Judge, in Courtroom 5A of the United States District Court for the Central District of California, First Street Courthouse, located at 350 West 1st Street, Los Angeles, California 90012, at **10:00 a.m. on October 16, 2017**, or as soon thereafter as counsel can be heard, why an order pursuant to Rule 65 of the Federal Rules of Civil Procedure, the Lanham Act, 15 U.S.C. § 1051 et. seq., and the All Writs Act, 28 U.S.C. § 1651, should not be

1 entered granting to Plaintiff Live Nation Merchandise, Inc., a preliminary injunction to
2 enjoin the Defendants from manufacturing, distributing, selling or holding for sale, any
3 clothing, jewelry, photographs, posters and other merchandise (collectively the
4 "Infringing Merchandise") and to seize the same bearing the federally registered
5 trademarks, servicemarks, likenesses, and tour logos and other indicia of the Group
6 known as "FOO FIGHTERS" appearing on Exhibit A of this Order (collectively, the
7 "Group's Trademarks").

8 **AND IT APPEARING TO THE COURT** that Defendants are about to sell and
9 distribute the Infringing Merchandise bearing the Group's Trademarks as set forth in
10 Plaintiff's complaint and declaration, and will continue to carry out such acts unless
11 restrained by order of the Court;

12 **AND IT APPEARING TO THE COURT** that immediate and irreparable
13 injury, loss or damage will result to the Plaintiff before Defendants can be identified
14 and given notice and their attorneys can be heard in opposition to the granting of the
15 temporary restraining order, in that the Defendants are preparing to manufacture,
16 distribute and sell Infringing Merchandise as set forth in the Plaintiff's complaint, and
17 that, unless said Defendants are enjoined from said manufacture, distribution, and sale,
18 the Plaintiff will suffer immediate and irreparable injury and harm in the form of a loss of
19 income, lessening and dilution of the value of the Group's Trademarks, interference with
20 Plaintiff's ability to exploit, market and license its merchandising rights, confusion in
21 the marketplace as to the duly authorized source of merchandise depicting the Group's
22 Trademarks, and impairment of the goodwill Plaintiff and its licensees have in the said
23 Group's Trademarks;

24 **IT IS FURTHER ORDERED** that pending hearing and determination of this
25 application, or the expiration of fourteen (14) days from the date hereof, the
26 Defendants, their agents, servants, employees, attorneys, successors and assigns and all
27 persons, firms and corporations acting in concert with them, and each of them, are
28 hereby temporarily restrained from manufacturing, distributing and selling Infringing

1 Merchandise bearing the any or all of the Group's Trademarks;

2 **AND IT IS FURTHER ORDERED** that the United States Marshal for this
3 District or any district in which Plaintiff enforce this order, the state police, local police
4 or local deputy sheriffs, off duty officers of the same, and any person acting under their
5 supervision, are hereby authorized to seize and impound any and all Infringing
6 Merchandise bearing any or all of the Group's Trademarks (namely of the Group "FOO
7 FIGHTERS") **as set forth in the attached Exhibit "A"**, which Defendants attempt to
8 sell or are holding for sale, including any from any carton, container, vehicle, or other
9 means of carriage in which the Infringing Merchandise is found from four (4) hours before to
10 four (4) hours after any performance of the tour within a four (4) mile vicinity of the halls,
11 stadiums or arenas at which said Tour shall be performing, including but not limited to
12 on October 7, 2017 at the Glen Helen Amphitheater in San Bernardino, California;

13 **AND IT IS FURTHER ORDERED** that this order is hereby conditioned upon
14 Plaintiff's filing with the Clerk of this Court an undertaking in the form of a bond, certified
15 check, bank check, or cash in the amount of **\$5,000** no later than **October 6, 2017**, to
16 secure the payment of such costs and damages not to exceed such sum as may be suffered or
17 sustained by any party who is found to be wrongfully restrained hereby;

18 **AND IT IS FURTHER ORDERED** that this order is conditioned upon the
19 Plaintiff's advancing to the law enforcement officers such sum as is required by the
20 same to cover the fees for their said services, in the event Plaintiff seeks their services
21 in this or any other district;

22 **AND IT IS FURTHER ORDERED** that service of a copy of this order to show
23 cause together with the complaint, be made upon the Defendants by the United States
24 Marshal, state or local police, local deputy sheriffs, or by any person over the age of
25 eighteen (18) years not a party to this action selected for that purpose by the Plaintiff, at
26 the time of the seizure provided herein is effected and that such service shall be deemed
27 good and sufficient;

28 **AND IT IS FURTHER ORDERED** that the process server shall offer a receipt

1 to each person from whom Infringing Merchandise is seized and that the Plaintiff shall
2 be deemed substitute custodian for all Infringing Merchandise seized;

3 **AND IT IS FURTHER ORDERED** that Defendants' responsive papers, if any,
4 shall be filed with the Clerk of this Court and served upon the attorneys for Plaintiff by
5 delivering copies to its counsel on or before **October 10, 2017**. Any reply shall be filed
6 by the Plaintiff and served upon each appearing defendant or his/her counsel on or
7 before **October 15, 2017**. Plaintiff is to provide copies of all other filed pleadings at
8 the request of any identified defendant;

9 **AND IT IS FURTHER ORDERED** that any defendant who is hereafter served
10 with a copy of this order who objects to the provisions hereof may submit his or her
11 objections to this Court or otherwise move for relief from this Court according to the
12 Federal Rules of Civil Procedure, but no such objection shall serve to suspend this
13 Order or stay the terms herein unless otherwise ordered by this Court.

14 **AND IT IS FURTHER ORDERED** that pursuant to Rule 65(d) of the Federal
15 Rules of Civil Procedure, any defendant can apply to this Court for
16 modification/dissolution of this Order on two (2) days' notice or shorter notice as this
17 Court may allow.

18 **IT IS SO ORDERED.**

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20 Dated: October 3, 2017



21 MICHAEL W. FITZGERALD
22 United States District Judge
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EXHIBIT A

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