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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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BROTHERS ENTERTAINMENT
MERCHANDISING, INC.,

Plaintiff,

NO. CIV. 09-cv-00912 FCD JFM

v.

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

VARIOUS JOHN DOES, JANE DOES,
AND ABC COMPANIES,

Defendants.

_____ /

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Based upon the complaint, memorandum of points and
authorities, and declarations submitted herewith:

IT IS HEREBY ORDERED THAT defendants, Various John Does,
Jane Does and ABC Companies, their true identity being unknown,
show cause on the **17 day of April, 2009 at 10:00 am in Courtroom
1** at the United States District Court for the Eastern District of

1 California, 501 I Street, Sacramento, CA 95814, why an order
2 pursuant to Rule 65 FRCP should not be entered granting to
3 plaintiff a preliminary injunction enjoining defendants from
4 manufacturing, distributing, selling or holding for sale and
5 authorizing seizure of all clothing, jewelry, photographs,
6 posters and other merchandise bearing the Britney Spears
7 trademark, logos and/or likeness and/or replicas of artwork
8 embodied on jackets containing the recordings of the Britney
9 Spears;

10
11 AND it appearing to the Court that defendants are
12 distributing and/or are about to distribute in interstate
13 commerce and sell at or near the sites of the current Britney
14 Spears United States concert tour, clothing, jewelry,
15 photographs, posters and other merchandise bearing the Britney
16 Spears trademark, logos and/or likeness and/or replicas of
17 artwork embodied on the jackets of recordings of the Britney
18 Spears and will continue to carry out such acts unless restrained
19 by Order of the Court;

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21 AND it appearing to the Court that immediate and irreparable
22 injury, loss and damage will result to plaintiff before
23 defendants can be identified and given notice and their attorneys
24 can be heard in opposition to the granting of the Temporary
25 Restraining Order, in that defendants are preparing to be
26 manufacturing, distributing, and selling throughout the current
27 Britney Spears concert tour infringing Britney Spears merchandise
28 and that unless said defendants are enjoined from said

1 manufacture, distribution and sale, plaintiff will suffer
2 immediate and irreparable injury and harm in the form of loss of
3 income, the dilution of the Britney Spears mark, interference
4 with plaintiff's ability to exploit its own merchandising rights,
5 confusion in the marketplace as to the duly authorized source of
6 Britney Spears merchandise and the impairment of the goodwill
7 that plaintiff has in the Britney Spears trademark, it is hereby
8

9 ORDERED, that pending the hearing and determination of this
10 motion, defendants Various John Does, Jane Does and ABC
11 Companies, their agents, servants, employees, attorneys,
12 successors and assigns and all persons, firms and corporations
13 acting in concert with said defendants be and they hereby are
14 temporarily restrained from manufacturing, distributing and
15 selling infringing merchandise bearing the Britney Spears
16 trademark, logos and/or likeness and/or artwork embodied on
17 jackets containing recordings of the Britney Spears and it is
18 further
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20 ORDERED, that the U.S. Marshal for this District, the U.S.
21 Marshal(s) and/or state, county or local law enforcement
22 authorities for any such district in which plaintiff enforces
23 this order and persons acting under their supervision are hereby
24 authorized and directed to seize, impound any and all infringing
25 imitation and unauthorized merchandise bearing the Britney
26 Spears trademark, logos and/or likeness and/or artwork embodied
27 on jackets containing recordings of Britney Spears including the
28 containers or vehicles in which same is held or transported,

1 which defendants sell, attempt to sell or hold for sale from six
2 (6) hours before to six (6) hours after any performance within
3 five (5) miles of the exterior border of the concerts on the
4 Britney Spears tour including, but not limited to, the Britney
5 Spears concert at ARCO Arena, Sacramento, CA on April 11, 2009;
6 and it is further

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8 ORDERED, that this Order be and is hereby conditioned upon
9 plaintiff filing with the Clerk of this Court, an undertaking, a
10 bond or a certified, cashiers or attorneys check or cash in the
11 amount of **\$20,000.00** to secure payment of such costs and damages
12 not to exceed such sum as may be suffered or sustained by any
13 party who is found to be wrongfully restrained hereby; and it is
14 further

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16 ORDERED, that this Temporary Restraining Order if served by
17 a U.S. Marshal is conditioned upon plaintiffs advancing to the
18 U.S. Marshal(s) such sum as is required by the U.S. Marshal(s) to
19 cover the fees for their services above described, if any; and it
20 is further

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22 ORDERED, that the process server shall offer a receipt to
23 each person from whom merchandise is seized and that plaintiff
24 shall be deemed substitute custodian for all merchandise seized;
25 and it is further

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27 ORDERED, that each and every defendant served with a copy of
28 this Order shall promptly, courteously and peaceably identify

1 himself or herself to the aforementioned process server by
2 presenting written proof of identification to said process server
3 and said process server or agents for plaintiff shall be allowed
4 to photograph, video tape or otherwise identify the defendant;
5 and it is further
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7 ORDERED, that defendants' responsive papers, if any, shall
8 be filed with the Clerk of this Court and served upon the
9 attorney for plaintiff by delivering a copy to its counsel on or
10 before **April 14, 2009**; and it is further
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12 ORDERED, that because of the numerous defendants, service of
13 a copy of only this Order to Show Cause be made upon the
14 defendants along with the Summons and Complaint at the time that
15 the seizure provided herein, if any, is effected. If any
16 defendant requests all other pleadings, plaintiff shall provide
17 copies of said pleadings to any identified defendant; and it is
18 further
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20 ORDERED, that any defendant who is hereafter served with a
21 copy of this Order who objects to the provisions hereof may
22 submit his or her objections to this Court or otherwise move for
23 relief from this Court according to the Federal Rules of Civil
24 Procedure, but no such objection shall serve to suspend this
25 Order or stay the terms hereof unless otherwise ordered by this
26 Court.
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1 IT IS SO ORDERED

2 DATED: April 7, 2009.

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FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE

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