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5 Attorney for Plaintiff  
6 CREATIVE ARTISTS AGENCY, LLC,

7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9 SAN JOSE DIVISION

10 CREATIVE ARTISTS AGENCY,  
11 LLC, a Delaware Limited Liability  
12 Company,

13 Plaintiff,

14 vs.

15 INDUSTRY 415 a/k/a INDUSTRY  
415 CREATIVE ARTISTS  
16 AGENCY INC. and LOUIS  
BERNINGSON a/k/a LUCCIANO  
17 BERNINGSON,

18 Defendants.

Case No. CV10-5981-PSG

**STIPULATION, CONSENT TO  
PROCEED BEFORE A  
UNITED STATES MAGISTRATE  
JUDGE, AND [XXXXXXXXXX] D]  
CONSENT JUDGMENT AND  
PERMANENT INJUNCTION  
AGAINST DEFENDANTS**

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19  
20 Plaintiff Creative Artists Agency, LLC, and Defendants Industry415 a/k/a  
21 Industry415 Creative Artists Agency Inc., and Louis Berningson a/k/a Lucciano  
22 Berningson (each individually, a "Party" and collectively, the "Parties") have agreed  
23 upon a basis for the final adjudication of the matters alleged in the Complaint filed in  
24 this action and to the entry of a Consent Judgment and Permanent Injunction in this  
25 action in favor of Plaintiff Creative Artists Agency, LLC, ("Plaintiff") and against  
26 Defendants Industry415 a/k/a Industry415 Creative Artists Agency Inc., and Louis

27  
28 Case No. CV10-5981-PSG

STIPULATION, CONSENT TO PROCEED  
BEFORE A MAGISTRATE, AND  
[PROPOSED] CONSENT JUDGMENT  
AND PERMANENT INJUNCTION

1 Berningson a/k/a Lucciano Berningson (collectively "Defendants") in the form of the  
2 Proposed Order attached hereto.

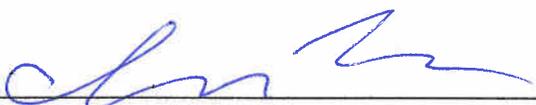
3 In accordance with the provisions of Title 28, U.S.C. Section 636(c), the  
4 undersigned Parties hereby voluntarily consent to have United States Magistrate Judge  
5 Paul S. Grewal conduct any and all further proceedings in the case, including trial, and  
6 order the entry of a final judgment.

7  
8 IT IS SO STIPULATED.

9 Respectfully submitted,

10 Dated: ~~January~~ <sup>February 4</sup> \_\_, 2011

SNR DENTON US LLP

11  
12 By   
13 IAN BARKER

14 Attorney for Plaintiff  
15 CREATIVE ARTISTS AGENCY, LLC

16  
17 Dated: January 28, 2011

INDUSTRY415 A/K/A INDUSTRY415  
18 CREATIVE ARTISTS AGENCY INC.

19  
20 By   
21 Title Agency Director

22 564 Market Street  
23 Seventh Floor Suite 723  
24 San Francisco, CA 94101

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1  
2 Dated: January 28, 2011

LOUIS BERNINGSON A/K/A  
LUCCIANO BERNINGSON

3  
4  
5 By   
6 LOUIS BERNINGSON A/K/A  
7 LUCCIANO BERNINGSON

8 564 Market Street  
9 Seventh Floor Suite 723  
San Francisco, CA 94101

10 **ORDER**

11 This matter having come before the Court on Stipulation between the parties for  
12 entry of a Consent Judgment and Permanent Injunction against Defendants, the Court  
13 finds and orders as follows:

14 **Stipulated Facts**

15 1. This Court has subject matter jurisdiction over this action pursuant to 15  
16 U.S.C. § 1121(a), 28 U.S.C. § 1331, 28 U.S.C. § 1138(a) & (b) and 28 U.S.C. §  
17 1367(a). Defendants acknowledge that they have received a copy of the summons and  
18 Complaint, that they have been properly served, and that they are subject to personal  
19 jurisdiction in this Court. By signing the above Stipulation, Defendants have waived  
20 any objections to service of the summons and the Complaint.

21 2. The Court has personal jurisdiction over Defendants because they have  
22 sufficient contacts with California such that the maintenance of the suit does not offend  
23 traditional notions of fair play and substantial justice. Venue in this District is proper  
24 pursuant to 28 U.S.C. §§ 1391(b) because each of the Defendants resides within the  
25 Northern District of California, and a substantial part of the events giving rise to  
26 Plaintiff's claims occurred within the Northern District of California.

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1 3. DEFENDANTS ACKNOWLEDGE THAT, BEFORE SIGNING THIS  
2 FINAL JUDGMENT ON CONSENT, THEY WERE GIVEN AN OPPORTUNITY  
3 TO READ IT, CAREFULLY EVALUATE IT, AND ASK ANY QUESTIONS THEY  
4 MAY HAVE HAD REGARDING IT OR ITS PROVISIONS. DEFENDANTS ALSO  
5 ACKNOWLEDGE THAT THEY HAD THE RIGHT TO HAVE THIS FINAL  
6 JUDGMENT ON CONSENT REVIEWED BY AN ATTORNEY OF THEIR  
7 CHOOSING AND THAT PLAINTIFF GAVE DEFENDANTS A REASONABLE  
8 PERIOD OF TIME TO DO SO, ~~BUT DEFENDANTS ELECTED NOT TO BE~~  
9 ~~REPRESENTED BY COUNSEL.~~ *and Defendants did consult counsel. 2/2/11*

*OK*  
*2/4/2011*

10 4. Plaintiff (including its predecessor) has used the name and mark  
11 CREATIVE ARTISTS AGENCY continuously since 1975 in connection with talent  
12 agency services, literary agency services, branding services, consulting services,  
13 sponsorship services, marketing and communication services, trend forecasting, and  
14 sports agency services, among other services. Plaintiff has, by virtue of a grant from  
15 OMH, Inc., the sole and exclusive worldwide right and license to use and protect the  
16 name and mark CREATIVE ARTISTS AGENCY.

17 5. The mark CREATIVE ARTISTS AGENCY is the subject of United  
18 States Trademark Registration No. 1,243,888 and of United States Trademark  
19 Application Serial No. 77/858551.

20 6. The CREATIVE ARTISTS AGENCY mark is famous and immediately  
21 recognizable throughout the United States and is closely associated with the services  
22 offered by Plaintiff.

23 7. Defendants began to use CREATIVE ARTISTS AGENCY as part of its  
24 name and mark long after Plaintiff commenced use of the CREATIVE ARTISTS  
25 AGENCY name and mark and long after Plaintiff's efforts made that name and mark  
26 famous to the public throughout the United States.

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1 8. Defendants used CREATIVE ARTISTS AGENCY as part of a mark and  
2 name without license or other authorization from Plaintiff.

3 9. Plaintiff filed a Complaint in this Court on December 30, 2010, alleging  
4 that Defendants infringed and diluted the CREATIVE ARTISTS AGENCY mark and  
5 name and otherwise violated Plaintiff's rights in violation of, *inter alia*, Sections 32,  
6 43(a), (c) and (d) of the Lanham Act, 15 U.S.C. §§ 1114, 1125(a)(c)(d); Sections  
7 §14241 and 17200 *et seq.* of the California Business & Professional Code; and the  
8 California common law.

9 **Consent Judgment And Injunction**

10 NOW THEREFORE IT IS HEREBY AGREED, ORDERED, ADJUDGED,  
11 AND DECREED, that:

12 1. Industry415 a/k/a Industry415 Creative Artists Agency Inc., and Louis  
13 Berningson a/k/a Lucciano Berningson, and each of them, and each of their employees,  
14 directors, agents, servants, attorneys, and all those in active concert or participation  
15 with any of them, are hereby permanently enjoined and restrained from adopting,  
16 registering or using, or licensing or authorizing any other person or entity to adopt,  
17 register or use, as or as part of a trademark, service mark, logo, trade name, business  
18 name, company name, corporate name, domain name, uniform resource locator, email  
19 address, or other indicia of origin: (i) INDUSTRY415 CREATIVE ARTISTS  
20 AGENCY; (ii) CREATIVE ARTISTS AGENCY; or (iii) CREATIVE ARTISTS; or  
21 (iv) any other combination that includes the words CREATIVE ARTISTS and  
22 AGENCY or the words CREATIVE and ARTISTS in any order; or (v) any other  
23 word, term or combination of letters that is confusingly similar to the CREATIVE  
24 ARTISTS AGENCY mark and name. However, Defendants may make reasonable use  
25 of INDUSTRY415 CREATIVE ARTISTS AGENCY for no more than 90 days after  
26 entry of this Consent Judgment and Permanent Injunction for the purpose of notifying  
27

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1 business, file a certificate changing the name of Defendant by removing  
2 "Creative Artists Agency" from the entity name and substituting therefor a name  
3 that does not violate any of the provisions of this Consent Judgment and  
4 Permanent Injunction; and

5 C. Provide Plaintiff's counsel with a report in writing setting  
6 forth in detail the manner in which it has complied with this Consent Judgment  
7 and Permanent Injunction no later than 90 days after the date this Judgment is  
8 entered.

9 AND IT IS FURTHER AGREED, ORDERED, ADJUDGED, AND  
10 DECREED, that:

11 4. Each Party has waived any right to an appeal from this Consent Judgment  
12 and Permanent Injunction.

13 5. In the event a court of competent jurisdiction rules that Defendants  
14 violated any of the provisions of this Consent Judgment and Permanent Injunction, the  
15 Defendants shall pay to Plaintiff any and all attorneys' fees and costs Plaintiff may  
16 incur in enforcing the provisions of this Consent Judgment and Permanent Injunction.

17 6. This Court maintains jurisdiction over the subject matter and parties  
18 hereto to enforce this Consent Judgment and Permanent Injunction.

19  
20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21  
22 DATED: February 14, 2011

*Paul S. Grewal*

23  
24 Honorable Paul S. Grewal  
United States Magistrate Judge

25  
26  
27  
28 17698215/V-2

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