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 Merchandising Services, Inc.,  
 Mascotte Holdings, Inc.  
 and Live Nation Merchandise, Inc.

**UNITED STATES DISTRICT COURT  
 DISTRICT OF NEW JERSEY**

BRAVADO INTERNATIONAL GROUP  
 MERCHANDISING SERVICES, INC.,  
 MASCOTTE HOLDINGS, INC. and LIVE  
 NATION MERCHANDISE, INC.,

Plaintiffs,

v.

JOHN DOES 1-100, JANE DOES 1-100,  
 and XYZ COMPANIES 1-100,

Defendants.

Case No.:

**DECLARATION OF RONALD L. ISRAEL  
 IN SUPPORT OF PLAINTIFFS' MOTION  
 FOR A PRELIMINARY INJUNCTION  
 AND ORDER OF SEIZURE, WITH  
 TEMPORARY RESTRAINING ORDER**

I, Ronald L. Israel, hereby declare as follows:

1. I am a member of the law firm of Wolff & Samson PC, attorneys for Plaintiffs Bravado International Group Merchandising Services, Inc. ("Bravado"), Mascotte Holdings, Inc. ("Mascotte") and Live Nation Merchandise, Inc. (collectively "Plaintiffs"). I make this declaration in support of Plaintiffs' application for an order to show cause, with temporary restraining order and order of seizure, enjoining the sale, and permitting the seizure, of unauthorized "bootleg" merchandise (the "Bootleg Merchandise") bearing the name, images, likenesses, logos or trademarks (collectively the "Trademark") of the musical performers

publicly known as KANYE WEST and JAY-Z (collectively the “Artists”) on the Artists’ current WATCH THE THRONE joint concert tour (the “Tour”).

2. Pursuant to Fed. R. Civ. P. 65(b), Section 1116(d)(1)(A) of the Lanham Act, 15 U.S.C. § 1116(d)(1)(A) and the Court’s inherent equity powers, the Court has authority to grant Plaintiffs’ application for a preliminary injunction, temporary restraining order and order of seizure, prohibiting unauthorized sales of Bootleg Merchandise and permitting the seizure of such merchandise at or near the concert venues. In numerous previous applications of this type made in various federal courts, including this District, the relief requested herein has been granted.

3. Attached hereto as Exhibits A through N are copies of national, multi-district injunctions issued in the following cases:

Exhibit A: Bravado International Group Merchandising Services, Inc., NKOTB, Inc. and BSB Entertainment, Inc. v. John Does 1-100, et al., 11-cv-03146 (*J. Sheridan*) (D.N.J. 2011) (New Kids on the Block and Backstreet Boys joint tour)

Exhibit B: Bravado International Group Merchandising Services, Inc. and Nickelback, Inc. v. John Does 1-100, et al., 09-cv-00942 (*J. Chesler*) (D.N.J. 2009) (Nickelback)

Exhibit C: Bravado International Group Merchandising Services, Inc. and NKOTB, Inc. v. John Does 1-100, et al., 08-cv-04711 (*J. Greenaway*) (D.N.J. 2008) (New Kids on the Block)

Exhibit D: Bravado International Group Merchandising Services, Inc., Roger Waters and 641 Productions, LLC v. John Does 1-100, et al., 06-cv-4159 (*J. Bongiovanni*) (D.N.J. 2006) (Roger Waters and Pink Floyd)

Exhibit E: Yessup Touring, II, LLC v. John Does 1-100, et al., 04-cv-2837 (*J. Cavanaugh*) (D.N. J. 2004) (Van Halen)

Exhibit F: Anthill Trading Ltd. v. John Does 1-100, et al., 04-cv-02919 (*J. Wolfson*) (D.N.J. 2004) (Sting)

- Exhibit G: Bravado International Group Merchandising Services, Inc., and Ate My Heart Inc. v. John Does 1-100, et al., 10-cv-04943 (*J. Holwell*) (S.D.N.Y. 2010) (Lady Gaga)
- Exhibit H: Bravado International Group Merchandising Services, Inc., Beyonce, Inc. and Beyonce Knowles v. John Does 1-100, et al., 09-cv-05543 (*J. Koeltl*) (S.D.N.Y. 2009) (Beyonce)
- Exhibit I: Megadeth, Inc. v. John Does 1-100, et al., 04-cv-8822 (*J. Batts*) (S.D.N.Y. 2004) (Megadeth)
- Exhibit J: ABB Merchandising Co., Inc. v. John Does 1-100, et al., 04-cv-02026 (*J. Casey*) (S.D.N.Y. 2004) (Allman Brothers Band).
- Exhibit K: ABB Merchandising Co., Inc. v. John Does 1-100, et al., 03-cv-1663 (*J. Chin*) (S.D.N.Y. 2003) (Allman Brothers Band).
- Exhibit L: ABB Merchandising Co., Inc. v. John Does 1-100, et al., 02-cv-1957 (*J. Schwartz*) (S.D.N.Y. 2002) (Allman Brothers Band).
- Exhibit M: ABB Merchandising Co., Inc. v. John Does 1-100, et al., 01-cv-2108 (*J. Martin*) (S.D.N.Y. 2001) (Allman Brothers Band).
- Exhibit N: Linkin Park LLC v. John Does 1-100, et al., CV-04-0112 (*J. Feuerstein*) (E.D.N.Y. 2004) (Linkin Park)

Annexed to the accompanying Memorandum of Law as Appendices A and B are lists of numerous additional cases in which Courts have issued national injunctions enjoining the sale of, and permitting the seizure of Bootleg Merchandise in cases very similar to this one.

4. The above cases involved concert tours of prominent musical performing artists in which applications for restraining orders and orders of seizure were granted, thereby providing plaintiffs with a weapon against defendants' bootlegging activities. In each instance in which service of process was effected upon bootlegging defendants, preliminary injunctions were issued to prohibit continued bootlegging by all identified defendants served with process and all persons acting in concert with them.

5. Like most of the actions listed above and in the schedules attached to Plaintiffs' Memorandum of Law, Plaintiffs have commenced an action against John and Jane Doe defendants and XYZ Companies because the defendant peddlers cannot positively be identified until the night of the concert (when they are actually served). As a general rule, individual bootleggers are well aware of the illegal nature of their activities; thus, they conceal their presence and their intentions until just prior to the show. Even when apprehended they frequently either refuse to identify themselves or provide fictitious names and addresses.

6. In the circumstances, it is extremely difficult, if not impossible, to provide formal notice of the action to defendants. However, because Plaintiffs hold the exclusive rights in the Artists' Trademarks in connection with the sale of Tour Merchandise, there is no possibility that issuance of the requested order could interfere with or impose a detriment to the legitimate interests of any other party.

7. Even if the identities of some of the bootleggers could be obtained, they should not be given notice of the seizure because they likely would conceal or destroy the bootleg merchandise and all other evidence of their infringing activities, including any evidence which would disclose the identity of their suppliers and other persons acting in concert with them. The ex parte order of seizure permits Plaintiffs to prevent the sale of bootleg merchandise and obtain important evidence, including (i) evidence of the trademark infringement (e.g., the Infringing Merchandise); (ii) evidence to establish defendants' unlawful earnings (e.g., books and records); and (iii) evidence of the persons and entities supplying and acting in concert with defendants.

8. Courts have acknowledged that bootleggers will conceal or destroy such evidence if they are given the opportunity. Thus, as the Third Circuit noted in Vuitton v. White, 945 F.2d 569, 571 (3d Cir. 1991):

Consistent with their calling, professional counterfeiters and dealers in counterfeit goods generally are not upstanding citizens. This presents a major obstacle to trademark owners trying to protect their marks. As one commentator has described the situation, “[e]xperience . . . has shown that it is extremely likely that a counterfeiter, upon [receiving notice] . . . will conceal his infringing merchandise and either destroy or conceal all records relating to this merchandise . . . .

9. As demonstrated above, the limited relief afforded to performers and their licensees by the issuance of a temporary restraining order and order of seizure at a single concert site would not prevent these itinerant peddlers from following the performer’s tours and continuing to prey upon and infringe plaintiffs’ property rights. Accordingly, a multiplicity of legal proceedings seeking the identical relief against the same defendants would be required. Invariably, the cost inherent in such redundant lawsuits is exorbitant, which plays directly into the hands of the bootleggers, since they know that the expense of bringing separate actions for each concert engagement would be prohibitive.

10. At the hearing on Plaintiffs’ application for a preliminary injunction, Plaintiffs expect to provide the Court with declarations of service establishing service of the order to show cause and the summons and complaint. If directed, Plaintiffs will amend the caption of the complaint to name all identified defendants who have been served with process. Plaintiffs will also ask the court to grant a preliminary injunction directed against such defendants, and all persons acting in concert with them, pursuant to Fed. R. Civ. P. 65.

11. It is clear that without the relief sought herein, the Artists, the legitimate merchandiser and the venues are helpless to prevent this thriving illegal industry from preying

upon unwitting fans who are interested in obtaining concert souvenirs. With increasing frequency, courts have granted such relief as the only reasonable and effective manner of providing any meaningful relief to the artists and their authorized merchandisers.

12. All merchandise seized pursuant to this Court's order will initially be held by Plaintiffs or their authorized representatives. As soon as practicable, Plaintiffs will transmit the merchandise to their counsel or other authorized agent to hold until completion of the Tour, at which time the Court can direct the destruction or other disposition of the merchandise.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 31 day of October, 2011.

A handwritten signature in black ink, appearing to read 'R. L. Israel', is written over a horizontal line.

RONALD L. ISRAEL