

EXHIBIT “B”

Ronald L. Israel
Wolff & Samson PC
The Offices at Crystal Lake
One Boland Drive
West Orange, New Jersey 07052
973-325-1500
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BRAVADO INTERNATIONAL GROUP
MERCHANDISING SERVICES, INC. and
NICKELBACK PRODUCTIONS, INC.,

Plaintiffs,

v.

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

Defendants.

Case No.: 09-942(SRC)

**ORDER TO SHOW CAUSE ON MOTION
FOR PRELIMINARY INJUNCTION WITH
TEMPORARY RESTRAINING ORDER
AND ORDER OF SEIZURE**

Upon the summons and complaint, the accompanying declarations of Ronald L. Israel, Esq. and Richard Koffer, the exhibits annexed thereto, the memorandum of law, and such other matters and argument presented to the Court, and good cause having been shown;

IT IS HEREBY ORDERED that defendants, Various John Does, Jane Does, and XYZ Companies, their true identities being unknown, show cause before this Court, 50 Walnut Street, Newark, New Jersey 07101, in Courtroom 8, on the 17th day of March 2009, at 9:45 a.m./p.m., or as soon thereafter as counsel can be heard, why an order pursuant to Fed. R. Civ. P. 65 should not be entered, granting to plaintiffs a preliminary injunction enjoining the defendants Various John Does, Jane Does, and XYZ Companies, their true identities being unknown, and all those acting in concert with defendants, from the unauthorized manufacture,

distribution, sale or holding for sale, of clothing, jewelry, photographs, posters, and other merchandise (collectively the "Infringing Merchandise") bearing the name, logo, likeness or trademark (collectively the "Trademark") of the musical performance group known as NICKELBACK (the "Artist").

AND IT APPEARING TO THE COURT that defendants, and those acting in concert with defendants, have sold, and will continue to sell and distribute, the Infringing Merchandise bearing the Artist's Trademark, as set forth in plaintiffs' complaint and supporting papers, and will continue to carry out such acts unless restrained by order of the Court;

AND IT APPEARING TO THE COURT that immediate and irreparable injury, loss or damage will result to the plaintiffs before defendants can be identified and given notice and their attorneys can be heard in opposition to the granting of the temporary restraining order, in that the defendants will manufacture, distribute, and sell infringing merchandise, and will continue to do so, and that, unless said defendants are enjoined from said manufacture, distribution, and sale, the plaintiffs will suffer immediate and irreparable injury and harm in the form of lost income, lessening and dilution of the value of the Artist's Trademark, interference with plaintiffs' ability to exploit, market, and license its merchandising rights respecting the Artist's Trademark, confusion in the marketplace as to the duly authorized source of the Infringing Merchandise, and impairment of the good will plaintiffs have in the Artist's Trademark;

IT IS HEREBY ORDERED that, pending a hearing and determination of this application, or the expiration of ten (10) days from the date hereof, whichever shall first occur, the defendants and their agents, servants, employees, attorneys, successors and assigns, and all persons, firms and corporations acting in concert with said defendants, be and hereby are

temporarily restrained from manufacturing, distributing, and selling the Infringing Merchandise bearing the Artist's Trademark; and

IT IS FURTHER ORDERED that the United States Marshal for this district, or any district in which plaintiffs enforces this order, the state and the local police, local deputy sheriffs, counsel for plaintiffs, plaintiffs' representatives, and persons acting under their supervision, are hereby authorized to seize and impound any and all Infringing Merchandise bearing the Artist's Trademark which defendants, or those acting in concert with defendants, attempt to sell or are holding for sale in connection with any of the Artist's concert performances (including any carton, container, or other means of carriage in which the Infringing Merchandise is found) from twenty-four (24) hours before to either (8) hours after any concert performance of the Artist, and within a two (2) mile radius of any concert performance of the Artist, including but not limited to the Artist's concert at The Izod Center in East Rutherford, New Jersey on March 6, 2009; and

IT IS FURTHER ORDERED that this temporary restraining order be and is hereby conditioned upon plaintiffs' filing with the Clerk of this Court an undertaking in the form of a bond, check, or cash in the amount of \$15,000, to secure the payment of costs and damages, not to exceed such sum, as may be suffered or sustained by any party who is wrongfully restrained hereby; and

IT IS FURTHER ORDERED that this temporary restraining order is conditioned upon the plaintiffs advancing to the United States Marshal such sum as is required to cover the fees for their said services, in the event plaintiffs seek the services of the United States Marshal in this or any other district; and

IT IS FURTHER ORDERED that service of copies of this Order to Show Cause, together with the summons and complaint, be made upon the defendants by the United States Marshal, state or local police, local deputy sheriffs, or by any person over the age of eighteen (18) years not a party to this action selected for that purpose by the plaintiffs, at the time any seizure provided herein is effected.

A handwritten signature in black ink, consisting of several overlapping, fluid strokes, positioned above a horizontal line.

U.S.D.J.

Dated: Newark, ~~New~~ Jersey
March ~~1~~, 2009
11:25 a.m./p.m.

Ronald L. Israel
Wolff & Samson PC
The Offices at Crystal Lake
One Boland Drive
West Orange, New Jersey 07052
973-325-1500
Attorneys for Plaintiffs

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

**BRAVADO INTERNATIONAL GROUP
MERCHANDISING SERVICES, INC. and
NICKELBACK PRODUCTIONS, INC.,**

Plaintiffs,

v.

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

Defendants.

Case No.: 09-cv-00942 (SRC)

**ORDER OF PRELIMINARY
INJUNCTION AND ORDER OF SEIZURE**

Plaintiff Bravado International Group Merchandising Services, Inc. ("Bravado") and Nickelback Productions, Inc. (collectively "Plaintiffs") having moved by Order to Show Cause for an injunction enjoining and restraining the defendants, and those acting in concert with them, from manufacturing, selling and/or distributing merchandise bearing the name, logo, likeness, and trademarks (collectively, the "Trademarks") of the musical performing group professionally known as NICKELBACK (the "Artist"), and service of the summons and complaint having been effected upon the defendants; and Plaintiffs' application for a preliminary injunction and order of seizure having come on for a hearing before the Honorable Stanley R. Chesler, United States District Judge, on the 17th day of March, 2009, at 9:45 AM at the United States District Court for the District of New Jersey, 50 Walnut Street, Newark, New

Jersey 07101, in Courtroom 8, and defendants having been notified of said hearing, and Plaintiffs having appeared by their counsel, and there having been no other appearances;

NOW, on presentation and consideration of Plaintiffs' application for a preliminary injunction and order of seizure, the declarations submitted in support thereof, and the entire record in this case, the Court finds as follows:

1. By reason of the long, substantial and continuous use of the Artist's name, the said name has acquired a meaning identified with the Artist and with products and services associated with them;

2. The defendants, and those acting in concert or participation with them, have infringed upon Plaintiffs' and the Artist's rights in the Artist's Trademarks and rights of publicity, and have as well committed acts of unfair competition against the Plaintiffs and the Artist, by manufacturing, distributing, offering for sale, and selling unauthorized merchandise bearing the Artist's Trademarks (the "Bootleg Merchandise") at or near the sites of the Artist's concerts, without having obtained a license or any other authorization to do so;

3. The said acts of the defendants, and those acting in concert or participation with them, constitute a violation of the Lanham Act, 15 U.S.C. § 1125(a), in that they:

- (a) involve goods or services;
- (b) are activities which affect interstate commerce; and
- (c) are likely to cause confusion or deception as to the origin of the Bootleg Merchandise in that they falsely represent that such merchandise is made by, sponsored by, or otherwise associated with the Artist or the Plaintiffs;

4. Defendants, and those acting in concert or participation with them, will continue to sell such unauthorized Bootleg Merchandise in connection with the Artist's concerts unless enjoined by the Court; and

5. Copies of the Court's March 4, 2009 Order to Show Cause, and the Summons and Complaint have been served upon the defendants, and Bootleg Merchandise has been obtained from the defendants;

NOW, THEREFORE, IT IS HEREBY ORDERED that defendants, their agents, servants, employees, attorneys, successors, assigns, and all persons, firms, and corporations acting in concert or participation with said defendants, are enjoined and restrained from:

- (i) Using the Artist's Trademarks in connection with the sale, offering for sale, distribution, or advertising of any clothing or other merchandise; or
- (ii) Manufacturing, distributing, selling, or holding for sale any clothing or other merchandise which carries or otherwise uses the Artist's Trademarks; or
- (iii) Aiding, abetting, inducing, or encouraging another to perform any of the acts enjoined herein.

IT IS FURTHER ORDERED that the United States Marshal for this district and the United States Marshal for any district in which Plaintiffs seek to enforce this order, upon Plaintiffs' advancing such sum as is required to cover their fees and expenses, or local law enforcement officials, Plaintiffs' counsel, representatives, or individuals acting under their respective authorization or supervision, are authorized, and the appropriate local or state police and other law enforcement authorities are hereby similarly authorized, to seize and impound any and all Bootleg Merchandise bearing the Artist's Trademarks which defendants, or their agents, servants, employees, successors and assigns, and all those acting in concert or participation with them, attempt to sell or are holding for sale in the vicinity of the Artist's concerts or elsewhere where such Bootleg Merchandise is being sold, held for sale, or is otherwise found, including any carton, bag, container, or other means of carriage in which the Bootleg Merchandise is transported or stored.

IT IS FURTHER ORDERED that such confiscated Bootleg Merchandise shall be delivered to Plaintiffs' counsel or representatives, or their designees, pending final disposition of this action. All clothing, jewelry, photographs, posters and other merchandise bearing the Artist's Trademarks which is sold, or held for sale, in the vicinity of the Artist's performance locations, or elsewhere where such merchandise is held for sale or otherwise found, shall be deemed to be merchandise subject to the seizure provisions of this order.

IT IS FURTHER ORDERED that this preliminary injunction is conditioned upon personal service of a copy of this Order and the Summons and Complaint being made upon the defendants or other persons enjoined hereby contemporaneously with the seizure authorized herein.

IT IS FURTHER ORDERED that all unauthorized items heretofore or hereafter seized in this action be delivered up to the Plaintiffs, or to Plaintiffs' authorized representative, pending final disposition of this matter.

IT IS FURTHER ORDERED that the injunctive and seizure provisions of this order shall expire upon conclusion of the Artist's concert performance tour on November 1, 2009, unless otherwise extended by further order of this Court.

IT IS FURTHER ORDERED that the undertaking in the amount of \$15,000.00 heretofore deposited with the Clerk of this Court to secure payment of costs incurred in enforcing the provisions of the temporary restraining order is hereby continued until final disposition of this matter or further order of this Court.


STANLEY R. CHESLER, U.S.D.J.

Dated: Newark, New Jersey
March 17, 2009