

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHEPARD FAIREY AND OBEY GIANT
ART, INC.,

Plaintiffs,

v.

THE ASSOCIATED PRESS,

Defendant and Counterclaim
Plaintiff,

v.

SHEPARD FAIREY, OBEY GIANT ART,
INC., OBEY GIANT LLC, STUDIO
NUMBER ONE, INC., and ONE 3 TWO,
INC. (d/b/a OBEY CLOTHING),

Counterclaim Defendants.

ECF

Case No. 09-01123 (AKH)

**COUNTERCLAIM DEFENDANT ONE 3 TWO, INC.'S NOTICE OF MOTION IN
LIMINE NO. 6 TO EXCLUDE EVIDENCE OF CEASE AND DESIST
COMMUNICATIONS**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that upon the accompanying memorandum of law, Counterclaim Defendant One 3 Two, Inc. d/b/a Obey Clothing (“One 3 Two”) will move, before the honorable Alvin K. Hellerstein, United States District Judge at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., Courtroom 14D, New York, New York 10007, on March 16, 2011 at 10:00 a.m., to exclude evidence and argument relating to communications by One 3 Two and Fairey (and his affiliated companies) regarding third-party unauthorized usage of intellectual property, including the Obama Image (“cease and desist communications”). One 3 Two moves *in limine* to exclude this evidence on grounds that it is irrelevant under Federal Rule

of Evidence 402; and the risk of fair prejudice to One 3 Two, jury confusion, and undue delay in trial substantially outweighs any probative value of such evidence warrants exclusion under Federal Rule of Evidence 403.

Dated: Los Angeles, California
February 25, 2011

Respectfully submitted,

By: /s/ Robyn C. Crowther
Robyn C. Crowther
Jeanne A. Fugate
Laurie C. Martindale
Caldwell Leslie & Proctor, PC
1000 Wilshire Boulevard, Suite 600
Los Angeles, California 90017-2463
Telephone: (213) 629-9040
Facsimile: (213) 629-9022
crowther@caldwell-leslie.com
fugate@caldwell-leslie.com
martindale@caldwell-leslie.com

Theresa Trzaskoma
Charles Michael
Brune & Richard LLP
One Battery Park Plaza, 34th Floor
New York, NY 10004
Telephone: (212) 668-1900
Facsimile: (212) 668-0315
ttrzaskoma@bruneandrichard.com
cmichael@bruneandrichard.com

*Counsel for Counterclaim Defendant
One 3 Two, Inc. (d/b/a Obey Clothing)*