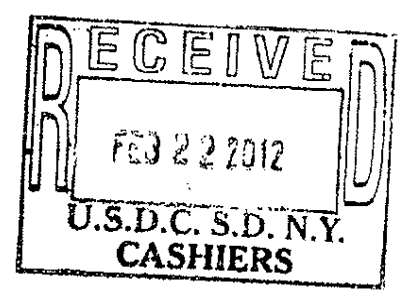


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



_____ x

F.E.A., INC.,

CIVIL ACTION NO.

Plaintiff,

COMPLAINT FOR
VIOLATIONS OF THE
TRADEMARK ACT AND
THE LANHAM ACT

v.

JOHN DOES 1-100, JANE DOES
1-100 AND XYZ COMPANY,

Defendants.

_____ x

Plaintiff F.E.A., Inc., files this complaint against defendants, alleging as follows:

JURISDICTION AND VENUE

1. This action arises under the Lanham Trademark Act 15 U.S.C. §§ 1051 et seq. (the "Lanham Act"). Accordingly, this Court has federal question jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1221 and 28 U.S.C. §§ 1338(a), (b). Venue in this district is proper under 28 U.S.C. § 1391(b) because defendants will be

selling and distributing unauthorized goods at Madison Square Garden on February 28, and March 1, 2012.

PARTIES

2. F.E.A., Inc. ("Plaintiff") is a New Jersey corporation with its principal place of business in Englewood, New Jersey.

3. Defendants John Does 1-100, Jane Does 1-100 and XYZ Company who are sued herein under fictitious names because their true names and capacities are unknown at this time. This complaint will be amended when their true names and capacities are ascertained.

4. Upon information and belief, the individual defendants will be present in and about the Southern District of New York in connection with the claims asserted below and are or will be subject to the jurisdiction of this Court.

5. On information and belief, defendant XYZ Company through its agents, servants and employees, is or will be present in and about the Southern District of New York and is or will be subject to the jurisdiction of this Court.

6. Defendants, and each of them, are individuals and business entities who, upon information and belief, are acting in concert and active participation with each other in committing the wrongful acts alleged herein. Defendants John Does 1-100, Jane Does 1-100, and XYZ Company are hereinafter referred to collectively as "Defendants."

THE BACKGROUND OF THE ACTION

7. Plaintiff is engaged in the manufacture, distribution and sale of various types of merchandise sold and distributed at concerts and at retail stores of musical performing artists and groups, including, but not limited to T-shirts, jerseys, sweatshirts,

hats, buttons, tour program books, and posters (collectively "Merchandise") which embody the trademarks, servicemarks, likenesses, logos, and other indicia of musical performers and groups.

8. The group known as **"VAN HALEN"** (the "Group"), is the trademark used by the Group in connection with recording, merchandising and other goods and services in all aspects of the entertainment industry and to distinguish their services from all other such artists. The Group's trademark has been used in connection with their services for over 30 years.

9. The Group has obtained for their **"VAN HALEN"** trademark US Federal Trademark Registrations, many incontestable, including: Federal Registration No. 2866540, IC 025 for use in connection with clothing; Registration No. 2868311, IC 41 for use in connection with entertainment services; Registration No. 2853393, IC 016 for use in connection with printed matter and Federal Registration No. 3701926 (design mark): IC 025 for use in connection with clothing, IC 009 for use in connection with musical sound recordings and musical video recordings; IC 015 for use in connection with musical instruments and accessories, IC 016 for use in connection with paper products; and IC 041 for use in connection with entertainment services. The marks 2866540, 2868311, and 2853393 are incontestable.

10. Pursuant to an agreement between the Group and the Plaintiff (the "Agreement"), Plaintiff possesses the exclusive right to utilize and to market all federally registered trademarks, servicemarks, likenesses, logos and other indicia of the Group (collectively, the "Group's Trademarks") on and in connection with Merchandise ("Tour

Merchandise") sold and offered for sale at or near their performances on their present North American concert tour (the "Tour").

11. The Group has achieved wide renown in the entertainment industry. The Group has used their trademarks to identify officially authorized goods and services and to distinguish their services and goods from others by, among other things, prominently displaying the Group's Trademarks in advertising and on Tour Merchandise.

12. The Group has a decidedly strong and loyal following among those who attend popular music concerts and record buyers. The Group has previously appeared in concerts at major arenas and stadiums in the United States and has been seen and heard in concerts by millions of popular music enthusiasts. Previous Tours by the Group were attended by hundreds of thousands of people. Because of the Group's popularity and this Tour being the Group's highly anticipated reunion tour, the Group's performances are sold out or nearly sold out.

13. As a result of the foregoing, each of the Group's Trademarks has developed and now possesses secondary and distinctive meaning to purchasers of the Tour Merchandise bearing any or all of the Group's Trademarks.

14. Plaintiff and the Group annually realize substantial income from the sale of Tour Merchandise bearing the Group's Trademarks, and hundreds of thousands of such items have been sold throughout the United States.

15. On February 28 and March 1, 2012 at Madison Square Garden in New York, New York, the Group will perform (the "Concerts"). The authorized Tour

Merchandise bearing any or all of the Group's Trademarks will be distributed at the Concerts and throughout the United States in connection with the Tour.

DEFENDANTS' UNLAWFUL CONDUCT

16. On information and belief, Defendants will sell and distribute unauthorized T-shirts, jerseys, caps and/or other merchandise bearing any or all of the Group's Trademarks (the "Unauthorized Merchandise") in the vicinity of the Concerts before, during and after their performance and at subsequent performances on the Tour.

17. The Unauthorized Merchandise is of the same general appearance as Plaintiff's Merchandise and is likely to cause confusion among prospective purchasers. Defendants' Unauthorized Merchandise is not authorized by the Group or Plaintiff.

18. The Unauthorized Merchandise sold and to be sold by Defendants is generally of inferior quality. The sale of such merchandise has injured and is likely to injure the reputation of the Group which has developed by virtue of their public performances and the reputation for high quality associated with Plaintiff and the Tour Merchandise.

19. The aforesaid acts by Defendants and others are likely to cause the purchasing public to believe that the sale of such Unauthorized Merchandise is authorized, sponsored or approved by the Group and/or Plaintiff and that such Unauthorized Merchandise is subject to the same quality control and regulation required by the Group and/or Plaintiff, despite the fact that this is not true. It also injures the Group and Plaintiff in that Defendants do not pay any royalty for these unlawful sales.

20. The aforesaid manufacture, distribution and sale of Unauthorized Merchandise bearing the trademarks, servicemarks, likenesses, logos, and other indicia of

the Group constitutes a false designation of the source of origin of such goods and falsely describes and represents such merchandise. The use by Defendants of the Group's Trademarks also constitutes an attempt to palm off and appropriate to themselves the Group's and Plaintiff's exclusive rights therein.

21. Upon information and belief, Defendants and others have and will continue to engage in such unauthorized activities in this state and elsewhere in interstate commerce and will continue such activities throughout the Tour, to the great injury of Plaintiff and the Group.

22. Plaintiff has no adequate remedy at law and will suffer irreparable harm and damage as a result of the aforesaid acts, in an amount presently incalculable.

FIRST CLAIM FOR RELIEF
(Violation of the Trademark Act)

25. Plaintiff realleges each allegation set forth in the paragraphs above.

26. By reason of the foregoing, Plaintiff hereby asserts a claim against Defendants for injunctive and monetary relief pursuant to 15 U.S.C. § 1114(b) with respect to Defendants' infringement of the registered marks.

SECOND CLAIM FOR RELIEF
(Violation of the Lanham Act)

23. Plaintiff realleges each allegation set forth in the paragraphs above.

24. By reason of the foregoing, Plaintiff hereby asserts a claim against Defendants for injunctive and monetary relief pursuant to Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), with regards to the false designation of origin and false descriptions and representations in commerce of Defendants' Unauthorized Merchandise.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks relief against Defendants as follows:

A. As to All Claims For Relief, that Defendants, their agents, servants, employees, officers, attorneys, successors and assigns, and all persons acting in concert with them, be enjoined in this and all other judicial districts in the United States, preliminarily during the course of this litigation and permanently from: 1) manufacturing, distributing, selling, offering for sale, holding for sale or advertising any products, merchandise or goods bearing the name, trademark, or likeness of the Group or any colorable variation or imitation thereof; and 2) representing that any products, merchandise or goods manufactured, distributed, sold, held for sale or advertised by them is sponsored or authorized by Plaintiff in this district or in any other district in which Plaintiff seeks to enforce this Court's injunction order.

B. As to All Claims For Relief, that this Court order the United States Marshal, the local and state police or sheriff, off duty officers of the same, authorized agents of Plaintiff, and/or any persons acting under their supervision to seize and impound any and all Unauthorized Merchandise which the Defendants attempt to sell, distribute or hold for sale at, within or in the vicinity of the arenas at which the Group is performing, whether this occurs before, during or after the concerts on the Tour.

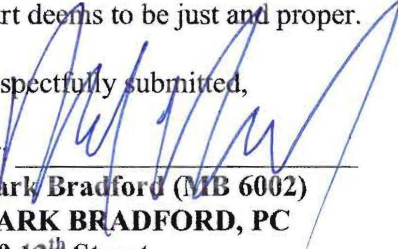
C. That Defendants deliver up for destruction any and all Unauthorized Merchandise.

D. As to All Claims for Relief, that Defendants pay to Plaintiff damages in an amount to be determined.

E. As to All Claims For Relief, that Plaintiff be awarded its costs, attorneys fees and such other and further relief as the Court deems to be just and proper.

Dated: February 22, 2012

Respectfully submitted,

By 
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