

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
IN NASHVILLE**

TAYLOR SWIFT,

Plaintiff

v.

MALCOLM MATTHEWS, RENEE SUSAN
MITCHELL, LOUIS MOORE, MARTIN D.
QUATTLEBAUM, MARSHA DYONNE
TYLER, VARIOUS JOHN DOES,
VARIOUS JANE DOES, and
VARIOUS XYZ CORPORATIONS,

Defendants

Civil Action No. 3:09-0442

**JURY DEMAND
FILED UNDER SEAL**

**TEMPORARY RESTRAINING ORDER
AND ORDER OF SEIZURE OF COUNTERFEIT GOODS**

This matter comes before the Court upon Plaintiff Taylor Swift's Verified Complaint, *Ex Parte* Motion for Temporary Restraining Order, Motion for Preliminary Injunction and Application for Order of Seizure of Counterfeit Goods, Declaration of Francisco Javier Dominguez in support of the Motion, Declaration of Crom Tidwell in support of the Motion, and Attorney Certification in Support of *Ex Parte* Motion for Temporary Restraining Order, Motion for Preliminary Injunction and Application for Order of Seizure of Counterfeit Goods. A hearing was held before this Court on May 19, 2009. After due consideration thereof, the Court makes the following findings of fact and conclusions of law and grants Plaintiff's Motion for Temporary Restraining Order and Application for Order of Seizure of Counterfeit Goods:

1. Plaintiff owns and controls the trademark TAYLOR SWIFT, in word and in stylized forms, and its registration with the United States Patent and Trademark Office and applications for such registration. Plaintiff's trademark TAYLOR SWIFT is distinctive and highly recognized by the public.

2. Plaintiff also owns and controls the trademark FEARLESS and the applications for its registration with the United States Patent and Trademark Office. Plaintiff's trademarks TAYLOR SWIFT and FEARLESS are collectively referred to in this Order as "Plaintiff's Trademarks." A summary of Plaintiff's Trademarks, and their registrations and applications for registration with the United States Patent and Trademark Office, is set forth in Exhibit A hereto.

3. Defendants are not licensed or otherwise authorized by Plaintiff to use Plaintiff's Trademarks.

4. It appears to this Court that Defendants have been, are and will be present on the premises or within a five-mile radius of the venues where Plaintiff will perform during her concert tour in 2009 ("Plaintiff's 2009 Tour"), including each of the venues identified in Exhibit B hereto ("Venues"), for the purpose of manufacturing, distributing, offering for sale, and selling merchandise and products that bear marks, words and/or names identical or confusingly similar to, or are counterfeits of, Plaintiff's Trademarks, without authorization from Plaintiff ("Counterfeit Goods").

5. Counterfeit Goods include goods bearing "counterfeit marks" within the meaning of the Trademark Counterfeiting Act of 1984, 15 U.S.C. § 1116(d).

6. Defendants' distribution, offering for sale, and sale of Counterfeit Goods would also cause confusion or mistake or be likely to deceive and would constitute trademark

infringement under 15 U.S.C. § 1114(1) and false designation of origin under 15 U.S.C. § 1125(a).

7. Under 15 U.S.C. § 1116(d), this Court has the power to grant an *ex parte* seizure order for goods bearing counterfeits of federally registered trademarks.

8. Under 15 U.S.C. § 1116(a), this Court has the power to enjoin violations of 15 U.S.C. §§ 1114(1) and 1125(a).

9. This Court has the power under Rule 65 of the Federal Rules of Civil Procedure, and under the All Writs Act, 28 U.S.C. § 1651, to grant an *ex parte* seizure order for goods that are infringing but not counterfeits within the meaning of 15 U.S.C. § 1116(d).

10. No order other than an *ex parte* seizure order would adequately achieve the objectives of the Trademark (Lanham) Act, 15 U.S.C. §§ 1114, 1116 and 1125(a).

11. Plaintiff is likely to succeed in showing that Defendants have used and, unless enjoined, will continue to use counterfeit or infringing marks in connection with the sale, offering for sale and/or distribution of Counterfeit Goods.

12. Notice of this Motion need not be given to Defendants prior to *ex parte* hearing because: (a) the identities and whereabouts of certain Defendants are currently unknown; (b) many Defendants have no business identity or stable place of business before or after Plaintiff's concert performances and cannot be identified; and (c) Defendants who can be located and identified, if notified, likely will cause the immediate concealment or destruction of Counterfeit Goods or removal of Counterfeit Goods outside the access of this Court.

13. Plaintiff will suffer immediate and irreparable injury and will have no adequate remedy at law if this Court declines to grant an *ex parte* restraining and seizure order.

14. Counterfeit Goods and other materials subject to this Order likely will be located on the premises or within a five-mile radius of the venues for the concerts during Plaintiff's 2009 Tour.

15. Should this Court not grant the requested relief, the harm to Plaintiff clearly outweighs any harm that Defendants may suffer if the relief is granted.

16. Plaintiff has not publicized the requested seizure.

17. Plaintiff has given reasonable notice of this Motion and Plaintiff's Complaint to the United States Attorney for this District.

18. The file of this case has been sealed as required by 15 U.S.C. § 1116(d)(8).

19. Plaintiff has complied with all statutory requirements for the issuance of an *ex parte* seizure order.

It is accordingly ORDERED and ADJUDGED that:

1. Defendants, along with their partners, associates, agents, servants, employees, representatives, and assigns, and all others under their control or in active concert or participation with them, and all other persons and entities having actual knowledge hereof be, and the same hereby are, temporarily ENJOINED and RESTRAINED from:

- a. manufacturing, distributing, offering to distribute, offering for sale, or selling any Counterfeit Goods (merchandise and products that bear marks, words and/or names identical or confusingly similar to, or are counterfeits of, Plaintiff's Trademarks set forth on Exhibit A to this Order);
- b. representing by any method that Counterfeit Goods are sponsored, manufactured, sold or licensed by Plaintiff; and

c. otherwise taking any action likely to cause confusion, mistake or deception as to the origin of Counterfeit Goods.

2. Any federal, state, or local law enforcement officer ("Enforcement Official") may seize and maintain in their custody and control any and all Counterfeit Goods and counterfeit marks, and the means of making them, and records documenting the manufacture, sale or receipt of things relating thereto, in the possession, dominion or control of Defendants, their agents or persons acting in concert or participation with them, including all such Counterfeit Goods and counterfeit marks located in or on any containers, vessels, storage areas or motor vehicles. Enforcement officials in accomplishing any seizure pursuant to this Order shall comply with all applicable laws.

3. Enforcement Officials are authorized to carry out the foregoing on the premises or within a five-mile radius of any venue where Plaintiff will perform live concert events that will be occurring at any time during the duration of this Order, from twenty-four hours before each concert begins and until twenty-four hours following the completion of each concert.

4. All Counterfeit Goods, all means of making such Counterfeit Goods, all records, and any other materials seized hereunder shall be delivered up to the custody of the Court in accordance with 15 USC Section 1116(d)(7). The seized goods shall be kept in identifiable containers and stored at Plaintiff's expense.

5. Simultaneously with seizure hereunder, or as soon thereafter as is practical under the circumstances, each named Defendant shall be served with a copy of (i) this Order and (ii) a Summons and the Verified Complaint in this action.

6. This Order is being issued without notice to protect Plaintiff from irreparable injury to her trademarks, name and goodwill that may arise if Defendants should dissipate or transfer to any third party any of the goods that are the subject of this Order.

7. Defendants shall cooperate with Enforcement Officials executing seizure hereunder and shall provide items sought to be seized wherever such items are located.

8. Persons who have had goods seized pursuant to this Order are hereby required to provide the persons executing this Order with correct names, residential and business addresses, telephone numbers, and other identifying information.

9. Plaintiff shall post security, in the form of a cash bond or corporate surety bond or other form approved by the Court, in the amount of \$10,000.00 for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully restrained, pending the hearing and determination of the continuation of this Order.

10. Unless extended by the Court, the temporary restraining order shall become valid upon the posting of bond and shall expire ten (10) business days after the issuance of this Order.

11. IT IS FURTHER ORDERED that a hearing on Plaintiff's Motion for Preliminary Injunction shall be set by the District Judge to whom this case is assigned.

12. This Order or copies hereof may be served by any person over the age of 18 years who is not a party to this action.

13. All persons who become aware of this action and Order are ORDERED not to reveal the existence of this action or Order to any other person, except that persons authorized to enforce this Order may reveal its existence and contents to the extent necessary to carry out their official duties and Defendants may confer with their attorneys concerning this action.

Entered this 19th day of May, 2009, at 4:00 p.m.

Todd Campbell

UNITED STATES DISTRICT JUDGE

EXHIBIT A

PLAINTIFF'S TRADEMARKS

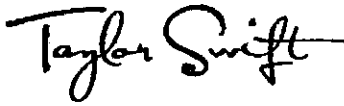
| Plaintiff's Trademark | Goods/Services International Class | Goods/Services Description Summary | U.S. Patent and Trademark Office Registration/ Serial No. |
|---|---|--|--|
| TAYLOR SWIFT | Class 9 | Audio and video recordings | 3,439,211 |
| | Class 25 | Clothing | 3,439,210 |
| | Class 41 | Entertainment services: live musical performances | 3,429,635 |
| | Class 9 | Downloadable audio and video recordings | 77/734623 |
| | Class 14 | Jewelry | 77/734631 |
| | Class 16 | Printed materials and publications | 77/734649 |
| | Class 35 | On-line retail store services | 77/734654 |
| | Class 41 | Entertainment services: on-line informational and related services | 77/734659 |
|  | Class 9 | Audio and video recordings | 77/734732 |
| | Class 14 | Jewelry | 77/734737 |
| | Class 16 | Printed materials and publications | 77/734743 |
| | Class 25 | Clothing | 77/735160 |
| | Class 35 | On-line retail store services | 77/734751 |
| | Class 41 | Entertainment services | 77/735175 |
| FEARLESS | Class 9 | Audio and video recordings | 77/734576 |
| | Class 25 | Clothing | 77/734586 |
| | Class 41 | Entertainment services | 77/734597 |

EXHIBIT B

TAYLOR SWIFT – 2009 TOUR

4/23/09
ROBERTS STADIUM
2600 DIVISION ST., EVANSVILLE, IN 47711 * 812-476-1383

4/24/09
ASU CONVOCATION CTR
217 OLYMPIC DR., JONESBORO, AR 72401 * 870-972-3870

4/25/09
SCOTTRADE CTR
1401 CLARK AVE., ST. LOUIS, MO 63103 * 314-589-5836

4/30/09
N. CHARLESTON COLISEUM
5001 COLISEUM DR., N. CHARLESTON, SC 29418

5/1/09
JACKSONVILLE ARENA
300 A. PHILLIP RANDOLPH BLVD., JACKSONVILLE, FL 32202 * 904-630-3900

5/2/09
MISS. COAST COLISEUM CONV. CTR.
2350 BEACH BLVD., BILOXI MS 39531 * 228-594-3700

5/14/09
SPOKANE ARENA
720 WEST MALLON AVE. SPOKANE, WA 99201 * 509-279-7000

5/15/09
KEY ARENA
305 HARRISON ST., SEATTLE, WA 98109 * 206.684.7200

5/16/09
ROSE GARDEN
100 DREXLER DR., PORTLAND, OR 97227 * 503-235-8771

5/17/09
IDAHO CENTER
16200 IDAHO CTR. BLVD., NAMPA, ID 83687 * 208-468-1000

5/21/09
GLENDALE ARENA
9400 W Maryland Ave, Glendale, AZ 85305 * 623-772-3200

5/22/09
STAPLES CENTER
1111 S. Figueroa St., Los Angeles, CA 90015 * 213.742.7500

TAYLOR SWIFT - 2009 TOUR

5/23/09

MANDALAY BAY EVENTS CTR

3950 Las Vegas Blvd. South, Las Vegas, NV 89119 * 702-632-7777

5/24/09

SAN DIEGO SPORTS ARENA

3500 Sports Arena Blvd, San Diego, CA 92110 * 619-224-4171

5/26/09

ENERGY SOLN. CTR.

301 West South Temple, Salt Lake City, UT 84101 * 801-325-2500

6/4/09

ENTERPRISE, AL * FESTIVAL DATE

6/5/09

US BANK ARENA

100 BROADWAY, CINCINNATI, OH 45202 * KEITH URBAN DATE

6/6/09

PALACE OF AUBURN HILLS

5 Championship Drive, Auburn Hills MI 48326 * KEITH URBAN DATE

6/7/09

ALLEN CO. WAR MEM.

4000 Parnell Avenue, Fort Wayne, IN 46805 * KEITH URBAN DATE

6/11/09

MERRIWEATHER POST PAVILION

10475 Little Patuxent Parkway, Columbia, MD 21044 * 410-715-5550

6/12/09

GREENSBORO COLISEUM

1921 E Lee St, Greensboro, NC 27403 * 336-373-7400

6/13/09

PHILIPS ARENA

101 Marietta St NW # 1900, Atlanta, GA 30303 * KEITH URBAN DATE

6/24/09

OSHKOSH, WI * FESTIVAL DATE

6/25/09

CADOTT, WI * FESTIVAL DATE *

6/27/09

WELLS FARGO ARENA

730 3rd St, Des Moines, IA 50309 * KEITH URBAN DATE

TAYLOR SWIFT – 2009 TOUR

6/28/09

MARK OF THE QUAD/ I WIRELESS CTR
1201 RIVER DR, MOLINE, IL 61265-1300 * KEITH URBAN DATE

7/8/09

CALGARY, AB * STAMPEDE

7/9/09

EDMONTON, AB * KENNY CHESNEY DATE

7/10/09

CRAVEN, SK * FESTIVAL DATE

7/11/09

WINNIPEG, MB

7/16/09

TWIN LAKES, WI * FESTIVAL DATE

7/17/09

VALUE CITY/ JEROME SCHOTTENSTEIN CENTER
555 Berror Drive, Columbus, OH 43210 * 614-688-8400

7/18/09

CHARLESTON CIVIC CENTER
200 CIVIC CENTER DR., CHARLESTON, WV 25301 * 304-345-1500

7/23/09

CHEYENNE, WY * RODEO

7/24/09

RUSHMORE CIVIC CENTER
444 MT. RUSHMORE RD NORTH, Rapid City, SD 57701 * 605-394-4115

7/25/09

MINOT, ND * FAIR

7/31/09

TD BANK NORTH
One TD Banknorth Garden Place; Ste 200, Boston, MA 02114 * KEITH URBAN DATE

8/1/09

WACHOVIA CENTER
3601 S Broad St # 1, Philadelphia, PA 19148 * KEITH URBAN DATE

8/2/09

BLUE CROSS ARENA
1 WAR MEMORIAL SQUARE, ROCHESTER, NY 14614 * KEITH URBAN DATE

TAYLOR SWIFT – 2009 TOUR

8/7/09

DETROIT LAKES, MN * FESTIVAL

8/8/09

SPRINT CENTER

1407 Grand Blvd., Kansas City, MO 64106 * KEITH URBAN DATE

8/9/09

QWEST CENTER *

455 N. 10TH STREET, OMAHA, NE 68102 * 402-341-1500

8/27/09

MADISON SQUARE GARDEN

4 Pennsylvania Plaza, New York, New York 10001 * 212-465-6150

8/28/09

MOHEGAN SUN

1 MOHEGAN BLVD , UNCASVILLE, CT 06382 * 860-862-8000

8/29/09

BRYCE JORDAN CENTER

127 BRYCE JORDAN CTR, STATE COLLEGE, PA 16802-7101 * 814-863-5500

8/30/09

LOUISVILLE, KY * FESTIVAL

9/3/09

GWINNETT CENTER

6400 SUGARLOAF PARKWAY, DULUTH, GA 30097 * 770-813-7500

9/4/09

BI-LO ARENA

650 N Academy St., Greenville, SC 29601 * 864-241-3800

9/5/09

TIME WARNER CABLE ARENA (FORMERLY BOBCATS ARENA)

333 East Trade St., Charlotte, NC 28202 * 704-688-8600

9/9/09

CAJUNDOME

444 CAJUNDOME BLVD , LAFAYETTE, LA 70506 * 337-265-2100

9/10/09

CENTURY TEL CENTER

2000 CenturyTel Center Drive, Bossier City, LA 71112 * 318-747-2501

9/11/09

BJCC

2100 Richard Arrington Jr Bl N, Birmingham, AL 35203 * 205-458-8400

TAYLOR SWIFT – 2009 TOUR

9/12/09

SOMMET CENTER

501 Broadway, Nashville, TN 37203 * 615-770-2000

9/25/09

AMERICAN AIRLINES CENTER

2500 VICTORY AVENUE, DALLAS, TX 75219 * 214-665-4265

9/26/09

ALLTEL ARENA

1 ALLTEL ARENA WAY, N. LITTLE ROCK, AR 72114 * 501-340-5660

9/27/09

BOK CENTER

200 S. DENVER AVE., TULSA, OK 74103 * 918-894-4200

10/1/09

MELLON ARENA

66 Mario Lemieux Place, Pittsburgh, PA 15219 * 412-642-1800

10/2/09

VAN ANDEL ARENA

130 W. Fulton, Grand Rapids, MI 49503 * 616-742-6600

10/3/09

QUICKEN LOANS ARENA

ONE CENTER CT., 100 GATEWAY PLAZA, CLEVELAND, OH 44115 * 216-420-2000

10/8/09

CONSECO FIELDHOUSE

125 S. PENNSYLVANIA, INDIANAPOLIS, IN 46204 * 317-917-2500

10/9/09

ALLSTATE ARENA

6920 Mannheim Rd, Rosemont, IL 60018 * 847-635-6601

10/10/09

XCEL ENERGY CENTER

199 KELLOGG BLVD W., ST. PAUL MN 55102 * 651-265-4800