

**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. \_\_\_\_\_

**JURY DEMAND  
FILED UNDER SEAL**

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**MEMORANDUM IN SUPPORT OF  
*EX PARTE* MOTION FOR TEMPORARY RESTRAINING ORDER,  
MOTION FOR PRELIMINARY INJUNCTION AND  
APPLICATION FOR ORDER OF SEIZURE OF COUNTERFEIT GOODS**

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The plaintiff, Taylor Swift (“Plaintiff”), respectfully submits this memorandum in support of her *Ex Parte* Motion for Temporary Restraining Order, Motion for Preliminary Injunction and Application for Order of Seizure of Counterfeit Goods. This relief is warranted and authorized under the Trademark (Lanham) Act, 15 U.S.C. § 1051 *et seq.* and §§ 1116(a) and (d), Tennessee Personal Rights Protection Act of 1984, Tenn. Code Ann. § 47-25-1101 *et seq.*, and Rule 65(b) of the Federal Rules of Civil Procedure. For the following reasons, Plaintiff respectfully requests that the Court grant this relief.

## I. FACTS

Plaintiff, Taylor Swift, is an internationally-recognized and immensely popular recording and performing musical artist. Complaint (“Compl.”), ¶¶ 11-12. Earlier this year, Plaintiff announced her first headlining tour, titled “Fearless Tour” (“Fearless Tour”); the tour will reach fifty-six cities, in thirty-five states, within the United States, and will extend abroad, to Canada and United Kingdom. Compl., ¶ 13. During Fearless Tour, Plaintiff is expected to draw an audience of approximately 500,000 people. Compl., ¶ 15. In addition to Fearless Tour, Plaintiff will also give live performances during 2009 with the musical artists Keith Urban and Kenny Chesney and at a number of fairs and festivals (Plaintiff’s performances during 2009, collectively, “Plaintiff’s 2009 Tour”). Compl., ¶ 16; Compl., Ex. A.

In conjunction with her live performances to-date during 2009, as well as during her prior concert tours, merchandise bearing Plaintiff’s trademarks TAYLOR SWIFT, in word and/or stylized forms, and/or the trademark FEARLESS (“Plaintiff’s Trademarks”), and/or Plaintiff’s photograph, image or likeness (“Taylor Swift Merchandise”) has been made available for purchase to the public, by Plaintiff and her authorized vendors. Compl., ¶¶ 17-21, Ex. B.

Despite Plaintiff’s past diligent efforts to prevent and actively pursue sale of merchandise marked with imitations or counterfeits of Plaintiff’s Trademarks (“Counterfeit Goods”), Counterfeit Goods have appeared on eBay, otherwise over the Internet, and during Plaintiff’s past live performances, at or near the concert venues. Compl., ¶¶ 33-35. Most recently, during Plaintiff’s 2009 Tour, Plaintiff’s merchandise enforcement team has encountered numerous individuals selling Counterfeit Goods. Compl., ¶ 35-38; Declaration of Francisco Javier Dominguez (“Dominguez Decl.”), ¶ 8.

The named Defendants are individuals who were encountered by Plaintiff's merchandise enforcement team, and identified through its efforts, as offering and selling Counterfeit Goods at Plaintiff's concerts in Jacksonville, Florida and Biloxi, Mississippi. Compl., ¶ 36; Dominguez Decl., ¶ 8. In addition to the named Defendants, there were numerous individuals distributing, selling and offering for sale Counterfeit Goods at these concert venues who refused to furnish identification to Plaintiff's team and otherwise evaded Plaintiff's anti-counterfeiting enforcement efforts. Compl., ¶ 37-38; Dominguez Decl., ¶ 8. These individuals and other similarly-situated individuals and entities, whose true names, capacities and addresses are not yet known to Plaintiff, are identified by Plaintiff in its Complaint as Various John Does, Various Jane Does and Various XYZ Corporations. Compl., ¶ 37.

Counterfeit Goods are of the same general nature and type as genuine and authorized Taylor Swift Merchandise, and often include or feature Plaintiff's image, photographs or likeness. Compl., ¶ 41-44, Ex. H; Dominguez Decl., ¶¶ 15-17; Declaration of Crom Tidwell ("Tidwell Decl."), ¶ 14-17. However, the design, materials and quality of most Counterfeit Goods are of inferior quality, fail to comply with the quality and style standards established by Plaintiff for Taylor Swift Merchandise, and are lower in price than authentic Taylor Swift Merchandise. Compl., ¶ 40, Ex. H; Dominguez Decl., ¶¶ 18-19; Tidwell Decl., ¶¶ 17-18.

Law enforcement officers at concert venues are primarily dedicated to on-site safety and security, typically do not have priority or time to deal with Counterfeit Goods, and do not extend much cooperation to Plaintiff for her enforcement efforts, citing lack of a federal injunction and seizure order. Compl., ¶ 47; Dominguez Decl., ¶ 13; Tidwell Decl., ¶ 12. When Counterfeiters are approached by Plaintiff's merchandise enforcement team or when they notice Plaintiff's team, they either quickly hide or discard Counterfeit Goods and walk or run away, or ignore

requests for identification and to abandon the concert premises and turn over Counterfeit Goods to Plaintiff, and continue to sell Counterfeit Goods at the next concert venue. Compl., ¶ 48; Dominguez Decl., ¶ 11; Tidwell Decl., ¶ 10. Counterfeiters may also become violent as a result of the anti-counterfeiting enforcement efforts without the proper support from the law enforcement officers. Compl., ¶ 49; Dominguez Decl., ¶ 12; Tidwell Decl., ¶ 11.

Through her efforts, Plaintiff has learned that there are many more sellers of Counterfeit Goods at the concert locations than Plaintiff can address absent an order of injunction authorizing the law enforcement officers to seize and impound Counterfeit Goods, and an order authorizing seizure of Counterfeit Goods, because in the absence of such an order, Defendants will not voluntarily turn over Counterfeit Goods and will not cease the distribution and sale of Counterfeit Goods. Compl., ¶ 50; Dominguez Decl., ¶ 14; Tidwell Decl., ¶ 13. Further, because Defendants will not identify themselves, Defendants will be able to avoid responding to an ordinary civil lawsuit and, in this way, will be essentially immune from an injunction and monetary liability. Compl., ¶ 50; Dominguez Decl., ¶ 14; Tidwell Decl., ¶ 13.

Without the aid of a federal court order enjoining sale and authorizing seizure of Counterfeit Goods at and near Plaintiff's 2009 Tour concert locations, Plaintiff will lose innumerable and irrecoverable sums in merchandise sales and will suffer incalculable, irreparable damage to her reputation and goodwill, in addition to the harm such counterfeiting will cause to the consuming public by deceiving the public into believing that Counterfeit Goods are the legitimate, high-quality Taylor Swift Merchandise; Plaintiff will be unable to combat the network of individuals distributing and selling Counterfeit Goods in connection with Plaintiff's 2009 Tour, and will be unable to protect her rights and the rights of the consuming public against the distribution and sale of Counterfeit Goods at Plaintiff's 2009 Tour concerts. Compl., ¶ 52;

Dominguez Decl., ¶ 23; Tidwell Decl., ¶ 20. In addition to causing Plaintiff irrecoverable and innumerable lost sales, Defendants' actions will irreparably injure Plaintiff's reputation for high-quality products and services, and will cause dilution of the TAYLOR SWIFT trademark by blurring and by tarnishment. Compl., ¶ 46. Further, Defendants' action will take away communities resources from the localities where Plaintiff will perform. Dominguez Decl., ¶ 19. As part of her sale of authorized Taylor Swift Merchandise, Plaintiff fulfills her obligations to the state authorities for the payment of taxes and Plaintiff's sharing of her revenues with the concert venues, which provide a direct positive impact to the local communities where Plaintiff performs. Dominguez Decl., ¶ 19. By undermining Plaintiff's sales, Defendants' actions will impair this positive impact. The only effective means of protecting Plaintiff's trademarks, name and goodwill from counterfeiting is by authority to seize counterfeit merchandise, through the *ex parte* seizure process. Compl., ¶¶ 47, 51; Dominguez Decl., ¶ 23; Tidwell Decl., ¶ 22.

## **II. ARGUMENT**

Plaintiff is entitled to a temporary restraining order and/or a preliminary injunction enjoining Defendants from manufacturing, distributing, selling or offering for sale Counterfeit Goods in connection with Plaintiff's 2009 Tour. Plaintiff is also entitled to an order of seizure of Counterfeit Goods, for the duration of Plaintiff's 2009 Tour.

### **A. DEFENDANTS SHOULD BE ENJOINED FROM MANUFACTURING, DISTRIBUTING, SELLING OR OFFERING FOR SALE COUNTERFEIT GOODS.**

This is a motion for a temporary restraining order under Fed. R. Civ. P. 65(b) and for a preliminary injunction under Rule 65(a).

The authority to issue a temporary restraining order is found in Fed R. Civ. P. 65(b). The Court must consider and balance the four factors necessary for issuing a preliminary injunction:

- (1) whether the movant has a “strong” likelihood of success on the merits;
- (2) whether the movant would otherwise suffer irreparable injury;
- (3) whether a preliminary injunction would cause substantial harm to others; and
- (4) whether the public interest would be served by the issuance of a preliminary injunction.

Crawford v. Trustees of Plumbers and Steamfitters Local Union No. 43 Health and Welfare, 2007 WL 2905613, at \*2 (E.D. Tenn. 2007) (quoting McPherson v. Mich. High Sch. Athletic Ass’n, Inc., 119 F.3d 453, 459 (6th Cir. 1997) (en banc)). See also Rock & Roll Hall of Fame & Museum, Inc. v. Gentile Prods., 134 F.3d 749, 753 (6th Cir. 1998). Although these factors are to be balanced, if the moving party establishes a substantial likelihood of success on the merits, the remaining factors are likely to weigh in favor of the grant of the requested relief. See e.g., Total Car Franchising Corporation v. L&S Paint Works, 981 F. Supp. 1079, 1081 (M.D. Tenn. 1997). “[E]ach factor need not be satisfied to issue a preliminary injunction.” SKS Merch v. Barry et al., 233 F. Supp. 2d 841, 846 (E.D. Ky 2002). In addition, “irreparable harm is often presumed when a preliminary injunction is requested to enjoin a violation of the Lanham Act.” Id. “Thus, in the context of a Lanham Act claim, a showing of likelihood of confusion as to sponsorship, approval, or association will itself establish the requisite likelihood of success on the merits and a risk of irreparable harm.” Id.

[I]njunctive relief is the remedy of choice for trademark and unfair competition cases, since there is no adequate remedy at law for the injury caused by a defendant’s continuing infringement. It is the remedy provided by federal and state trademark infringement statutes.

Audi AG v. D’Amato, 381 F. Supp. 2d 644, 669 (E.D. Mich. 2005) (quoting Century 21 Real Estate Corp. v. Sandlin, 846 F.2d 1175, 1180 (9th Cir. 1988)).

Here, these considerations, as well as the balancing of all of the statutory factors, demonstrate that Plaintiff's Motion for a Temporary Restraining Order and for Preliminary Injunction should be granted.

**1. Plaintiff Is Likely to Prevail on the Merits.**

This Court has “power to grant injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent the violation of any right of the registrant of a mark registered in the Patent and Trademark Office or to prevent a violation under subsection (a), (c), or (d) of section 1125 of” the Trademark Act (“Act”). 15 U.S.C. § 1116(a). The Court’s injunction “may be served on the parties against whom such injunction is granted anywhere in the United States where they may be found.” Id.

For its causes of action, Plaintiff has alleged infringement of its registered mark TAYLOR SWIFT, dilution of this mark, and infringement of Plaintiff’s trademarks pending registration with the U.S. Patent and Trademark Office, the mark FEARLESS and the stylized rendition of the mark TAYLOR SWIFT. To prove infringement, Plaintiff must show that Defendants’ use of Plaintiff’s Trademarks creates a likelihood of confusion in the minds of potential consumers as to source, affiliation, or sponsorship. Daddy's Junky Music Stores v. Big Daddy's Family Music Center, 109 F.3d 275, 280 (6th Cir. 1997). Courts consider the following factors to determine likelihood of confusion:

- (a) strength of plaintiff's trademarks;
- (b) relatedness of the services;
- (c) similarity between the two marks;
- (d) evidence of actual confusion;
- (e) marketing channels used; likely degree of purchaser care;
- (g) defendant's intent in choosing the mark; and
- (h) likelihood of expansion of the product lines.

Frisch's Restaurants, Inc. v. Elby's Big Boy, 670 F.2d 642, 648 (6th Cir. 1982), cert. denied, 459 U.S. 916 (1982). It is not necessary that a plaintiff show that all, or even most, of the likelihood of confusion factors are present. Frisch's Restaurants, Inc. v. Shoney's, Inc., 759 F.2d 1261, 1264 (6th Cir. 1985). Rather, the ultimate question is “whether relevant consumers are likely to believe that the products or services offered by the parties are affiliated in some way.” Daddy's Junky Music Stores, 109 F.3d at 280.

In the present case, all of the relevant factors indicate a strong likelihood of confusion between Plaintiff and the source of Defendants' Counterfeit Goods. Plaintiff's Trademarks are arbitrary, strong and well-known by the public, and, with respect to Plaintiff's registered trademark, its registration constitutes “prima facie evidence of the validity of [this] mark and of the registration of the mark, of the [Plaintiff's] ownership of the mark, and of [Plaintiff's] exclusive right to use the registered mark.” 15 U.S.C. § 1115(a). Defendants are using and will use the exact or nearly identical imitations and counterfeits of Plaintiff's Trademarks on the merchandise that is of the same general nature as the merchandise sold by Plaintiff—tee-shirts. Defendants' intent in using these imitation and counterfeit marks is to profit from Plaintiff's Trademarks, by offering Counterfeit Goods for sale to the same group of people as Plaintiff, and at the same time and place.

Because Plaintiff succeeds in showing a likelihood of success on its trademark infringement claims by demonstrating that consumers are likely to be confused, Plaintiff necessarily also shows a likelihood of success on the state law claims of trademark infringement, unfair competition, and violation of the Tennessee Consumer Protection Act. McDonald's Corp. v. Shop at Home, Inc., 82 F. Supp. 2d 801, 817 (M.D. Tenn. 2000). These claims, as well as



Plaintiff's claim under the Tennessee Personal Rights Protection Act also support injunctive relief. See Tenn. Code Ann. §§ 47-25-514; 47-25-1106.

Plaintiff is also likely to succeed on her dilution claim under Section 1125(c) of the Trademark Act ("Act"). The Act prohibits "dilution" of famous marks; a mark is "famous" when it is "widely recognized by the general consuming public of the United States as a designation of source of the goods or services of the mark's owner." 15 U.S.C. §§ 1125(c), (c)(2)(A). The Act defines "dilution by blurring" as the "association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark." Id. § 1125(c)(2)(B). Dilution by tarnishment is defined as the "association arising from the similarity between a mark or trade name and a famous mark that harms the reputation of the famous mark." Louis Vuitton Malletier S.A. v. Haute Diggity Dog, LLC, 507 F.3d 252, 264 (4th Cir. 2007) (quoting 15 U.S.C. § 1125(c)). Plaintiff is the owner of Plaintiff's Trademarks, which are strong, distinctive and famous, and are associated with Plaintiff and her high-quality products and services. Defendants have and will blatantly copy and use Plaintiff's Trademarks in connection with their manufacture, distribution, sale and offering for sale of Counterfeit Goods, which bear imitations or counterfeit of Plaintiff's Trademarks and which are of significantly inferior quality than Plaintiff's authentic merchandise. Compl., ¶ 37; Dominguez Decl., ¶¶ 5-9. As a result, Defendants' action will cause harm to Plaintiff's reputation and will impair the distinctive qualities of Plaintiff's Trademarks.

**2. Plaintiff Will Suffer Irreparable Harm Absent a Temporary Restraining Order and Preliminary Injunction.**

"Irreparable harm may be presumed from a finding of likelihood of confusion as to the Plaintiff[s] sponsorship and approval of and association with the merchandise sold by the Defendants." SKS Merch, 233 F. Supp. 2d at 847. Plaintiff has also established that, absent a

temporary restraining order and order of preliminary injunction, Defendants will continue to sell Counterfeit Goods and Plaintiff will continue to suffer harm and damage to Plaintiff's Trademarks, and Plaintiff's goodwill, reputation and personal rights.

**3. The Issuance of the Temporary Restraining Order and of the Preliminary Injunction Will Not Cause Harm to Others.**

Defendants are the only parties who will be adversely affected by the Court's grant of the injunctive relief to Plaintiff. "The named and unnamed Defendants who appear at [Plaintiff's] performances with bootleg merchandise for sale can hardly argue that they will be harmed by an order preventing them from violating the Lanham Act." SKS Merch, 233 F. Supp. 2d at 848. Further, to the extent that Defendants' economic interest in Counterfeit Merchandise may be subsequently found to have been harmed in any way, such interests can be redressed through the bond that Plaintiff will post with the Court. Finally, the Court's order will be binding only upon those Defendants who receive actual notice of the Order, through Plaintiff's service of the Order and Verified Complaint; Plaintiff proposes to accompany this service, additionally, by a notice in a form attached as Exhibit C to the Motion.

**4. The Issuance of the Injunctive Relief Will Serve the Public Interest.**

"The public interest is always served by requiring compliance with Congressional statutes such as the Lanham Act and by enjoining the use of infringing marks." Quantum Fitness Corp. v. Quantum Lifestyle Ctrs., LLC, 83 F. Supp. 2d, 810, 832 (S.D. Tex. 1999); see also Sunbeam Prods., Inc. v. West Bend Co., 123 F.3d 246, 260 (5th Cir. 1997), cert. denied, 523 U.S. 1118 (1998) (if a mark is entitled to protection, "it necessarily follows that the preliminary injunction serves the public interest."). Such injunction serves "the public interest by preventing future consumers from being misled." Lone Star Steakhouse & Saloon, Inc. v. Alpha of Virginia, Inc., 43 F.3d 922, 939 (4th Cir. 1995).

While plaintiff is injured when consumers purchase [Defendants' goods] believing it to be [Plaintiff's merchandise], consumers, too, are being directly victimized. An injunction is thus in the public interest; only if the distribution of [Defendants' goods] is stopped can further fraud be avoided.

Corning Glass Works v. Jeannette Glass Co., 308 F. Supp. 1321, 1328 (S.D.N.Y.), aff'd, 432 F.2d 784 (2nd Cir. 1970).

Further, as Plaintiff has established, the public is harmed as a result of Defendants' taking away community resources by evading the proper licensing and taxation of the merchandise sold at Plaintiff's concerts. See also SKS Merch, 233 F. Supp. 2d at 849.

**B. THE COURT HAS AUTHORITY AND SHOULD ISSUE AN ORDER OF SEIZURE OF COUNTERFEIT GOODS.**

In the case of a civil action arising under section 1114 (1)(a) of this title ... with respect to a violation that consists of using a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services, the court may, upon ex parte application, grant an order under subsection (a) of this section pursuant to this subsection providing for the seizure of goods and counterfeit marks involved in such violation and the means of making such marks, and records documenting the manufacture, sale, or receipt of things involved in such violation.

15 U.S.C. § 1116(d)(1)(A).

Further to this authority, the District Courts across the country have regularly and consistently issued *ex parte* seizure orders, together with the restraining orders, of counterfeit merchandise manufactured, distributed, marketed and sold in connection with music concert tours. In SKS Merch, 233 F. Supp. 2d 841, the District Court for the Eastern District of Kentucky issued a nationwide temporary restraining order and order of seizure, and, subsequently, a preliminary injunction and order of seizure, of all counterfeit merchandise at

concerts by Toby Keith during his 2002-2003 tour. Id. at 852. See also Shania Twain v. ABC Cos., Case No. 4:98-cv-02420-SBA (N.D. Cal. 1998) (copies of the court's orders are attached as Exhibit A); Robert A. Plant v. Various John Does, Case No. 980499-Civ-J-20A (M.D. Fla. 1998) (copies of the court's orders are attached as Exhibit B); Giant Merch. v. John Does 1-50, Case No. 98-5514 (C.D. Cal. 1998) (copies of the court's orders are attached at Exhibit C); Hanson v. Various John Does, Case No. 98CV11245NG (D. Mass. 1998) (copies of the court's orders are attached as Exhibit D); Hi Fidelity Entm't, LLC v. Various John Does, Case No. 99-CV-671 (E.D. Penn. 1999) (copies of the court's orders are attached as Exhibit E); Adrian Smith v. Various John Does, Case No. 00CIV5705 (S.D.N.Y. 2000) (copies of the court's orders are attached as Exhibit F); J. Artist Mgmt Merch. v. Various John Does, Case No. 00-2251 (E.D. Penn. 2000) (copies of the court's orders are attached as Exhibit G); Bravado Int'l Group Merch. Serv. Inc. v. Various John Does, Case No. 00CIV5643 (E.D. Penn. 2000) (copies of the court's orders are attached as Exhibit H); Bravado Int'l Group Merch. Serv. Inc. v. Various John Does, Case No. 02-5020ER (C.D. Cal. 2002) (copy of the court's order is attached as Exhibit I).

This Court has likewise granted such relief to the performing artists, as in the cases of Garth Brooks v. Gilbert Paysinger, Case No. 3-92-0528 (M.D. Tenn. 1992) (Echols, J.) (granting temporary restraining order and preliminary injunction and order of seizure; a copy of the court's final order is attached hereto as Exhibit J); Winterland Concessions Co. v. John Does, Case No. 3:96-cv-01177 (M.D. Tenn. 1996) (Nixon, J.) (granting *ex parte* temporary restraining order and preliminary injunction and order of seizure; copies of these orders are attached hereto as Exhibit K); and Tim McGraw v. Various John Does, Case No. 3:00-0402 (M.D. Tenn. 2000) (Trauger, J.) (granting *ex parte* temporary restraining order and preliminary injunction and order of seizure; copies of these orders are attached hereto as Exhibit L).

Plaintiff has complied with all requirements of Section 1116(d)(4) for the issuance of the seizure order; namely:

(A) Plaintiff is prepared to provide the security determined adequate by the court for the payment of such damages as any person may be entitled to recover as a result of a wrongful seizure or wrongful attempted seizure under this subsection; and

(B) the court may find that it clearly appears from the facts that:

- (i) an order other than an *ex parte* seizure order is not adequate to achieve the purposes of Section 1114 of the Trademark Act;
- (ii) Plaintiff has not publicized the requested seizure;
- (iii) Plaintiff is likely to succeed in showing that the persons against whom seizure would be ordered used a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services;
- (iv) an immediate and irreparable injury will occur if such seizure is not ordered;
- (v) the matter to be seized will be located at the place identified in Plaintiff's application;
- (vi) the harm to Plaintiff of denying the application outweighs the harm to the legitimate interests of the person against whom seizure would be ordered of granting the application; and
- (vii) the person against whom seizure would be ordered, or persons acting in concert with such person, would destroy, move, hide, or

otherwise make such matter inaccessible to the court, if the applicant were to proceed on notice to such person.

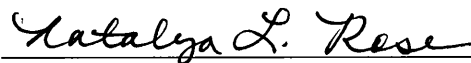
In addition to these statutory provisions, the Court is also empowered to issue any remedy to Plaintiff that the Court finds appropriate under the circumstances of this case. The All Writs Act, 28 U.S.C. § 1651, broadly authorizes Federal Courts to issue “all writs necessary or appropriate in the aid of their respective jurisdiction and agreeable to the usages and the principles of law.”

The United States Supreme Court has also observed that the District Court’s jurisdiction to issue the injunctive relief “is an equitable one” and “[u]nless otherwise provided by statute, all the inherent equitable powers of the District Court are available for the proper and complete exercise of that jurisdiction.” Mitchell v. Robert De Mario Jewelry, Inc., 361 U.S. 288, 291 (1960) (citing Porter v. Warner Holding Co., 328 U.S. 395, 397-98 (1945)). Further, because the public interest is involved in this proceeding, “those equitable powers assume an even broader and more flexible character than when only a private controversy is at stake. The court may go beyond the matters immediately underlying its equitable jurisdiction and give whatever other relief may be necessary under the circumstances.” Id. The courts have relied on these inherent equitable powers and on the All Writs Act as grounds for the issuance of seizure orders in aid of injunctions against counterfeiting activity. See, e.g., Pepe (U.K.) Ltd. v. Ocean View Factory Outlet Corp., 770 F.Supp. 754 (D. Puerto Rico 1991). Accordingly, this Court has the authority to issue both a restraining order and an order of seizure of Counterfeit Goods, in accordance with not only the Trademark Act and, specifically, the Trademark Counterfeiting Act of 1984, but also pursuant to the All Writs Act and the Court’s inherent equitable powers.

### III. CONCLUSION

As Plaintiff has shown, there is no other remedy available to Plaintiff to prevent irreparable injury to Plaintiff and harm to the public, except an *ex parte* order of seizure of Counterfeit Goods, at or near the concert venues of Plaintiff's 2009 Tour, coupled with an injunction restraining manufacture, distribution, marketing and sale of Counterfeit Goods. Accordingly, the plaintiff, Taylor Swift, respectfully requests that her Motion for Temporary Restraining Order and for Preliminary Injunction, and Application for Order of Seizure of Counterfeit Goods be granted in all respects. Plaintiff is prepared to post a bond, in the amount found reasonable by the Court, a bond being required under Fed. R. Civ. P. 65(c).

Respectfully submitted,



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