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5  
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Jack Russell  
7

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

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CLERK OF DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES  
BY: [Signature]

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10 JACK RUSSELL  
11 Plaintiff,

CASE NO. **CV12-02477** ODM (DTPx)  
COMPLAINT FOR TRADEMARK  
INFRINGEMENT, TRADEMARK  
DILUTION, UNFAIR COMPETITION, AND  
INJURY TO BUSINESS REPUTATION

12  
13 v.

14 DEMAND FOR JURY TRIAL

15  
16 MARK KENDALL, AUDIE DESBROW,  
MICHAEL LARDIE, BIGG TIME  
17 ENTERTAINMENT, INC. and DOES 1-10

18 Defendants.  
19 \_\_\_\_\_ /

20  
21 Plaintiff, JACK RUSSELL, by his attorneys, as and for his complaint against Defendants,  
22 MARK KENDALL, AUDIE DESBROW, MICHAEL LARDIE, and BIGG TIME  
23 ENTERTAINMENT, INC. (hereinafter collectively referred to as "Defendants" or individually  
24 by Last Name), alleges as follows:

25  
26 JURISDICTION AND VENUE  
27  
28

COMPLAINT FOR TRADEMARK INFRINGEMENT, TRADEMARK DILUTION, UNFAIR COMPETITION, INJURY TO  
BUSINESS REPUTATION

1 infringement/false endorsement, federal trademark dilution, and federal statutory unfair  
2 competition under the Lanham Act, 15 U.S.C. § 1051, et seq. (the“Lanham Act”), and  
3 specifically 15 U.S.C. § 1125, and California state common law trademark infringement, injury  
4 to business reputation and interference with prospective economic advantage, and statutory unfair  
5 competition.

6  
7 2. This Court has original subject matter jurisdiction over the federal claims in this action  
8 pursuant to 28 U.S.C. § 1331, 28 U.S.C. §§ 1338(a) and (b),and 15 U.S.C. 1121, and  
9 supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a).

10  
11 3. This Court has personal jurisdiction over the Defendants, all of whom, on information  
12 and belief, reside in the State of California. In addition, Defendants do business in the State of  
13 California and have performed as “Great White” within the state, and events giving rise to the  
14 cause of action have occurred within California.

15  
16 4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), in that, on information  
17 and belief, all defendants reside within the State of California, and Defendants Mark Kendall and  
18 Audie Desbrow reside in this district, and Defendant Bigg Time Entertainment, Inc. has a  
19 principal place of business within this district. Additionally the principal events complained of  
20 have and will occur in this District.

21  
22 NATURE OF THE ACTION  
23

24 5. This is an action for preliminary and permanent injunctive relief and damages arising  
25 from Defendants’ infringement of the Federal and California state statutory and common law  
26 rights of Plaintiff JACK RUSSELL and his common law trademark of the band name “GREAT  
27 WHITE”. Plaintiff is the founder and lead singer of the musical group “Great White”.

1 Throughout the group's existence, he has been the primary creative director of the band. He  
2 determined the band's membership, signed most all of its contracts, gave nearly all of the band's  
3 publicity interviews, and determined the band's creative direction. He has been the sole member  
4 is the only original member of the band to continuously perform with the group throughout its  
5 existence. He is also the sole member to exercise control over the quality of the groups service.  
6 Accordingly, Plaintiff is the owner of the common law trademark in the name "Great White".  
7

8 6. The individual Defendants, MARK KENDALL, AUDIE DESBROW, and MICHAEL  
9 LARDIE seek to perform, promote and market themselves as the musical group "Great White",  
10 without Plaintiff's consent, and have recently announced that they will release an album under  
11 that name. By performing and announcing their intent to record an album under the name  
12 "GREAT WHITE", Defendants have infringed upon and diluted the value of the trademark rights  
13 owned by Plaintiff. Further, Defendants have, both individually and through their agents,  
14 intentionally defamed Plaintiff and injured his business reputation and ability to contract by  
15 stating to promoters and to the general public that he is unable to perform as a musician, and by  
16 wrongfully threatening to file legal action against any venue or promoter that books Plaintiff to  
17 perform.

18 7. Defendant BIGG TIME ENTERTAINMENT, INC., acts as the talent agency promoting  
19 and booking the individual defendants as the band "Great White" without Plaintiff's consent.  
20 BIGG TIME ENTERTAINMENT INC. is a California Corporation with a principal place of  
21 business in Los Angeles, California. BIGG TIME ENTERTAINMENT, INC. has assisted and  
22 profited from the individual defendants infringement and dilution of Plaintiff's common law  
23 trademark, and has assisted and profited from individual defendants attempts to wrongfully injure  
24 Plaintiff's business reputation and ability to contract.  
25

#### 26 PARTIES

27 8. Plaintiff Jack Russell is the founder and lead singer of the band Great White. Mr. Russell  
28

1 founded the band in 1978. It was originally called “Dante Fox” until the name was changed to  
2 “Great White” in 1982. Over the past thirty years, the band experienced astonishing success, and  
3 also faced difficult challenges. Through both success and difficulty, Jack Russell was the one  
4 constant member of the band. Mr Russell was the primary creative director of the band. He  
5 determined the band’s membership, signed most all of its contracts, gave nearly all of the band’s  
6 publicity interviews, determined the band’s creative direction, and exercised the power to both  
7 dissolve and reform the band. While the band’s membership has changed substantially over the  
8 past thirty years (over 20 musicians have played with the band in various capacities in that time),  
9 Jack Russell has *always* been the lead singer and creative director of the band. Until recent  
10 events that form the basis of this lawsuit, there has never been a “Great White” without Jack  
11 Russell.

12  
13 9. Defendant Mark Kendall is the lead guitarist of the band currently promoting itself as  
14 “Great White”. Mr Kendall was a member of the original “Great White” in 1982, but resigned  
15 from the band in 2000. Plaintiff hired Ty Longley to replace Kendall, and continued to perform  
16 as “Great White” and “Jack Russell’s Great White” after Mr. Kendall quit the band. Plaintiff  
17 later hired Kendall to perform as part of “Jack Russell’s Great White” at the end of 2002. In  
18 2010, Plaintiff took a temporary absence from the band to recuperate from major surgery.  
19 During that time, Mr. Kendall played guitar for the band “Great White” with a number of  
20 temporary fill in vocalists. After Plaintiff announced that he had recuperated from surgery, Mr.  
21 Kendall, along with defendants Lardie and Desbrow, filed a trademark application for the name  
22 “Great White” with the United States Patent and Trademark Office without plaintiff’s knowledge  
23 and consent in an attempt to lay claim to the band name. Mr Kendall has since continued to  
24 perform with other vocalists under the name “Great White” without plaintiff’s consent. On  
25 information and belief, Mr Kendall is a resides in San Bernardino County.

26  
27 10. Defendants Michael Lardie and Audie Desbrow were not members of the original “Great  
28

1 White". They joined the band in 1985. In 2000, shortly after Mr. Kendall resigned, Audie  
2 Desbrow was fired by Plaintiff. Michael Lardie remained with the band through the end of 2001,  
3 when Plaintiff announced that the band would stop playing. At the end of 2002, Plaintiff  
4 reformed the band, without Lardie or Desbrow, who both remained absent from the band until  
5 2006, when Plaintiff invited them to return for a reunion tour. Lardie and Desbrow, along with  
6 defendant Kendall, were playing with the band while Plaintiff was recuperating from surgery in  
7 2011, joined with defendant Kendall in attempting to trademark the name "Great White" and  
8 have been performing as the "Official" Great White band without Plaintiff's consent. On  
9 information and belief, Defendant Lardie resides in Sacramento County, and Defendant Desbrow  
10 resides in Los Angeles County.

11  
12 11. Defendant BIGG TIME ENTERTAINMENT, INC., acts as the talent agency promoting  
13 and booking the individual defendants as the band "Great White" without Plaintiff's consent.  
14 BIGG TIME ENTERTAINMENT INC. is a California Corporation with a principal place of  
15 business in Los Angeles, California. BIGG TIME ENTERTAINMENT, INC. has assisted and  
16 profited from the individual defendants infringement and dilution of Plaintiff's common law  
17 trademark, and has assisted and profited from individual defendants attempts to wrongfully injure  
18 Plaintiff's business reputation and ability to contract.

19  
20 12. Plaintiff is unaware of the true names and identities of DOES 1 through 10, inclusive,  
21 and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint  
22 to allege their true names and capacities when ascertained. Plaintiff is informed and believes and  
23 therefore alleges that each of the fictitiously named defendants is responsible in some manner for  
24 the occurrences herein alleged, and Plaintiff's injuries as herein alleged were proximately caused  
25 by such defendants. These fictitiously named defendants along with the defendants named above,  
26 are herein referred to collectively as "Defendants."

FACTS COMMON TO ALL CLAIMS

1  
2 13. Plaintiff Jack Russell is the founder and lead singer of the band "Great White". From the  
3 band's inception, he exerted primary creative control over the band, made the hiring and firing  
4 decisions for the band, signed nearly all of the contracts for the band, coined the name for the  
5 band, and performed nearly all of the interviews for the band. Other band members, including  
6 Defendants, came and went, but Plaintiff has continuously been the lead singer and director of  
7 the band. Until recently there had never been a "Great White" without Jack Russell, who is  
8 undeniably the face and voice of the band, and indisputably owns the trademark to the name  
9

10 14. Plaintiff started the band in 1978 under the name "Dante Fox", and later changed the  
11 name to "Great White" in 1982. In 1982, the band consisted of Plaintiff, Defendant Mark  
12 Kendall, Lorne Black and Gary Holland.  
13

14 15. "Great White" spent the next several years developing a following, releasing albums, and  
15 touring. As with most bands, the lineup of musicians changed over time. In 1985, Plaintiff fired  
16 Gary Holland and hired Defendant Audie Desbrow to replace him. Plaintiff also hired Defendant  
17 Michael Lardie in late 1985 to play keyboards and guitar, after the release of their third studio  
18 recording "Shot in the Dark".  
19

20 16. In 1987, the band achieved mainstream success with the release of the album "Once  
21 Bitten..." which by 1988 had sold over one million copies and was certified "Platinum". Over  
22 the next five years, the band toured and released two more albums: "...Twice Shy" released in  
23 1989 sold over two million copies, and "Hooked" released in 1991 sold over half a million  
24 copies, which was followed by the album "Psycho City" in 1992. During this period, the band  
25 lineup, again like most bands, continued to change. Lorne Black was replaced by Tony Montana,  
26 who was in turn replaced by other bassists, and studio musicians were also hired for recording  
27 sessions.  
28

1 17. The band continued to tour throughout the 90s, releasing three more albums. Again, the  
2 lineup changed, Tony Montana was replaced with other musicians, including Sean McNabb.  
3 Mark Kendall underwent treatment for alcoholism and Plaintiff hired Al Petrelli to replace him  
4 on tour, and also similarly hired drummers to replace Defendant Audie Desbrow  
5

6 18. In 2000, the line up of the band changed substantially. Defendant Mark Kendall quit the  
7 band in January of 2000. Plaintiff hired Matthew Johnson to replace Kendall, and continued to  
8 perform as "Great White". Plaintiff also fired Defendant Audie Desbrow as drummer and  
9 replaced him.. Plaintiff continued on with the band, and from 2000 to the end of 2001, when  
10 Plaintiff dissolved the band (albeit temporarily). During that period the band consisted of  
11 Plaintiff and a number of other musicians.  
12

13 19. In November of 2001, Plaintiff decided, albeit for only a short while, that "Great White"  
14 would stop performing. However, in late 2002, Plaintiff reformed the band, and called it 'Jack  
15 Russell's Great White". Plaintiff invited Defendant Mark Kendall to play guitar, who agreed to  
16 join the band as an employee. From 2002 to 2005, the band toured as either "Jack Russell's  
17 Great White" or "Great White".  
18

19 20. Defendants Lardie and Desbrow did not rejoin the band until 2006, when Plaintiff invited  
20 them to rejoin the band for a reunion tour. From 2006 to 2010, the band consisted of Plaintiff,  
21 Defendants, and bassist Sean McNabb whom Plaintiff later fired and replaced with Scott Snyder.  
22

23 21. In August of 2010, Plaintiff was hospitalized and underwent emergency surgery for a life  
24 threatening condition. While he recuperated from this surgery, other singers filled in for him  
25 during the band's live performances, however, it was undisputed that Plaintiff's absence was  
26 temporary, and that he retained his position in the band's lineup and would resume singing with  
27 the band upon his recuperation.  
28

1 22. By December of 2011, Plaintiff had recuperated sufficiently to be able to once again  
2 perform as lead singer. However, Defendants, who had apparently decided that they would  
3 prefer that band continue without Plaintiff, stated that he would not be “permitted” to return to  
4 his band until he agreed to a lengthy set of conditions (including, for example, that he agree to no  
5 longer take the pain medications or even the anti-inflammatory medicines that had been  
6 prescribed by his treating physicians) that was clearly designed to keep him from returning to the  
7 band.

8  
9 23. Also during this time, without the knowledge or consent of Plaintiff, Defendants secretly  
10 drafted and filed an application to register a trademark, in their name only, for both the name  
11 “Great White” and the band’s logo. The United States Patent and Trademark Office serial  
12 number for the application is 85489480.

13  
14 24. Plaintiff, rightfully sensing that the musicians he had hired to play in Great White were  
15 attempting to keep him from returning to the band, hired new musicians and began rehearsing for  
16 a new tour.

17  
18 25. Plaintiff informed Defendants that they did not own the trademark to the name “Great  
19 White” and demanded through his attorneys that they cease performing under the name.  
20 Defendants refused, and have continued to perform as “Great White” with other lead singers  
21 without Plaintiff’s consent.

22  
23 26. Plaintiff, in order to minimize confusion, has named his band “Jack Russell’s Great  
24 White” so that the public knows that they will be seeing him as the lead singer when they see his  
25 band’s live performances, and will be viewing a performance that maintains the vocal style and  
26 quality of the music they have come to expect from “Great White”.



1 27. In an attempt to injure the business reputation of Plaintiff and interfere with his band's  
2 prospective economic advantage, Defendants posted defamatory material about him on their  
3 website (www.greatwhiterocks.com) claiming that he was too infirm to perform as a musician.  
4 Defendants also claimed to be the true owners of the "Great White" trademark, and posted  
5 threats to litigate against any venue or promoter that booked Plaintiff's band. Plaintiff has also  
6 been informed by various venues that Defendants, by and through their agents, contacted bookers  
7 that had employed Plaintiff's band and threatened litigation.

8  
9 28. On March 17, 2012, Defendants announced that they would be releasing an album  
10 entitled "Elation" as "Great White" on May 18, 2012. Release of the album will irretrievably  
11 alter the discography of the band "Great White", tarnishing and diluting the trademark,  
12 reputation, and goodwill that Plaintiff has developed over 30 years.

13  
14 29. Defendants market their musical performances, CDs, DVDs, other recordings and band  
15 memorabilia the same types of wholesale, retail and distribution channels and to the same classes  
16 of purchasers as Plaintiff's products and services.

17  
18 30. Defendants' wrongful use of Plaintiff's mark is likely to cause confusion, mistake, or  
19 deception in the minds of the public, and will result in the dilution and tarnishment of the mark.  
20 Defendants' infringement constitutes a willful and malicious violation of Plaintiff's trademark  
21 rights, aimed at preventing Plaintiff from continuing to build a business around a mark that he  
22 has long possessed and depriving him of nearly 30 years of goodwill.

23  
24 31. Defendants do not own the trademark to the name Great White. It is well settled in the  
25 Ninth Circuit that, with respect to trademark disputes over ownership of band names, "a person  
26 who remains continuously involved with the group and is in a position to control the quality of  
27 its services retains the right to use of the mark". *Robi v Reed*, 173 F.3d 736, 741. As with the

1 prevailing party in *Robi*, Plaintiff “founded the group, gave the group its name, managed the  
2 group, and is the only member who has continuously performed with the group” throughout its  
3 existence. *Id.* Accordingly, it is Plaintiff, not Defendants, who owns the right to the “Great  
4 White” trademark.

5  
6  
7 FIRST CAUSE OF ACTION  
8 TRADEMARK INFRINGEMENT  
9 (15 U.S.C. § 1125(a))

10 32. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 31  
11 of this Complaint as if fully set forth herein.

12 33. Plaintiff, as the sole member of the band who was consistently present in the group and  
13 maintained control over the quality of the services of the group throughout the majority of its  
14 existence, owns the common law trademark to the name “Great White”.

15  
16 34. By intentionally using Plaintiff’s “Great White” common law trademark in commerce to  
17 promote their musical performances, record and sell music, and sell other items displaying  
18 Plaintiff’s mark without Plaintiff’s permission, Defendants are deliberately, intentionally and  
19 willfully infringing upon Plaintiff’s common law trademark, and the goodwill associated by  
20 the public with Plaintiff’s mark, diluting the value of the mark and creating confusion in the  
21 mind of the consuming public regarding which band they will be seeing perform, or buying  
22 music or other memorabilia from, when they see the name “Great White”.

23  
24 35. Upon information and belief, if not preliminarily and permanently enjoined by this  
25 Court, Defendants will continue to advertise and display, and will sell, distribute and otherwise  
26 exploit Plaintiff’s common law trademark for their own commercial use in violation of Plaintiffs’  
27 rights under the Lanham Act, 15 U.S.C. § 1125(a) for which Plaintiffs have no adequate remedy  
28

1 at law.

2  
3 SECOND CAUSE OF ACTION  
4 DILUTION OF UNREGISTERED TRADEMARK  
(15 U.S.C. § 1125 (c))

5 36. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 31 of  
6 this Complaint as if fully set forth herein..

7  
8 37. Defendants' deliberate, intentional and willful use of the "Great White" to promote their  
9 live musical performances, and to record and distribute records, CDs, and DVDs of those  
10 performances under the name "Great White, has resulted in actual dilution of the mark by  
11 blurring and tarnishment, in violation of 15 U.S.C. § 1125(c). Defendants have blurred and  
12 tarnished the distinctive quality and goodwill of the "Great White" mark by their creation of a  
13 second band under the same name as Plaintiff's mark that markets itself as the "authentic" band,  
14 to the detriment of Plaintiff.

15  
16 38. By reason of the foregoing, Defendants have deliberately, willfully and knowingly  
17 diluted and threatened to further dilute the rights of Plaintiff in his common law trademark in  
18 commerce, in order to intentionally deceive and mislead consumers and the public at large, and  
19 to willfully usurp the goodwill and reputation associated with the Plaintiff's mark.

20  
21 39. Upon information and belief, unless preliminarily and permanently enjoined by this  
22 Court, Defendants will continue to dilute, and to cause serious and irreparable harm and damage  
23 to the reputation and goodwill associated with Plaintiff's mark for which Plaintiff has no  
24 adequate remedy at law.

25 THIRD CAUSE OF ACTION  
26 FALSE DESCRIPTION

27 40. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 31 of  
28

1 this Complaint as if fully set forth herein.

2  
3 41. Defendants' wrongful use of Plaintiff's mark is such a colorable imitation and copy of  
4 Plaintiff's trademark established in the entertainment-related market for consumer products that  
5 Defendants' use thereof in the context of entertainment is likely to cause confusion, or to cause  
6 mistake, or to deceive consumers as to the affiliation, connection or association of Plaintiff's  
7 products, or to deceive consumers as to the origin, sponsorship or approval by Plaintiff of the  
8 Defendants' counterfeit products. Plaintiff avers that Defendants' use of the mark "Great White"  
9 comprises a false description or representation of Defendants' business or products under 15  
10 U.S.C. § 1125(a) (Section 43(a) of the Lanham Act).

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FOURTH CAUSE OF ACTION  
FEDERAL UNFAIR COMPETITION  
(15 U.S.C. § 1125(a))

13 42. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 31 of  
14 this Complaint as if fully set forth herein.

15  
16 43. Defendants' use of Plaintiff's mark to promote and market their live performances, to  
17 record and sell records, and to sell other products bearing the mark places them in direct  
18 competition with Plaintiff's live performances and sales of goods bearing the mark and  
19 constitutes Unfair Competition pursuant to 15 U.S.C. § 1125(a). Defendants' use of Plaintiff's  
20 mark is likely to cause confusion, mistake and deception among consumers and will result in  
21 continued dillution and tarnishment of the mark. Defendants' unfair competition has caused and  
22 will continue to cause damage to Plaintiff, and is causing irreparable harm to Plaintiff for which  
23 there is no adequate remedy at law.

24  
25 44. Upon information and belief, unless preliminarily and permanently enjoined by this  
26 Court, Defendants will continue to unlawfully advertise and exploit the Plaintiffs' mark, causing  
27 plaintiff irreparable damage and injury for which Plaintiff has no adequate remedy at law  
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FIFTH CAUSE OF ACTION  
COMMON LAW TRADEMARK INFRINGEMENT  
(California Common Law)

45. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 31 of this Complaint as if fully set forth herein.

46. This cause of action under California state common law is separate and independent of the federally-based causes of action previously set forth herein, but it is between the same parties and is based on the same operative facts as set forth in the prior causes of action; this Court accordingly has supplemental jurisdiction over said claim.

47. As set forth above, Plaintiff resides and does business in the State of California, where he owns and owns common law trademark rights throughout the United States in the "Great White" trademark for purposes of musical performances and the sale of goods related to those performances

48. The use of Plaintiff's mark by Defendants in connection with the promotion of their live musical performances and with the advertising, sale and distribution of CDs, DVDs, electronic musical downloads, clothing and other memorabilia without Plaintiff's permission, in the State of California and elsewhere in the United States, is likely to cause and has caused confusion among consumers as to the source of Defendants' products, and purchasers thereof will likely associate such products as originating with Plaintiff, all to the detriment of said Plaintiffs.

49. Upon information and belief, unless preliminarily and permanently enjoined by this Court, Defendants will continue their aforesaid willful and deliberate infringement of Plaintiffs' trademark in the name "Great White"

SIXTH CAUSE OF ACTION  
CALIFORNIA UNFAIR COMPETITION  
(Cal. Bus. Prof Code 17200 et seq)

COMPLAINT FOR TRADEMARK INFRINGEMENT, TRADEMARK DILUTION, UNFAIR COMPETITION, INJURY TO  
BUSINESS REPUTATION

1  
2 50. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 31 of  
3 this Complaint as if fully set forth herein.

4  
5 51. This cause of action under California state law is separate and independent of the  
6 federally-based causes of action previously set forth herein, but it is between the same parties and  
7 is based on the same operative facts as set forth in the prior causes of action; this Court  
8 accordingly has supplemental jurisdiction over said claim.

9  
10 52. California Business and Professions Code Section 17200 provides that any “unlawful,  
11 unfair or fraudulent business act or practice” or any “unfair, deceptive, untrue or misleading  
12 advertising” constitutes unfair competition under the statute..

13  
14 53. California Business and Professions Code Section 17203 provides that any “person who  
15 engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court  
16 of competent jurisdiction”

17  
18 54. Defendants’ unlawful acts complained of herein constitute unfair competition pursuant to  
19 the California Business and Professions Code, and Plaintiff therefore seeks to enjoin Defendants  
20 from further infringement of his trademark in the name “Great White”.

21  
22 SEVENTH CAUSE OF ACTION  
23 COMMON LAW INJURY TO BUSINESS REPUTATION AND INTERFERENCE WITH  
24 PROSPECTIVE ECONOMIC ADVANTAGE

25 55. Plaintiff repeats and incorporates by reference, as though specifically pleaded herein, the  
26 allegations of paragraphs 1 through 31.

27 56. Plaintiff alleges that Defendants' wrongful use of Plaintiff's trademark inures to and  
28

1 creates a likelihood of injury to Plaintiff's business reputation because any adverse reaction by  
2 the public to Defendants and the quality of its products and the nature of its business will injure  
3 the business reputation of Plaintiff and the goodwill that he enjoys in connection with his mark  
4 "Great White". Also, the confusion created in the mind of the public regarding which band is the  
5 authentic Great White injures Plaintiff's business reputation. Additionally, Defendants' repeated  
6 false statements regarding the ability of Plaintiff to perform as a musician and threats of  
7 unjustified litigation have injured his business reputation and interfered with Plaintiff's business  
8 contracts and ability to contract. All of the foregoing have caused damage to plaintiff.

9  
10 PRAYER FOR RELIEF


11 Wherefore, plaintiff prays for judgment against DEFENDANTS, as follows:

- 12  
13 1. The Defendants, MARK KENDALL, AUDIE DESBROW, MICHAEL LARDIE, BIG  
14 TIME ENTERTAINMENT, INC. and their agents, officers, employees, representatives,  
15 successors, assigns, and all other persons acting for, with, by, through or under authority  
16 from Defendants, and each of them, be preliminarily and permanently enjoined from:
- 17 (a) Using Plaintiff's trademark or any colorable imitation thereof;
  - 18 (b) using any trademark that imitates or is confusingly similar to or in any way  
19 similar to Plaintiff's trademark "Great White," or that is likely to cause confusion,  
20 mistake, deception, or public misunderstanding as to the origin of Plaintiff's  
21 products or his connectedness to Defendants.
  - 22 (c) that Defendants remove Plaintiff's trademark from any and all websites under  
23 their control and remove all references to being the "Official" Great White
- 24  
25 2. The Defendants be required to file with the Court and serve on Plaintiff within thirty (30)  
26 days after entry of the Injunction, a report in writing under oath setting forth in detail the  
27 manner and form in which Defendants have complied with the Injunction;

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3. That Defendants be held liable for all damages suffered by Plaintiff resulting from the acts alleged herein;
4. That Defendants be compelled to disgorge to Plaintiff all profits derived from the illegal acts complained of herein;
5. That Defendants be ordered to remove all defamatory material injurious to Plaintiff's business reputation from any websites under their control;
6. For an order pursuant to 15 U.S.C. 1119 cancelling any registration for the mark "Great White" obtained by defendants subsequent to the initiation of this action;
7. For damages not less than \$ 500,000 and to the extent permitted by law;
8. For such other and further relief as the Court deems just and proper.

Dated: March 22, 2012

By 

Brian Acree  
Attorney for Plaintiff



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) JACK RUSSELL	<b>DEFENDANTS</b> MARK KENDALL, AUDIE DESBROW, MICHAEL LARDIE, BIG TIME ENTERTAINMENT, INC., DOES 1-10
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  Brian Acree - Carey & Acree, Attorneys at Law 32295 Mission Trail, Suite 8-167 Tel: 800.772.0399 Lake Elsinore, CA 92532 Fax: 866.928.5051 acree@careycree.com	Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. ORIGIN** (Place an X in one box only.)

1 Original Proceeding    
  2 Removed from State Court    
  3 Remanded from Appellate Court    
  4 Reinstated or Reopened    
  5 Transferred from another district (specify):    
  6 Multi-District Litigation    
  7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT: JURY DEMAND:**  Yes    No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:**  Yes    No     **MONEY DEMANDED IN COMPLAINT: \$** 500,000

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 U.S.C. 1125 Trademark Infringement and Dilution, Unfair Competition

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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CV12-02477

**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes

If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Jack Russell - Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Mark Kendall - San Bernardino County Audie Desbrow - Los Angeles County Bigg Time Entertainment, Inc. - Los Angeles County	Michael Lardie - Sacramento County

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note: In land condemnation cases, use the location of the tract of land involved**

X. SIGNATURE OF ATTORNEY (OR PRO PER):



Date

5/22/12

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))