

USDC SCAN INDEX SHEET



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3:06-CV-01334 SUPERNOVA FROM V. MARK BURNETT

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ORIGINAL

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9 SUPERNOVA FROM CYNOT3, LLC

10 UNITED STATES DISTRICT COURT
11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

13 SUPERNOVA FROM CYNOT3, LLC,
14 a California limited liability company,

15 Plaintiff,

16 v.

17 MARK BURNETT PRODUCTIONS, INC., a
purported California corporation; JMBP,
18 INC., a purported California corporation;
ROCKSTAR ENTERTAINMENT, INC., a
19 purported California corporation; CBS
BROADCASTING, INC., a purported New
20 York corporation; THOMAS LEE BASS,
a/k/a TOMMY LEE, an individual; GILBY
21 CLARKE, an individual; JASON CURTIS
NEWSTED, an individual; and DOES 1
through 100,

22 Defendants.
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FILED

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CLERY, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY

Case No. **06CV 1334** **JAH RBB**

COMPLAINT FOR:

1. False Designations of Origin and False Descriptions in Violation of Lanham Act
2. Intentional Interference with Prospective Economic Advantage
3. Declaratory Judgment That Defendants Are Not Entitled to Registration of the Marks SUPERNOVA and ROCK STAR: SUPERNOVA

JURY TRIAL DEMANDED

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1 Plaintiff Supernova From Cynot3, LLC (“Supernova” or “Plaintiff”), for its Complaint
2 against Defendants Mark Burnett Productions, Inc. (“Mark Burnett”), JMBP, Inc. (“JMBP”),
3 Rockstar Entertainment, Inc. (“Rockstar”), CBS Broadcasting, Inc. (“CBS”), Thomas Lee Bass,
4 a/k/a Tommy Lee (“Tommy Lee”), Gilby Clarke, Jason Curtis Newsted (“Jason Newsted”), and
5 Does 1 through 100 (collectively “Defendants”), hereby states and alleges as follows:

6 **NATURE OF THE ACTION**

7 1. Since no later than 1989, Plaintiff (including its predecessors in interest) has
8 continuously engaged in the entertainment business in the State of California and beyond under the
9 mark SUPERNOVA, including the creation and composition of original, copyrighted rock and roll
10 music, performance of its original, copyrighted rock and roll music at concerts, in clubs and for
11 recording, and the sale of recordings and collateral SUPERNOVA merchandise and fashion
12 accessories. As a direct result of the foregoing activities, Plaintiff has acquired exclusive rights in
13 the “SUPERNOVA” trade name, trademark and service mark for its musical entertainment goods
14 and services.

15 2. Defendants Mark Burnett, JMBP, Rockstar, CBS, Tommy Lee, Gilby Clarke, Jason
16 Newsted, and Does 1 through 100 have begun to infringe, have continued to infringe, and intend to
17 continue infringing Plaintiff’s rights in the SUPERNOVA name and mark.

18 **THE PARTIES**

19 3. Plaintiff Supernova is a California limited liability company with its principal place
20 of business located in Irvine, California. It is the successor to the members of Plaintiff
21 SUPERNOVA, Arthur Mitchell (1989-present), Dave Collins (1989-present), and Jodey Lawrence
22 (1994-present). Collins and Lawrence are citizens and residents of California, and Mitchell is a
23 citizen and resident of Texas. Hereafter, the term “Plaintiff” shall refer to the present Plaintiff and
24 its predecessors, whichever may be appropriate for the time
25 of which the Complaint then speaks.

26 4. On information and belief, Defendant Mark Burnett is a corporation organized and
27 existing under the laws of the State of California, and it is engaged in the entertainment business,
28 with its principal place of business located at 9899 Santa Monica Boulevard, PMB 208, Beverly
Hills, California 90212.

1 Section 39 of the Lanham Act, 15 U.S.C. § 1121(a), 28 U.S.C. § 1331 (federal question jurisdiction)
2 and § 1338(a) (trademark infringement), supplemental jurisdiction over the state law claim pursuant
3 to 28 U.S.C. §§ 1338(b) and 1367(a), and jurisdiction over the declaratory judgment claim pursuant
4 to 28 U.S.C. § 2201.

5 14. On information and belief, jurisdiction in this court is proper because Defendants
6 reside in, do business in, and/or are subject to personal jurisdiction in this judicial district.

7 15. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) and (c).

8 **BACKGROUND**

9 **Plaintiff's Adoption and Longstanding Use of the SUPERNOVA Mark**

10 16. Plaintiff SUPERNOVA is a well-known rock and roll band. Since at least as early as
11 1989, Plaintiff has been using the SUPERNOVA name and mark to identify the source of its
12 musical products and services (and related merchandise) and to distinguish its musical products and
13 services (and related merchandise) from the related products and services (and merchandise) of
14 others.

15 17. In 1989, Plaintiff began writing original songs and performing live rock and roll
16 music under the SUPERNOVA name and mark.

17 18. At least as early as August of 1991, Plaintiff began performing live rock and roll
18 music in California night clubs under the SUPERNOVA name and mark.

19 19. At least as early as 1992, Plaintiff began recording, distributing, marketing,
20 promoting, and selling sound recordings under the SUPERNOVA name and mark. In 1992,
21 Plaintiff released the seven-inch record *Long Hair & Tattoos* on the Odyssey Records label under
22 the SUPERNOVA name and mark. In 1993, Plaintiff recorded the seven-inch record *Calling Hong*
23 *Kong* on the Goldenrod Records label under the SUPERNOVA name and mark. The *Calling Hong*
24 *Kong* record contained three songs, "Calling Hong Kong," "Chewbacca," and "Pop as a Weapon."
25 Plaintiff, under the SUPERNOVA name and mark, also recorded the seven-inch record *Electric*
26 *Man* on the well-known independent label Sympathy for the Record Industry.

27 ///

1 20. In 1993, Plaintiff played its first live concerts outside the state of California under
2 the SUPERNOVA name and mark. The band also performed on the national television program
3 *Bill Nye the Science Guy* under the SUPERNOVA name and mark.

4 21. In 1994, Plaintiff embarked on a tour of the United States under the SUPERNOVA
5 name and mark and recorded the seven-inch record *Costa Mesa Hates Me* on the Tres Hombres
6 Musica record label. Also in 1994, Plaintiff licensed its song "Chewbacca" for use in Kevin
7 Smith's hit movie, "Clerks." The song also is included in the official "Clerks" soundtrack record,
8 which on information and belief was released by a record label owned by Sony. On information
9 and belief, Sony also owns CBS Records, which is a related entity to Defendant CBS. On
10 information and belief, the "Clerks" soundtrack is and has been for sale in retail outlets and/or on
11 the Internet, including mainstream websites such as *amazon.com* and *bestbuy.com*, continuously
12 since 1994. Plaintiff's song "Chewbacca" refers to the beloved wookiee character introduced in
13 George Lucas' first "Star Wars" film (Episode IV – A New Hope).

14 22. In 1995, Plaintiff signed a recording contract with Amphetamine Reptile Records
15 ("AmRep"), and recorded its first full-length album, *Ages 3 and Up*, under the SUPERNOVA name
16 and mark. After signing with AmRep, Plaintiff launched a second nationwide tour under the
17 SUPERNOVA name and mark. The band played at venues located throughout the United States,
18 including Denver, St. Louis, New York City, Boston, Philadelphia, Orlando, Memphis, and
19 Chicago. The band performed live alongside such artists as The Dandy Warhols, Rocket From the
20 Crypt, and the Presidents of the United States of America. Plaintiff also performed on the Warped
21 Tour alongside No Doubt and Sublime. Also in 1995, Plaintiff recorded the five-inch record
22 *Monsta!!* on the Sympathy for the Record Industry label, and placed its single "Math" on the
23 Amphetamine Reptile Europe records compilation *AmRep Motors 1995 Models*, all under the
24 SUPERNOVA name and mark.

25 23. In 1996, Plaintiff recorded the seven-inch record *How Much More* on the Sympathy
26 for the Record Industry label under the SUPERNOVA name and mark. Later that year, the major-
27 label record company Atlantic Records began promoting and distributing Plaintiff's records,
28 compact discs and cassette tapes under the SUPERNOVA name and mark all over the world

1 pursuant to an agreement with AmRep. The band also continued touring nationwide, performing
2 alongside such acts as Boss Hog, the Supersuckers, and Reel Big Fish under the SUPERNOVA
3 name and mark.

4 24. In 1997, cable television network MTV asked Plaintiff for a license to use the band's
5 song "Chewbacca" at the 1997 MTV Movie Awards. Plaintiff granted the license, and MTV used
6 the song in connection with the presentation of a Lifetime Achievement Award to Chewbacca
7 during the nationally televised broadcast. On information and belief, Carrie Fisher, the actress who
8 played Princess Leia in the "Star Wars" films, presented the award, and Peter Mayhew, the actor
9 who played Chewbacca, appeared in costume to accept the award. On information and belief, MTV
10 presented the award in part as a tongue-in-cheek acknowledgment to fans of the "Star Wars" films,
11 who had observed that Chewbacca did not receive a medal at the end of the original "Star Wars"
12 movie despite his heroic role in the destruction of the Death Star. On information and belief,
13 MTV's use of Plaintiff's song "Chewbacca" at the 1997 MTV Movie Awards evidences that the
14 song had become firmly entrenched in the pop culture vernacular of MTV and its audience. On
15 information and belief, MTV is a related entity to Defendant CBS.

16 25. Also in 1997, Plaintiff's single song "Vitamins [Live TV Version]" appeared on an
17 AmRep compilation titled *AmRep Equipped*, and Plaintiff's cover version of Devo's "Gates of
18 Steel" appeared on the Centipede Records compilation *We Are Not Devo*, both under the
19 SUPERNOVA name and mark. Plaintiff also recorded the live record *Live at the Lava Room* and
20 licensed its song "Math" for use in the film "Tromeo & Juliet." The song was also included on the
21 film's official soundtrack.

22 26. In 1998, Plaintiff released its second full-length album under the SUPERNOVA
23 name and mark. The album was untitled, but is commonly referred to as the *Rox* album because
24 there are three rocks depicted on the album cover. Plaintiff toured under the SUPERNOVA name
25 and mark in support of the album, including an appearance at South by Southwest ("SXSW"), an
26 interactive music festival and conference that has taken place in Austin, Texas every spring since
27 1987. SXSW is one of the largest music festivals in the United States, with more than 1,000 acts
28 performing at Austin's various live music venues each March.

1 27. In or about 2001, Plaintiff released its third full-length album under the
2 SUPERNOVA name and mark, *Pop As a Weapon*. In 2003, the Plaintiff's single "Electric Man"
3 appeared on the Sympathy for the Record Industry compilation, *Their Sympathetic Majesties*
4 *Request: Volume 2*.

5 28. Albums bearing Plaintiff's SUPERNOVA mark, including *Ages 3 & Up*, the *Rox*
6 album, and *Pop As a Weapon*, are available for consumers to purchase in retail outlets and online at
7 such mainstream consumer websites as *amazon.com* and *bestbuy.com*. On information and belief,
8 Plaintiff's records have been available for consumers to purchase in retail outlets and online under
9 the SUPERNOVA name and mark at such mainstream consumer websites as *amazon.com* and
10 *bestbuy.com* continuously since at least as early as 2000.

11 29. After releasing the *Pop As a Weapon* album, the members of Supernova took a break
12 from the rigors of touring to start families, finish educations, and catch up on other things they had
13 missed during their years on the road. The band members continued to stay in touch with each
14 other and continued to write new songs. Since 2000, Plaintiff has received continuing royalties for
15 both performances of its copyrighted musical compositions, and for sales of records under the
16 SUPERNOVA name and mark in various formats.

17 30. It is not unusual for rock and roll bands to take a hiatus. On information and belief,
18 Defendant Jason Newsted was a member of the band Metallica from 1986 to 2001. On information
19 and belief, Metallica went five years without releasing a full-length studio album between 1991 and
20 1996. On information and belief, Metallica released its eponymous fifth album in 1991, but did not
21 release its sixth album, *Load*, until 1996. On information and belief, if another band had begun
22 performing and releasing albums under the Metallica name in 1995, Metallica would have had a
23 valid claim for trademark infringement, despite the fact that Metallica had not released an album in
24 the previous four years.

25 31. In early 2006, the members of Plaintiff began discussing a return to the studio to
26 record new material that the band had written after the 2000 release of *Pop As a Weapon*. Plaintiff
27 also began booking new tour dates under the SUPERNOVA name and mark.

28

1 32. Plaintiff has used the prominently displayed SUPERNOVA name and mark in
2 commerce in connection with the advertising, marketing, and sale of original rock and roll music
3 recordings and related products in California and throughout the United States since at least as early
4 as 1993.

5 33. Plaintiff has used the prominently displayed SUPERNOVA name and mark in
6 commerce in connection with the advertising, marketing, and sale of merchandise and trade goods,
7 including, but not limited to, t-shirts, posters, promotional items, and related products in California
8 and throughout the United States since at least as early as 1993.

9 34. Plaintiff has used the prominently displayed SUPERNOVA mark in commerce in
10 connection with the advertising, marketing, and sale of live performances, as well as in connection
11 with the actual live performances of original rock and roll music compositions in California and
12 throughout the United States since at least as early as 1993.

13 35. As a direct result of Plaintiff's long and extensive experience, care, and skill in
14 performing all of the foregoing activities under the prominently displayed SUPERNOVA mark, the
15 popular music industry and its public have come to identify Plaintiff as the sole and exclusive
16 source of original rock and roll music recordings and compositions and related products to which
17 the SUPERNOVA mark is applied.

18 36. As a further direct result of Plaintiff's long and extensive experience, care, and skill
19 in performing all of the foregoing activities under the prominently displayed SUPERNOVA mark,
20 Plaintiff has earned a reputation and established notoriety, recognition, credibility, and goodwill in
21 the SUPERNOVA mark.

22 **Defendants' Willful Infringement of Plaintiff's Trademark Rights in the SUPERNOVA Mark**

23 37. On information and belief, Defendants recently began marketing, promoting, and
24 advertising a competing musical group referred to as "SUPERNOVA." On information and belief,
25 Defendants intend to record, perform, advertise, market, and sell recordings and live performances
26 under the SUPERNOVA mark in the State of California and throughout the United States.

27 38. Defendants' marketing materials, promotions, advertisements, and websites state that
28 Defendants' musical group "SUPERNOVA" is comprised of Tommy Lee, Gilby Clarke, Jason

1 Newsted, and a vocalist, DOE 1, who will be determined by a process of elimination on a television
2 show produced by Mark Burnett, JMBP, Rockstar and/or DOES 40 through 60. On information
3 and belief, said television show will be broadcast by CBS and DOES 61 through 100 in the State of
4 California and throughout the United States. Defendants' advertising states that Butch Walker will
5 co-write and produce an album for Defendants' musical group "SUPERNOVA."

6 39. Defendants' use of the SUPERNOVA mark began long after Plaintiff's adoption and
7 use of the SUPERNOVA mark. Defendants have engaged in, and continue to engage in, all of the
8 foregoing activities without Plaintiffs' consent, permission, or authority. Moreover, Defendants'
9 have engaged in, and continue to engage in, all of the foregoing activities with full knowledge of,
10 and intentional disregard for, Plaintiff's rights in the SUPERNOVA mark.

11 40. On information and belief, prior to Defendants' adoption of the SUPERNOVA mark,
12 individuals within Defendants' own organizations informed Defendants of Plaintiff's rights in the
13 SUPERNOVA mark. On information and belief, one of the individuals who informed Defendants'
14 of Plaintiff's rights in the SUPERNOVA mark is Butch Walker, who according to Defendants'
15 advertising will co-write and produce an album for Defendants' musical group "Supernova." On
16 information and belief, on or about May 11, 2006, Mr. Walker sent Plaintiff a message saying:

17 i can't believe those dudes chose your name.. for the record, i tried to talk them out of
18 it. i told them i had a cd by a band from back in the day called supernova and they
were retarded for doing it. they didn't listen. good on ya for making a stink about it.

19 A printout depicting Mr. Walker's message to Plaintiff is attached hereto as Exhibit A. Thus,
20 Defendants had prior knowledge of Plaintiff's SUPERNOVA mark. Defendants' decision to use
21 the SUPERNOVA mark even after learning of Plaintiff's ownership of the SUPERNOVA mark
22 clearly illustrates Defendants' bad faith intent to willfully infringe Plaintiff's SUPERNOVA mark.

23 41. After Defendants announced the adoption of the SUPERNOVA mark, the national
24 music press recognized that Defendants' use of the mark would infringe Plaintiff's intellectual
25 property rights. For example, a news story that appeared on MTV's website at *mtv.com*, and on
26 VH1's website at *vh1.com*, stated:

27 With Supernova in place for the talent contest, the "Rock Star" camp could end up
28 running into some legal trouble down the line over the supergroup's name. Back in
the early 1990s, a poppy punk trio called Supernova emerged from California's

1 Orange County. The band, which released its first album on Atlantic Records in
2 1995, is perhaps best known for the track "Chewbacca," which appeared on the
3 soundtrack to Kevin Smith's "Clerks."

4 A true and correct copy of the news story from MTV's website at *mtv.com* is attached hereto as
5 Exhibit B. A true and correct copy of the news story from VH1's website at *vh1.com* is attached
6 hereto as Exhibit C. On information and belief, VH1, like MTV, is a related entity to Defendant
7 CBS.

8 42. Immediately upon the discovery of Defendants' infringing use of the SUPERNOVA
9 mark, Plaintiff demanded, and continues to demand, that Defendants cease all such infringing uses
10 of Plaintiff's SUPERNOVA mark.

11 43. Despite Plaintiff's demands and the warnings of others, Defendants continue to
12 knowingly and deliberately infringe upon Plaintiff's SUPERNOVA mark with complete and total
13 disregard for Plaintiff's rights.

14 44. The parties' respective marks are identical. Both parties use the SUPERNOVA
15 mark.

16 45. Both parties use the SUPERNOVA mark in connection with identical and/or closely
17 related goods and services.

18 46. On information and belief, the parties' marketing channels are identical. On
19 information and belief, any albums released by Defendants' musical group "Supernova" will be
20 available in retail outlets and online at such mainstream consumer websites as *amazon.com* and
21 *bestbuy.com*.

22 47. Upon information and belief, Defendants' unauthorized use of Plaintiff's
23 SUPERNOVA mark has caused, and is likely to continue to cause, confusion and mistake among
24 consumers as to source, sponsorship, and approval of Defendants' goods, and the affiliation,
25 connection or association between Defendants and Plaintiff, all to Plaintiff's substantial harm.
26 Defendants' use of Plaintiff's SUPERNOVA mark has caused and is causing actual confusion and
27 initial interest confusion among consumers. Defendants' conduct creates the likelihood of both
28 forward confusion, whereby the public is deceived into believing that Defendants' name, goods and
services are produced, provided, endorsed, or authorized by Plaintiff, and reverse confusion,

1 whereby the public is deceived into believing that Plaintiff's name, goods and services are
2 produced, provided, endorsed, or authorized by Defendants, or, alternatively, that Plaintiff is an
3 imitator and infringer of Defendants and their name and marks.

4 48. Defendants' use of the SUPERNOVA mark deprives, and will increasingly deprive,
5 Plaintiff of the benefit of the goodwill Plaintiff has built up in the SUPERNOVA mark and
6 threatens to destroy Plaintiff's goodwill.

7 49. Defendants have continued to use a trademark that is confusingly similar to
8 Plaintiff's SUPERNOVA mark in connection with goods and services that are competitive with
9 and/or closely related to Plaintiff's goods and services despite Defendants' knowledge and actual
10 notice of Plaintiff's superior rights in the SUPERNOVA mark and despite Plaintiff's express
11 written instructions to Defendants to cease all use of the SUPERNOVA mark.

12 **COUNT I**

13 **For False Designations of Origin and False Descriptions** 14 **In Violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a)**

15 50. Plaintiff re-alleges and incorporates by reference the allegations set forth in
16 paragraphs 1 through 49 above.

17 51. Defendants' conduct constitutes the unauthorized use in commerce of the word,
18 term and name SUPERNOVA, or of a false designation of origin which is likely to cause confusion,
19 or to cause mistake, or to deceive the public as to the origin, sponsorship, or approval of
20 Defendants' goods, services and commercial activities by plaintiff.

21 52. Shortly, Defendants' conduct, by virtue of the exposure of national television, will
22 become likely to, and will, create confusion, cause mistake and deceive the public as to the origin,
23 sponsorship, or approval of Plaintiff's name and marks by Defendants – also known as “reverse
24 confusion” – thus irreparably depriving Plaintiff of the benefit of its many years of effort to
25 establish the SUPERNOVA mark and name in the arena of rock and roll music.

26 53. On information and belief, Defendants adopted the SUPERNOVA mark with full
27 knowledge of Plaintiff's prior use of the SUPERNOVA mark. Accordingly, Defendants' acts have
28 been and are willful.

1 54. Defendants' acts complained of above are violative of Section 43(a) of the Lanham
2 Act, 15 U.S.C § 1125(a).

3 55. Unless enjoined, the acts of Defendants alleged herein will continue to cause
4 Plaintiff irreparable harm for which Plaintiff has no adequate remedy at law.

5 **COUNT II**

6 **For Intentional Interference with Prospective Economic Advantage**

7 56. Plaintiff re-alleges and incorporates by reference the allegations set forth in
8 paragraphs 1 through 55 above.

9 57. Through Plaintiff's extensive, continuous, and exclusive use of the SUPERNOVA
10 mark and trade name, Plaintiff has established, and continues to develop and maintain, business
11 relationships and prospective economic advantages with numerous individuals and entities,
12 including, but not limited to, concert promoters, music publishers, booking agents, concert venues,
13 record labels, magazines, photographers, film producers, screen writers, recording artists, television
14 and cable stations and networks, radio stations, disc jockeys, tour managers, record producers,
15 sound engineers, rehearsal studios, recording studios, graphic artists, fashion designers, fashion
16 merchandisers, and many others.

17 58. Plaintiff's business relationships resulted in, and, in the absence of outside
18 interference, will continue to result in, offers to perform at concerts with other prominent recording
19 artists, offers to publish Plaintiff's music, offers to record music, offers to associate the
20 SUPERNOVA mark with clothing and fashion accessories, offers to sponsor musical equipment
21 and accessories, offers to license sound recordings to major motion pictures and television
22 networks, offers to participate in television pilots, offers to plan joint ventures with action sport and
23 clothing designers, manufacturers, and merchandisers who value the SUPERNOVA mark and the
24 opportunity to associate themselves with the SUPERNOVA mark.

25 59. Plaintiff's business relationships have resulted in economic advantages to both
26 Plaintiff and those individuals and entities with whom Plaintiff shares the business relationships,
27 and these business relationships are the type that will continue to provide prospective economic
28 advantages in the absence of outside interference.

1 and 78/847,375; 78/892,914; and 78/892,921) for the marks SUPERNOVA and ROCK STAR:
2 SUPERNOVA that Defendant JMBP believed it was entitled to use of the marks in commerce and
3 that no one else had the right to use the marks in commerce, either in identical form or in such near
4 resemblance as to be likely to cause confusion or mistake, or to deceive.

5 69. Plaintiff had been using the SUPERNOVA mark in commerce on identical and/or
6 closely related goods long before Defendant JMBP filed its trademark applications for the
7 SUPERNOVA and ROCK STAR: SUPERNOVA marks.

8 70. On information and belief, Defendant JMBP made knowingly false representations
9 in that it knew of, or should have known of and could easily have ascertained, Plaintiff's
10 longstanding prior use of the SUPERNOVA mark when Defendant JMBP filed its trademark
11 applications for the SUPERNOVA and ROCK STAR: SUPERNOVA marks.

12 71. On information and belief, Defendant JMBP made these statements with the intent to
13 induce the PTO to grant JMBP registrations to which Defendant JMBP knew it was not entitled.

14 72. Upon information and belief, if this Court does not declare that Defendant JMBP's
15 trademark applications are fraudulent, The Commissioner of Patents and Trademarks will register
16 the marks applied-for, or at the very least cost Plaintiff substantial sums of money and years of
17 administrative litigation to avert the fraud upon the Patent and Trademark Office and deny
18 Defendant JMBP the registrations to which it is not entitled.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays that the Court enter judgment:

21 1. That Defendants have made false designations of origin and false representations in
22 commerce in violation of 15 U.S.C. § 1125(a);

23 2. That Defendants have intentionally interfered with Plaintiff's prospective economic
24 advantage;

25 3. That Defendants' U.S. Trademark Applications (Ser. Nos. 78/836,196; 78/839,998;
26 78/840,015; 78/840,053; 78/847,364; 78/847,368; and 78/847,375; 78/892,914; and 78/892,921) are
27 not entitled to registration;

28

1 4. Preliminarily and permanently enjoining and restraining Defendants, their officers,
2 agents, servants, employees, attorneys, and all others in active concert or participation with
3 Defendants, from:

4 (a) Using, promoting, displaying, licensing, advertising, offering for sale, selling,
5 transferring, registering, assigning or otherwise employing or exploiting Plaintiff's SUPERNOVA
6 mark;

7 (b) Committing any other acts calculated or having the tendency to cause
8 confusion, mistake, or deception between Plaintiff and its goods and services on the one hand, and
9 Defendants or any other party's goods and services on the other;

10 (c) Committing any other acts calculated or having the tendency to create the
11 mistaken impression that there is some association, connection or affiliation with and/or
12 sponsorship or approval of Defendants' goods and services by Plaintiff, and/or of Plaintiff's goods
13 and services by Defendants;

14 (d) Committing any other acts calculated or having the tendency to dilute the
15 distinctive quality of Plaintiff's SUPERNOVA mark or to otherwise unfairly compete with Plaintiff
16 or injure Plaintiff's business reputation or goodwill;

17 (e) Authorizing, assisting, aiding, or abetting any other person or business entity
18 in engaging in or performing any of the activities referred to in the above paragraphs (a) through
19 (d).

20 (f) committing trademark infringement, trademark dilution, false advertising,
21 false designation of origin, false descriptions, unfair competition, and/or any other act or making
22 any other statement that infringes Plaintiff's trademarks or constitutes an act of trademark
23 infringement, trademark dilution, false advertising, false designation of origin, false descriptions,
24 unfair competition, or deceptive trade practices under federal law, common law, or the laws of the
25 State of California.

26 5. Requiring Defendants to deliver up for destruction all labels, signs, prints, packages,
27 wrappers, containers, advertisements, electronic media, and other materials bearing the
28

1 SUPERNOVA mark or any other counterfeit, copy, infringing, or substantially indistinguishable
2 designation of Plaintiff's SUPERNOVA mark;

3 6. Requiring Defendants to publish clarifying statements that Defendants are not
4 associated with Plaintiff;

5 7. Requiring Defendants to account for and pay over to Plaintiff Defendants' profits
6 and all damages sustained by Plaintiff due to Defendants' misuse of Plaintiff's SUPERNOVA
7 mark;

8 8. Trebling the amount of damages awarded Plaintiff pursuant to 15 U.S.C. § 1117;

9 9. Awarding to Plaintiff its attorneys' fees, costs and expenses pursuant to 15 U.S.C.
10 § 1117;

11 10. Awarding to Plaintiff compensatory damages suffered by Plaintiff according to
12 proof;

13 11. Awarding to Plaintiff punitive damages in an amount sufficient to deter and punish
14 Defendants;

15 12. Awarding to Plaintiff interest on the compensatory damages at the highest rate
16 allowed by law;

17 13. Awarding to Plaintiff the costs of suit incurred herein; and

18 14. Awarding to Plaintiff such other relief as the Court may deem just and proper.

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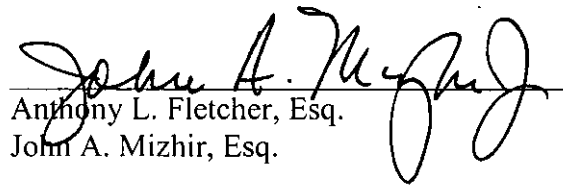
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury as to all issues triable by jury.

Dated: June 27, 2006

FISH & RICHARDSON P.C.

By: 
Anthony L. Fletcher, Esq.
John A. Mizhir, Esq.

Attorneys for Plaintiff
SUPERNOVA FROM CYNOT3, LLC

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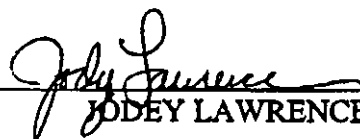
VERIFICATION

I, the undersigned, declare and say:

I am the CO-MANAGER at SUPERNOVA FROM CYNOT3, LLC in the below-referenced action, and am authorized to verify these responses on its behalf. I have read the foregoing COMPLAINT and know the contents thereof. I certify that the same is true to the best of my knowledge, except as to those matters which are thereon stated upon my information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that if called as a witness I could competently testify thereto.

Executed this 27 day of June, 2006, in Irwin, California.



JODEY LAWRENCE

Supernova Cybot3, LLC vs. Mark Burnett Productions, Inc., et al.



From:



butch walker

Date: May 11, 2006 12:17 AM Flag spam/abuse. [?]

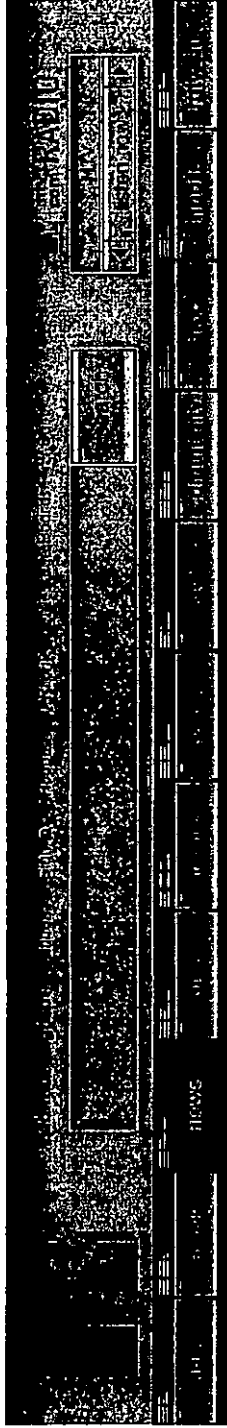
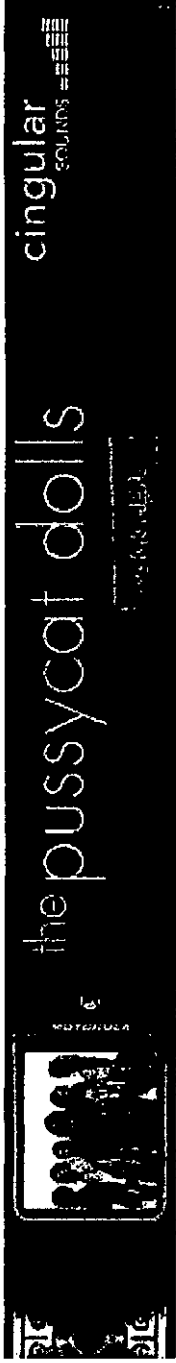
Subject: yo!!

Body:

saw you wanted me to add you.. i cant believe those dudes chose your name.. for the record, i tried to talk them out of it. i told them i had a cd by a band from back in the day called supernova and they were retarded for doing it. they didn't listen. good on ya for making a stink about it. hope you're well..

b





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Tommy Lee, Jason Newsted Turn To 'Rock Star' For Supergroup Singer

03.16.2006

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Tommy Lee
Photo: Patrick Riviere/Getty Images

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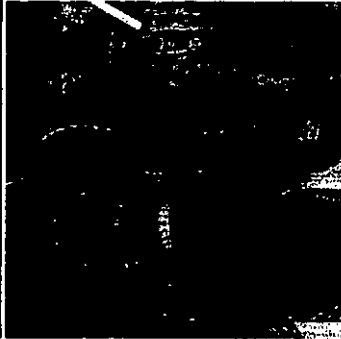
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Tommy Lee, Jason Newsted Turn To 'Rock Star' For Supergroup Singer

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by Chris Harris

← Tommy Lee (Photo: Patrick Riviera/Getty Images)

03.16.2006 10:40 AM EST

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This report is provided by MTV News



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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court San Diego on the following Patents or Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
06CV1334-JAH(RBB)	06/27/06	United States District Court, Southern District of California
PLAINTIFF		DEFENDANT
Supernova From Cynot3, LLC		Mark Burnett Productions, Inc. et al.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 see complaint (enclosed)		
2		
3		
4		
5		

In the above-entitled case, the following patent(s)/trademark(s) have been included:

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3			
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In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT		
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Copy 1 - Upon initiation of action, mail this copy to Director

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The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

ORIGINAL

I. (a) PLAINTIFFS

PERNOVA FROM CYNOT3, LLC

(b) County of Residence of First Listed Plaintiff Orange County, California (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

MARK BURNETT PRODUCTIONS, INC.; JEFF INC.; ROCKSTAR ENTERTAINMENT, INC.; CBS BROADCASTING, INC.; THOMAS LEE BASS, a/k/a TOMMY LEE; GILBY CLARKE; JASON CURTIS NEWSTED; and DOESE through 100% DISTRICT COURT OF CALIFORNIA County of Residence of First Listed Defendant Los Angeles, California (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) Attorneys (Firm Name, Address, and Telephone Number)

John A. Mizhir, Jr. (SBN 190756)
Fish & Richardson P.C. (Southern California)
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070

Attorneys (If Known)

06CV 1334 JAH RBB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1. U.S. Government Plaintiff
- 3. Federal Question (U.S. Government Not a Party)
- 2. U.S. Government Defendant
- 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
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V. ORIGIN

(PLACE "X" IN ONE BOX ONLY)

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- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

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

Trademark infringement under 15 U.S.C. §§1051 et seq. and related claims.

VII. REQUESTED IN COMPLAINT:

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Demand: \$

CHECK YES only if demanded in Complaint

JURY DEMAND

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VIII. RELATED CASE(S) IF ANY

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DOCKET NUMBER

DATE
June 27, 2006

SIGNATURE OF ATTORNEY OF RECORD

TYPE NAME OF ATTORNEY
John A. Mizhir, Jr.

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