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CENTRAL DISTRICT OF CALIF.
LEANNE L. HICKLES
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6 Attorneys for Plaintiff
7 ROXBURY ENTERTAINMENT

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 CV 08-03872 FMC (JWJx)
12 Case No.

12 ROXBURY ENTERTAINMENT, a)
13 California corporation,)

14 Plaintiff,)

COMPLAINT FOR:

15 vs.)

16 PENTHOUSE MEDIA GROUP, INC.,)
17 a Nevada corporation;)
18 PENTHOUSE DIGITAL MEDIA)
19 PRODUCTIONS, INC., a)
20 New York corporation;)
21 PULSE DISTRIBUTION, LLC, a)
22 California LLC; and DOES 1-)
23 10, inclusive,)

24 Defendants.)

- 15 (1) VIOLATION OF THE LANHAM ACT
- 16 (2) FEDERAL TRADEMARK INFRINGEMENT
- 17 (3) VIOLATION OF FEDERAL ANTI-DILUTION LAW
- 18 (4) VIOLATION OF STATE ANTI-DILUTION LAW
- 19 (5) COMMON LAW UNFAIR COMPETITION
- 20 (6) STATUTORY UNFAIR COMPETITION (CALIFORNIA BUSINESS & PROFESSIONS CODE §17200)
- 21 (7) UNJUST ENRICHMENT

25 [DEMAND FOR JURY TRIAL]

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1 Plaintiff Roxbury Entertainment ("Roxbury") alleges as
2 follows:

3 NATURE OF THE ACTION

4 1. This action arises out of Defendants' manufacture,
5 distribution, marketing and sale of a pornographic film and DVDs
6 prominently featuring Plaintiff's "Route 66" trademark, a
7 federally registered and world famous mark ("Roxbury's
8 Trademark(s)," "Trademark(s)" or "Mark(s)") widely associated
9 with Plaintiff and Plaintiff's "Route 66" DVDs, television
10 programs and related products continuously distributed throughout
11 the United States for the past 48 years by Roxbury and its
12 predecessors-in-interest. Not only are Defendants Penthouse
13 Digital Media Productions, Inc. and Penthouse Media Group, Inc.
14 (collectively "Penthouse") and Pulse Distribution, LLC ("Pulse")
15 unlawfully and intentionally infringing Roxbury's registered and
16 common law Trademarks by manufacturing, marketing and selling
17 DVDs using the exact same mark as Roxbury's Trademark to sell
18 their pornographic product, but Defendants also are tarnishing
19 and diluting Roxbury's Trademarks through their use on
20 Defendants' grossly inferior products, poorly produced
21 pornography with virtually no storyline, dialogue or acting
22 (Defendants' "Pornographic Film and DVDs"), products which are
23 grossly inferior to Roxbury's award winning, classic television
24 and filmed entertainment.

25 2. Plaintiff's Route 66 Trademark is used and has been
26 used for more than 48 years to identify the source of the 116
27 award winning episodes of its highly rated classic television
28 program which was created and written in the 1960's by Academy

1 Award winner "Sterling Silliphant" (In the Heat of the Night) and
2 award winning Executive Producer Herbert Leonard (Naked City, Rin
3 Tin Tin, Route 66) for Sony/Screen Gems Entertainment ("Sony").
4 Throughout the 1960's, 70's and 80's, Sony and Leonard working
5 together used the Route 66 Trademark to identify, market and
6 advertise their television episodes featuring two young and
7 adventurous travelers, driving their convertible sports car
8 (Corvette) from American town to town, in search of existential
9 meaning and their place in American life and culture. The "Route
10 66" program was unique in American entertainment history,
11 involving itinerant characters in an anthology of stories, each
12 one filmed on location and representative of America's people,
13 history and culture, with the Heartland of America as its
14 backdrop.

15 3. In the early 1990's, Leonard and Sony created, produced
16 and distributed a new "Route 66" television program, which they
17 again advertised, marketed and distributed using the same Route
18 66 Trademark, also featuring two young men in a convertible
19 sports car traveling America in search of meaning and adventure.
20 And throughout the 1990's, Leonard and Sony continued to promote
21 and distribute their "Route 66" television programs, via
22 television broadcast and video cassette, throughout the United
23 States and around the world, creating world-wide audience
24 recognition for the Route 66 Trademark as the source and origin
25 of their classic entertainment content.

26 4. In 2001, Leonard, through his wholly-owned company
27 "Lancer Productions" ("Lancer"), sold and assigned to Plaintiff
28 Roxbury Entertainment ("Roxbury") all of its rights in and to the

1 "Route 66" television programs and intellectual property,
2 including Lancer's goodwill and rights in the Route 66 Trademark,
3 for use in connection with the production and sale of
4 entertainment content, including but not limited to episodes of
5 the two prior "Route 66" television programs, as well as any
6 remakes, sequels and/or any feature film adaptations of the
7 "Route 66" television programs and related merchandise
8 (hereafter "Route 66 Products"). Also in 2001, Roxbury began to
9 develop its own "Route 66" film and television programs, to be
10 marketed and sold utilizing the Route 66 Trademark made famous by
11 Roxbury and its predecessors-in-interest.

12 5. In 2004, Roxbury acquired from Sony as the distributor
13 of "Route 66" all of its remaining rights in and to the "Route
14 66" television programs and intellectual property rights therein,
15 including but not limited to the copyrights and trademarks for
16 "Route 66" and the right to use such copyrights and trademarks
17 for purposes of producing and distributing remakes, sequels and
18 feature film adaptations of "Route 66" and/or any other
19 entertainment products and related merchandise under the
20 "Route 66" Mark.

21 6. Also commencing in 2004, Roxbury commenced
22 distribution, licensing and marketing of the existing "Route 66"
23 television programs, and in 2005, produced, marketed and
24 distributed the first-ever "Route 66" DVD product, featuring
25 eleven re-edited episodes of the "Best of Route 66" with special
26 features about the program, it's stars, its connection to the
27 Corvette and its place in American entertainment and cultural
28 history. And in 2005, Roxbury also commenced internet marketing

1 and distribution of its "Route 66" television programs, and
2 licensed Amazon to distribute the "Route 66" programs through its
3 website.

4 7. In December of 2006, Roxbury obtained a Federal
5 Trademark Registration for its Route 66 Trademark for Pre-
6 Recorded DVDs and Videocassettes (International Class 9, prior US
7 Classes 21, 23, 26, 36 and 38) which was registered by the US
8 Patent and Trademark office on December 26, 2006 (Trademark
9 Registration Certificate No. 3,189,543).

10 8. In January of 2007, Roxbury obtained a Federal Service
11 Mark Registration for its Route 66 Trademark for Entertainment
12 Services (International Class 41, prior US Classes 100, 101 and
13 107) which was registered by the US Patent and Trademark Office
14 on January 2, 2007 (Trademark Registration Certificate No.
15 3,194,255).

16 9. And in September of 2007, Roxbury obtained a Federal
17 Trademark Registration for its Route 66 Trademark for Motion
18 Picture Films (International Class 9, prior US Classes 21, 23,
19 26, 36 and 38) which was registered by the US Patent and
20 Trademark Office on September 11, 2007 (Trademark Registration
21 Certificate No. 3,291,736).

22 10. For 41 years, Roxbury's predecessors-in-interest
23 (Lancer and Sony) jointly produced, distributed, advertised and
24 marketed their Route 66 Products prominently displaying the Route
25 66 Trademark to identify their source and origin, and for the
26 past 7 years, Roxbury as the successor-in-interest to all of Sony
27 and Lancer's rights in and to the Route 66 Products and
28 Trademark, have continuously advertised, marketed and sold Route

1 66 Products utilizing the Route 66 Mark to identify the source
2 and origin of those products, and have actively developed and
3 produced additional entertainment products utilizing the Route 66
4 Trademark.

5 11. In May of 2008, Roxbury learned of Defendants'
6 exploitation of the "Route 66" Mark in connection with its
7 Pornographic Film and DVDs, and on May 12, 2008, Roxbury's
8 counsel sent a "cease and desist" letter to the General Counsel
9 for Penthouse, and to the Agent for Service of Process for Pulse,
10 demanding, inter alia, that Defendants and their co-conspirators
11 immediately discontinue the manufacture, sale and marketing of
12 their Pornographic Film and DVDs utilizing the Trademark "Route
13 66."

14 12. On May 19, 2008, General Counsel for Defendants
15 Penthouse responded to Roxbury's cease and desist letter with a
16 refusal to recognize Roxbury's Registered Trademarks in "Route
17 66" and its outright rejection of Roxbury's demands, contending
18 that its Pornographic Films and DVDs utilizing the "Route 66"
19 Mark did not infringe Roxbury's Trademarks, and refusing to
20 discontinue its manufacture, marketing and sale of its products
21 prominently displaying the Route 66 Trademark.

22 13. Defendant's General Counsel asserted in his responsive
23 letter to Plaintiff's counsel that Defendants' Pornographic Film
24 and DVDs were a "fair use" of Roxbury's Registered and Common Law
25 Trademarks because, he contended, its use of the Route 66 Mark on
26 the work's "cover art" was an accurate description of "the
27 story's theme and subject matter: road related adventures
28 transpiring on and around Route 66." In fact, nothing could be

1 further from the truth: The content of Defendants' Pornographic
2 Film and DVDs contains no "story" or "road-related adventure
3 transpiring on and around Route 66." Rather, the Film is pure
4 pornography with no more than a few seconds of dialogue (making
5 no reference to Route 66 or adventure on the open road) preceding
6 the oral and anal sex between and among various men and women,
7 the Film's only story, a "story" which all takes place at the
8 apparently fictitious "Pink Motel" and not on the open road or
9 anywhere near Route 66.

10 14. In Defendants' Pornographic Film and DVDs, no mention
11 is made of the Highway "Route 66" by any of the "actors," nor is
12 there any footage of the actual "Mother Road" or the American
13 towns, people and culture which make up this iconic Highway.
14 Defendants' Pornographic Film and DVDs could much more accurately
15 be called "Sex in and Around the Pink Motel," since it has
16 absolutely nothing to do with "Route 66" except for Defendants'
17 blatant exploitation of Roxbury's Route 66 Trademark, on the
18 cover art, packaging and menu of the DVD, an exploitation
19 intended to confuse the consuming public as to the affiliation,
20 source and origin of Defendants' product.

21
22 JURISDICTION AND VENUE

23 15. This action arises under the United States Lanham Act,
24 15 U.S.C. §1125, et seq. This Court has original jurisdiction
25 over the subject matter of this action pursuant to 28 U.S.C.
26 §§1331 and 1338 and 15 U.S.C. §1121(a). The Court has

1 supplemental jurisdiction over Plaintiff's state law claims under
2 28 U.S.C. §1367(a).

3 16. This Court has personal jurisdiction over each of the
4 Defendants named in this Complaint, because each Defendant does
5 sufficient business, has sufficient minimum contacts with
6 California and this Judicial District, and/or is resident in this
7 Judicial District, and/or otherwise intentionally avails itself
8 of the California and Los Angeles markets, through the sale,
9 marketing, advertising and distribution of its products in this
10 Judicial District, including the specific product at issue in
11 this litigation, to render the exercise of jurisdiction over it
12 by this Court consistent with traditional notions of fair play
13 and substantial justice.

14 17. Venue in this Judicial District is proper under 28
15 U.S.C. §§1391(b) and (c) and 1400(a), in that a substantial part
16 of the events giving rise to Roxbury's claims occurred in this
17 Judicial District, Defendants' products, including the offending
18 products at issue in this litigation, are sold in this Judicial
19 District, and one or more Defendants reside and may be found in
20 this Judicial District, within the meaning of 28 U.S.C. §§1391(c)
21 and 1400(a).

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23

THE PARTIES

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18. Roxbury is a California corporation based in Santa
Monica, California (steps from the official end of the Route 66
Highway), and is in the business of producing, acquiring and
distributing entertainment content (classic television programs
and motion pictures) for distribution via DVDs, the internet, and

1 theatrical and television exhibition throughout the world.
2 Roxbury's principal place of business is in Santa Monica,
3 California, where Roxbury maintains an office and staff who
4 oversee the development, production, acquisition, marketing,
5 distribution and protection of its intellectual property,
6 television programs, DVDs and films, throughout the United States
7 and the world, and who oversee the licensing and merchandising of
8 its intellectual properties, including and most significantly its
9 "Route 66" registered Trademarks and Products.

10 19. Roxbury is informed and believes, and based thereon
11 alleges, that defendant Penthouse Media Group, Inc., doing
12 business as "Penthouse," is a corporation organized and existing
13 under the laws of the State of Nevada, with its principal places
14 of business in Boca Raton, Florida, and New York, New York.
15 Roxbury is further informed and believes, and based thereon
16 alleges, that this Defendant produces, markets and distributes
17 pornographic DVDs and films throughout the United States,
18 including in this Judicial District.

19 20. Roxbury is informed and believes, and based thereon
20 alleges, that defendant Penthouse Digital Media Productions,
21 Inc., doing business as "Penthouse," is a corporation organized
22 and existing under the laws of the State of New York, with its
23 principal places of business in Boca Raton, Florida, and New
24 York, New York.

25 21. Roxbury is further informed and believes, and based
26 thereon alleges, that this Defendant produces, markets and
27 distributes pornographic DVDs and films throughout the United
28 States, including in this Judicial District.

1 22. Roxbury is informed and believes, and based thereon
2 alleges, that defendant Pulse Distribution, LLC ("Pulse") is a
3 California Limited Liability Company with its principal place of
4 business in Chatsworth, California, is a company organized and
5 existing under the laws of the State of California and conducts
6 business in, and markets, distributes and sells pornographic
7 films and DVDs throughout the United States and including this
8 Judicial District.

9 23. Roxbury is unaware of the true names and capacities of
10 the defendants sued herein as Does 1 through 10, inclusive, and
11 therefore sues these defendants by fictitious names. Roxbury
12 will seek leave of the Court to amend this Complaint to allege
13 their true names and capacities when ascertained. Roxbury is
14 informed and believes, and based thereon alleges, that each
15 fictitiously named defendant is responsible in some way for the
16 creation, production, sale and/or distribution of the infringing
17 products at issue in this Complaint, and is liable to Roxbury
18 therefor. Penthouse, Pulse and Does 1 through 10 are sometimes
19 referred to collectively herein as "Defendants."

20 24. Roxbury is informed and believes, and based thereon
21 alleges, that at all times relevant herein, each of the
22 Defendants was the agent, servant or employee of each other
23 Defendant, and at all times relevant herein was acting in whole
24 or at least in part within the scope of such agency. As such,
25 each and every Defendant herein is equally responsible in whole
26 or in part for each and every act alleged herein.

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ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

1
2 25. Plaintiff's Route 66 Products have been widely
3 distributed in the United States and throughout the world
4 continuously and pervasively since 1960. In the course of the
5 production and distribution of these Route 66 Products, Roxbury
6 and its predecessors in interest and licensees have expended
7 significant effort advertising, marketing and promoting these
8 entertainment products under titles bearing the name of, and
9 prominently featuring, the Route 66 Mark on the products, their
10 content, their packaging and their marketing and advertising
11 materials.

12 26. As a result of the success and popularity of its Route
13 66 Products, Roxbury and its predecessors in interest and
14 licensees have, for almost five decades, engaged in the business
15 of merchandising and promoting Route 66 Products throughout the
16 US and the world.

17 27. Beginning in 2006, Roxbury duly registered the name
18 "Route 66" as service marks and trademarks in several applicable
19 entertainment classifications, under the Lanham Act, 15 U.S.C.
20 §1051 et seq., and Roxbury remains to this date the exclusive
21 owner of these Registered and Common Law Trademarks for "Route
22 66" on or in connection with their entertainment products and
23 services.

24 28. Roxbury and its predecessors-in-interest have developed
25 an excellent reputation and highly valuable goodwill in the
26 Route 66 Trademark, and the products, goods and services
27 featuring that Trademark. Through the consistent and extensive
28 advertising and widespread distribution and success of Roxbury's

1 Products featuring the Route 66 Trademark, the advertising and
2 distribution of merchandise featuring the Route 66 Trademark, and
3 the use of the Route 66 Trademark in national and/or regional
4 advertising campaigns, a secondary meaning has been created in
5 the minds of the public throughout the United States, and
6 throughout the world, by which the Route 66 Trademark has become
7 strongly identified and associated with Roxbury and Roxbury's
8 series of television programs, films, DVDs and merchandise
9 featuring the Route 66 Mark. Roxbury therefore has acquired
10 common law trademark rights in the Route 66 Trademark in addition
11 to its federally-registered Route 66 Marks.

12 29. In addition, and also as a result of the extensive
13 advertising and widespread distribution and success of Roxbury's
14 Route 66 Products, the advertising and distribution of
15 merchandise featuring the Route 66 Trademark, and the use of the
16 Route 66 Trademark in national and/or regional advertising
17 campaigns, the Route 66 Trademarks are famous throughout the
18 United States and the world and are immediately recognizable to
19 and known by the public.

20 30. Roxbury is informed and believes, and based thereon
21 alleges, that Defendants have exploited Defendants' Pornographic
22 Film and DVDs, prominently featuring and exploiting the Route 66
23 Trademark, by without limitation, advertising and distributing
24 such products in interstate commerce and throughout the United
25 States, including Los Angeles.

26 31. Roxbury has demanded that Defendants cease selling
27 Defendants' Pornographic Film and DVDs featuring and exploiting
28 the Route 66 Trademark, but Defendants have refused to do so.

1 DVDs, and have falsely created the impression in the minds of the
2 consuming public that Defendants are somehow associated,
3 affiliated or connected with Roxbury Entertainment and its Route
4 66 Products, that Roxbury sponsored or endorsed the merchandise
5 at issue, and/or that Roxbury approved or authorized Defendants'
6 use of its Route 66 Trademark on Defendants' Pornographic Film
7 and DVDs. Such conduct violates Section 43(a) of the Lanham Act,
8 15 U.S.C. §1125(a).

9 36. As a direct and proximate result of Defendants'
10 wrongful conduct, Roxbury has been damaged and is entitled to
11 recover Defendants' wrongfully obtained profits and three times
12 Roxbury's actual damages, pursuant to 15 U.S.C. §1117(a).

13 37. Defendants' violation of the Lanham Act has caused and
14 will cause irreparable harm to Roxbury which cannot be fully
15 compensated by money. Roxbury has no adequate remedy at law.
16 Therefore, in addition to monetary relief, Roxbury is entitled to
17 preliminary and permanent injunctive relief preventing Defendants
18 from continuing to use the Route 66 Trademark on or in connection
19 with the sale of its Pornographic Film or DVDs, or any
20 confusingly similar variations, or in connection with any
21 products, goods or services.

22 38. Defendants engaged in the foregoing conduct knowingly,
23 willfully and oppressively, intending to appropriate Roxbury's
24 intellectual property to the detriment of Roxbury and to the
25 confusion of the public. This constitutes an exceptional case
26 within the meaning of Section 35 of the Lanham Act, 15 U.S.C.
27 §1117, for which Roxbury should recover its attorneys' fees and
28 costs incurred in connection herewith.

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SECOND CLAIM FOR RELIEF

Against All Defendants for Federal Trademark Infringement

39. Roxbury realleges and incorporates by this reference the allegations contained in paragraphs 1 through 38, inclusive, as though they were fully set forth herein.

40. Defendants' unauthorized use of a counterfeit, copy or precise imitation of Roxbury's Registered Trademarks on and in connection with Defendants' Pornographic Film and DVDs creates confusion in the marketplace and constitutes an infringement of Roxbury's Registered Trademarks in violation of 15 U.S.C. §1114. Roxbury is informed and believes, and based thereon alleges, that Defendants' use and exploitation of the Route 66 Mark was willful, intentional, that Defendants were aware and are aware of Roxbury's Registered and Common Law Trademarks, and that Defendants purposefully used Roxbury's Trademarks to trade on Roxbury's reputation, to cause confusion, mistake and/or deception, and to take advantage of the goodwill and public recognition associated with the Route 66 Trademarks for their own commercial advantage.

41. As a direct and proximate result of Defendants' trademark infringement, Roxbury has been damaged and is entitled to recover Defendants' wrongfully obtained profits and three times Roxbury's actual damages, pursuant to 15 U.S.C. §1117(a).

42. Defendants' trademark infringement has caused and will cause irreparable harm to Roxbury which cannot be fully compensated by money. Roxbury has no adequate remedy at law. Therefore, in addition to monetary relief, Roxbury is entitled to

1 preliminary and permanent injunctive relief preventing Defendants
2 from continuing to use Roxbury's Route 66 Trademark, or any
3 confusingly similar variations, on or in connection with any
4 products, goods or services.

5 43. Defendants engaged and continue to engage in the
6 foregoing conduct knowingly, willfully and oppressively,
7 intending to appropriate Roxbury's intellectual property to the
8 detriment of Roxbury and to the confusion of the public. This
9 constitutes an exceptional case within the meaning of Section 35
10 of the Lanham Act, 15 U.S.C. §1117, for which Roxbury should
11 recover its attorneys' fees and costs incurred herein.

12
13 THIRD CLAIM FOR RELIEF

14 Against All Defendants for Violation of
15 Federal Anti-Dilution Law (15 U.S.C. §1125(c))

16 44. Roxbury realleges and incorporates by this reference
17 the allegations contained in paragraphs 1 through 43, inclusive,
18 as though they were fully set forth herein.

19 45. By, without limitation, designing, manufacturing,
20 reproducing, importing, advertising, marketing, displaying,
21 selling, distributing, licensing and otherwise exploiting
22 Defendants' Pornographic Film and DVDs, Defendants have created,
23 and will continue to create, a likelihood of dilution and
24 tarnishment of the distinctive and superior quality of Roxbury's
25 famous Route 66 Trademark and Route 66 Products, because Roxbury
26 cannot control the quality of Defendants' merchandise or the
27 manner in which Defendants utilize that Trademark on and in
28 Defendants' merchandise.

1 46. Defendants' Pornographic Film and DVDs are grossly
2 inferior products to those of Plaintiff, featuring little or no
3 dialogue by "actors" who display no apparent acting talent and
4 are so embarrassed by their performances that they use pseudonyms
5 to hide their true identities, and contain no storylines or
6 themes other than the very graphic exhibitions of oral, anal and
7 violent sex between and among various men and women in a random
8 fashion.

9 47. Roxbury is informed and believes, and based thereon
10 alleges, that Defendants' use and exploitation of the Route 66
11 Trademarks was willful and intentional, that Defendants were and
12 are aware of Roxbury's Registered and Common Law Trademarks, and
13 that Defendants purposefully used and continue to use Roxbury's
14 Trademarks to trade on Roxbury's reputation, to cause confusion,
15 mistake and/or deception, and to take advantage of the goodwill
16 and public recognition associated with the Route 66 Trademark and
17 Products for their own commercial advantage.

18 48. Accordingly, as a direct and proximate result of
19 Defendants' wrongful conduct, Roxbury has been substantially
20 damaged and is entitled to recover Defendants' wrongfully
21 obtained profits and three times Roxbury's actual damages,
22 pursuant to 15 U.S.C. §1117(a).

23 49. Defendants' violation of the Federal Anti-Dilution Law
24 has caused and will cause irreparable harm to Roxbury which
25 cannot be fully compensated by money. Roxbury has no adequate
26 remedy at law. Therefore, in addition to monetary relief,
27 Roxbury is entitled to preliminary and permanent injunctive
28 relief preventing Defendants from continuing to use Roxbury's

1 Route 66 Trademarks, or any confusingly similar variations, on or
2 in connection with any products, goods or services.

3 50. Defendants engaged and continue to engage in the
4 foregoing conduct knowingly, willfully and oppressively,
5 intending to appropriate Roxbury's intellectual property to the
6 detriment of Roxbury and to the confusion of the public. This
7 constitutes an exceptional case within the meaning of Section 35
8 of the Lanham Act, 15 U.S.C. §1117, for which Roxbury should
9 recover its attorneys' fees and costs incurred herewith.

10

11 FOURTH CLAIM FOR RELIEF

12

Against All Defendants for Violation

13

of State Anti-Dilution Law

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(California Business & Professions Code §14330)

15

16 51. Roxbury realleges and incorporates by this reference
17 the allegations contained in paragraphs 1 through 50, inclusive,
18 as though they were fully set forth herein.

19

20 52. Roxbury's Route 66 Trademark is a strong and well
21 recognized mark and thus entitled to protection as a "distinctive
22 mark" under the California Anti-Dilution statute, California
23 Business and Professions Code §14330.

24

25 53. By, without limitation, designing, manufacturing,
26 reproducing, importing, advertising, marketing, displaying,
27 selling, distributing, licensing and otherwise exploiting
28 Defendants' Pornographic Film and DVDs, Defendants have created,
and will continue to create, a likelihood of injury to Roxbury's
business reputation and/or dilution of the distinctive quality of
the Route 66 Trademarks, and Roxbury's reputation and products

1 associated therewith, in violation of the California Business
2 and Professions Code §14330(a).

3 54. As a direct and proximate result of the foregoing
4 conduct of Defendants, Roxbury has suffered and continues to
5 suffer monetary damages and is therefore entitled to an award of
6 such damages in an amount to be proven at trial.

7 55. Defendants' violation of California's Anti-Dilution Law
8 has caused and will continue to cause irreparable harm to Roxbury
9 which cannot be fully compensated by money. Roxbury has no
10 adequate remedy at law. Therefore, in addition to monetary
11 relief, Roxbury is entitled to preliminary and permanent
12 injunctive relief preventing Defendants from continuing to use
13 Roxbury's Route 66 Trademarks, or any confusingly similar
14 variations, on or in connection with its Pornographic Film and
15 DVDs and/or any other products, goods or services.

16
17 FIFTH CLAIM FOR RELIEF

18 Against All Defendants for Common Law Unfair Competition

19 56. Roxbury realleges and incorporates by this reference
20 the allegations contained in paragraphs 1 through 55, inclusive,
21 as though they were fully set forth herein.

22 57. By their conduct as alleged above, Defendants have
23 violated and infringed Roxbury's common law rights in its Route
24 66 Trademarks, and have otherwise competed unfairly with Roxbury
25 and Roxbury's authorized licensees in violation of the common law
26 of the State of California.

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PRAYER FOR RELIEF

WHEREFORE, Roxbury prays judgment on its Complaint as follows:

1. For preliminary and permanent injunctive relief restraining and enjoining Defendants and their officers, agents, employees, representatives, partners, servants, licensees, distributors, retailers, assigns, subsidiaries and all persons acting in concert or cooperation with any one or more of them, or on any of their respective behalves, from:

(a) designing, manufacturing, reproducing, importing, advertising, marketing, displaying, selling, distributing, licensing and otherwise exploiting Defendants' Pornographic Film and DVDs featuring or displaying the Route 66 Trademark in any way, shape or form.

(b) using the Route 66 Trademark or any other design or word mark that is a colorable imitation of, or is likely to cause confusion with the Route 66 Trademark, on or in connection with the designing, manufacturing, reproducing, importing, advertising, marketing, displaying, selling, distributing, licensing or other exploitation of any product, good or service;

(c) diluting or tarnishing the distinctive quality of the Route 66 Trademark;

(d) unfairly competing with Roxbury in any manner.

2. That Defendants be required to deliver up to Roxbury for destruction all copies of Defendants' Pornographic Film and DVDs and all packaging, masters, discs, artwork, catalogs and advertising material related thereto.

1 3. That Defendants be ordered immediately to recall all
2 copies of Defendants' Pornographic Film and DVDs and all
3 packaging, masters, discs, artwork, advertising and marketing
4 materials utilizing the mark "Route 66" in any way, shape or
5 form.

6 4. That Defendants, within thirty days after service of
7 judgment with notice of entry thereof upon it, be required to
8 file with the Court and serve upon Roxbury's attorneys a written
9 report under oath setting forth in detail the manner in which
10 Defendants have complied with the requirements of the injunction
11 and order.

12 5. That Defendants be required to account for and pay over
13 to Roxbury their profits plus the actual compensatory damages
14 sustained by Roxbury by reason of Defendants' unlawful conduct
15 alleged herein, and that the amount of recovery be increased up
16 to three times actual damages suffered by Roxbury, as provided by
17 15 U.S.C. §1117(a)(3).

18 6. For an order pursuant to §17203 of the California
19 Business and Professions Code restoring to Roxbury all of its
20 interest in monies that were acquired by Defendants by means of
21 their unlawful acts and practices hereunder.

22 7. For an order requiring Defendants to disgorge any and
23 all gains or benefits conferred upon Defendants as a result of
24 their violations of law.

25 8. For punitive and exemplary damages sufficient to punish
26 Defendants and deter their wrongful conduct in the future.

27 9. For Roxbury's attorneys' fees and costs incurred
28 herewith.

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10. For pre-judgment interest at the maximum legal rate.

11. For such other and further relief as the Court may deem just and proper.

Dated: June 12, 2008

LAW OFFICES OF KIRK M. HALLAM

By:



KIRK M. HALLAM

Attorney for Plaintiff

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DEMAND FOR JURY TRIAL

Plaintiff Roxbury hereby demands a jury trial of all issues so triable, as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: June 12, 2008

LAW OFFICES OF KIRK M. HALLAM

By: 

KIRK M. HALLAM
Attorney for Plaintiff