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CLERK U.S. DISTRICT COURT
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6 Attorneys for Plaintiff,
7 Warner Bros. Entertainment Inc.

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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 CV 10 0146 RSWL (Ex)
Case No.

12 Warner Bros. Entertainment Inc.,
13 Plaintiff,

14 v.

15 Brian Kushner, an individual and d/b/a
TVMerch.com; Power Star Collectibles,
16 Inc. and Does 1-10, inclusive,
17 Defendants.

COMPLAINT FOR TRADEMARK
INFRINGEMENT; COPYRIGHT
INFRINGEMENT; TRADEMARK
DILUTION AND UNFAIR
COMPETITION

18 DEMAND FOR A JURY TRIAL

19 Plaintiff Warner Bros. Entertainment Inc. ("Warner Bros.") (referred to herein
20 as "Plaintiff"), for its Complaint allege as follows:

21 **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

22 **A. Jurisdiction and Venue**

23 1. The claims for trademark infringement, unfair competition and trademark
24 dilution under the Lanham Trademark Act, as amended, 15 U.S.C., § 1051 *et seq.*,
25 allege the unauthorized use in interstate commerce of famous and distinctive marks,
26 false designations of origin and trademark dilution. The Court has jurisdiction over
27 the subject matter of these claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1331
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ORIGINAL

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C

1 and § 1338. The cause of action for copyright infringement arises pursuant to 17
2 U.S.C. § 101, *et seq.* The Court has jurisdiction over the subject matter pursuant to 28
3 U.S.C. § 1331 and § 1338(a). The remaining causes of action for unfair competition
4 and trademark dilution arise under the laws of the State of California. The Court has
5 jurisdiction over these substantial and related claims pursuant to 28 U.S.C. § 1338 (b)
6 and § 1367.

7 2. Venue in the Central District of California is proper pursuant to 28
8 U.S.C. § 1391(b), § 1392 and § 1400(a).

9 **B. Introduction**

10 3. This case concerns the willful and systematic theft of various world-
11 famous intellectual properties owned by Plaintiff. Defendants operate online retail
12 businesses through which they are engaged in the manufacture, importation,
13 distribution, promotion, sale and offer for sale of merchandise, including, but not
14 necessarily limited to, clothing and personal accessories, household and kitchen
15 accessories, and non-metal license plates, along with copies of motion pictures and
16 television shows. Certain items of Defendants' merchandise incorporate unauthorized
17 copies of television episodes and/or likenesses of characters owned by Plaintiff,
18 including, but not limited to, various characters appearing in the television series
19 *Supernatural* and *Gossip Girl* ("Counterfeit Product").

20 **C. Plaintiff Warner Bros.**

21 4. Warner Bros. is a corporation duly organized and existing under the laws
22 of the State of Delaware, having its principal place of business in Burbank, California.
23 Warner Bros., or one of its wholly-owned subsidiaries, is engaged in a variety of
24 businesses including, without limitation, the production, distribution and broadcast of
25 filmed entertainment, including motion pictures and television programming.

26 5. Warner Bros. owns exclusive rights under the Copyright Act to a number
27 of motion pictures and television programs, including, but not limited to, the
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1 television series *Supernatural* and *Gossip Girl* (collectively the “Warner Bros.
2 Works”), including the rights to reproduce, distribute or license the reproduction and
3 distribution of the motion pictures in video format in the United States, including,
4 but not limited to, those copyrights that are the subject of the copyright registrations
5 attached hereto as Exhibit “A”. Video format includes video cassettes, video laser
6 discs, digital versatile discs (“DVDs”), video compact discs (“VCDs”) and Blu-ray
7 discs.

8 6. The expression and other distinctive features of the Warner Bros. Works
9 are wholly original with Warner Bros., its licensors and/or assignors and, as fixed in
10 various tangible media, are copyrightable subject matter under the Copyright Act.

11 7. Warner Bros., or any predecessor in interest, has complied in all respects
12 with the laws governing copyright and has secured the exclusive rights and
13 privileges in and to the Warner Bros. Works, and Warner Bros. holds certificates of
14 registration and/or secured exclusive licenses or assignments to reproduce,
15 distribute and license the Warner Bros. Works throughout the United States.

16 8. The Warner Bros. Works have been manufactured, sold and/or
17 otherwise distributed in conformity with the provisions of the copyright laws.
18 Warner Bros. and those acting under its authority have complied with their
19 obligations under the copyright laws and Warner Bros., in its own right or as
20 successor-in-interest, has at all times been and still is the sole proprietor or otherwise
21 authorized to enforce all right, title and interest in and to the copyrights or to enforce
22 its exclusive right for home video distribution in each of the Warner Bros. Works.

23 9. A significant aspect of Warner Bros.’ business is also the merchandising
24 and licensing of distinctive trademarks and copyrights associated with the Warner
25 Bros. Works. The distinctive trademarks and copyrights licensed and/or
26 merchandised by Warner Bros. include, but are not limited to, the world-famous
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1 characters featured in such programming and films (hereinafter individually and
2 collectively referred to as the “Warner Bros. Characters”).

3 10. The revenue from products sold in the United States which use the Warner
4 Bros. Characters is substantial. The appearance and other features of the Warner
5 Bros. Characters are inherently distinctive and serve to identify Warner Bros. and its
6 licensees as the source of products bearing the Warner Bros. Characters. The design,
7 configuration and distinctive features of the Warner Bros. Characters and other
8 Warner Bros. copyrighted works, and of works related thereto (hereinafter
9 individually and collectively referred to as the “Warner Bros. Copyrighted Designs”) are wholly original with Warner Bros. and, as fixed in various tangible media,
10 including merchandise, are copyrightable subject matter under the United States
11 Copyright Act, 17 U.S.C., §§ 101, et seq. Warner Bros. is the owner of the Warner
12 Bros. Copyrighted Designs and, as featured on in connection with various
13 merchandise, constitute copyrightable subject matter under the Copyright Act of 1976,
14 17 U.S.C. §§ 101, et seq.

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16 11. Warner Bros. has complied in all respects with the laws governing
17 copyright and has secured the exclusive rights and privileges in and to the copyrights
18 to the Warner Bros. Copyrighted Designs, and Warner Bros. owns one or more
19 certificates of registration for works in which each of the Warner Bros. Copyrighted
20 Designs appear. A representative list of copyright registrations for both the Warner
21 Bros. Works and the Warner Bros. Copyrighted Designs is attached hereto as Exhibit
22 A.

23 12. Warner Bros. and those acting under its authority have complied with their
24 obligations under the copyright laws, and Warner Bros. has at all times been and still
25 is the sole proprietor or otherwise authorized to enforce all right, title and interest in
26 and to the copyrights in each of the Warner Bros. Copyrighted Designs.
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1 13. Warner Bros. is the owner of world famous registered marks which serve
2 to distinguish Warner Bros. products. Each year Warner Bros. spends millions of
3 dollars to develop and maintain the considerable goodwill it enjoys in its trademarks
4 and in its reputation for high quality. A representative list of trademark registrations
5 for the Warner Bros. Characters is attached hereto as Exhibit B (collectively the
6 "Warner Bros. Trademarks").

7 14. The Warner Bros. Trademarks are all valid, extant and in full force and
8 effect. The Warner Bros. Trademarks are all exclusively owned by Warner Bros.
9 Warner Bros. has continuously used each of the Warner Bros. Trademarks from the
10 registration date, or earlier, until the present and at all times relevant to the claims
11 alleged in this Complaint.

12 15. As a result of advertising and sales, together with longstanding consumer
13 acceptance, the Warner Bros. Trademarks identify Warner Bros.' products and
14 authorized sales of these products. The Warner Bros. Trademarks have each acquired
15 secondary meaning in the minds of consumers throughout the United States and the
16 world. The Warner Bros. Works, Characters, Copyrighted Designs and Trademarks
17 are collectively referred to herein as the "Plaintiff's Properties."

18 **D. Defendants**

19 16. Defendant Brian Kushner is an individual and doing business as
20 TVMerch.com ("Kushner"). Plaintiff is informed and believes that Kushner is a
21 resident of Audubon, in the State of New Jersey. Plaintiff is further informed and
22 believes that Kushner does business in this judicial district through offers and sales of
23 the Counterfeit Product in the City and County of Los Angeles, among other places,
24 through the website located at TVMerch.com, Fringetvstore.com, Gossipgirlstore.com
25 and Supernaturalstore.com.

26 17. Defendant Power Star Collectibles, Inc. ("Power Star") is business entity,
27 the precise from of which is currently unknown to Plaintiff, with its principal place of
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1 business in Audubon, in the State of New Jersey. Power Star is subject to the
2 jurisdiction of this Court and is doing business in this judicial district through offers
3 and sales of the Counterfeit Product in the City and County of Los Angeles, among
4 other places, through the website TVMerch.com, Fringetvstore.com,
5 Gossipgirlstore.com and Supernaturalstore.com.

6 18. Upon information and belief, Does 1 – 10 are either entities or
7 individuals who are residents of or present in this judicial district, and are subject to
8 the jurisdiction of this Court. Upon information and belief, Does 1 – 10 are principals
9 or supervisory employees of the named defendants, suppliers of the named defendants
10 or other entities or individuals who are manufacturing, distributing, selling and/or
11 offering for sale merchandise in this judicial district which infringes some or all of the
12 Plaintiff's Properties. The identities of the various Does are unknown to Plaintiff at
13 this time. The Complaint will be amended to include the names of such individuals
14 when identified. The named defendants and Does 1 – 10 are collectively referred to
15 herein as "Defendants."

16 **E. Defendants' Infringing Activities**

17 19. Upon information and belief, long after Plaintiff's adoption and use of
18 Plaintiff's Properties on a diverse range of goods, and after Plaintiff obtained the
19 copyright and trademark registrations alleged above, Defendants adopted and used
20 substantially identical likenesses of Plaintiff's Properties on merchandise without
21 Plaintiff's consent by importing, advertising, displaying, distributing, selling and/or
22 offering to sell Counterfeit Product. Defendants have caused the Counterfeit Product
23 to enter into commerce and to be transported or used in commerce. Defendants are
24 not licensed by Plaintiff and at all relevant times were not authorized by Plaintiff or
25 any authorized agent of Plaintiff to manufacture, import, distribute, sell and/or offer
26 for sale the Counterfeit Product. Defendants are currently engaged in such uses and,
27 unless enjoined by this Court, will continue such unauthorized uses.
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1 damages, including such profits as may be recoverable under 15 U.S.C. § 1117,
2 Plaintiff will require an accounting from each Defendant of all monies generated from
3 the manufacture, importation, distribution and/or sale of the Counterfeit Product as
4 alleged herein. In the alternative, Plaintiff may elect to recover statutory damages
5 pursuant to 15 U.S.C. § 1117(c).

6 25. Plaintiff has no other adequate remedy at law and has suffered and
7 continues to suffer irreparable harm and damage as a result of the above-described
8 acts of infringement. Plaintiff is informed and believes, and upon that basis alleges,
9 that, unless enjoined by the Court, the unlawful infringement will continue with
10 irreparable harm and damage to Plaintiff. Accordingly, Plaintiff seeks and requests
11 preliminary and permanent injunctive relief pursuant to 15 U.S.C § 1116.

12 26. By reason of the foregoing, Plaintiff has incurred and will continue to
13 incur attorneys' fees and other costs in connection with the prosecution of their claims
14 herein, which attorneys' fees and costs Plaintiff is entitled to recover from Defendants,
15 and each of them, pursuant to 15 U.S.C. § 1117 (c).

16 **SECOND CLAIM FOR RELIEF**

17 **(For Copyright Infringement)**

18 27. Plaintiff repeats and realleges all of the allegations contained in
19 paragraphs 1 through 26, inclusive, as though set forth herein in full.

20 28. As alleged hereinabove, Defendants willful activities infringe valid and
21 effective copyrights registered by Plaintiff. Plaintiff is informed and believes, and
22 upon that basis alleges, that Defendants have each obtained gains, profits and
23 advantages as a result of their infringing acts in amounts within the jurisdiction of the
24 Court.

25 29. Plaintiff is informed and believes, and upon that basis alleges, that it has
26 suffered and continues to suffer direct and actual damages as result of the Defendants'
27 infringing conduct as alleged herein, in amounts within the jurisdiction of this Court.
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1 In order to determine the full extent of such damages, including such profits as may be
2 recoverable under 17 U.S.C. § 504, Plaintiff will require an accounting from each
3 Defendant of all monies generated from the manufacture, importation, distribution
4 and/or sale of the Counterfeit Product as alleged herein. In the alternative, Plaintiff
5 may each elect to recover for each of their respective copyrighted works infringed,
6 statutory damages pursuant to 17 U.S.C. § 504 (c).

7 30. Plaintiff has no other adequate remedy at law and has suffered and
8 continues to suffer irreparable harm and damage as a result of the above-described
9 acts. Plaintiff is informed and believes, and upon that basis alleges, that, unless
10 enjoined by the Court, the unlawful infringement by Defendants of Plaintiff's
11 Properties will continue with irreparable harm and damage to Plaintiff. Accordingly,
12 Plaintiff seeks and requests preliminary and permanent injunctive relief pursuant to 17
13 U.S.C § 502.

14 31. By reason of the foregoing, Plaintiff has incurred and will continue to
15 incur attorneys' fees and other costs in connection with the prosecution of its claims
16 herein, which attorneys' fees and costs the Plaintiff is entitled to recover from the
17 Defendants, and each of them, pursuant to 17 U.S.C. § 505.

THIRD CLAIM FOR RELIEF

(For Unfair Competition)

19 32. Plaintiff repeats and realleges all of the allegations contained in
20 paragraphs 1 through 31, inclusive, as though set forth herein in full.

21 33. Plaintiff owns all rights, title and interest in and to the trademarks, trade
22 names, service marks, artwork, characters and other distinctive elements for and
23 incorporating Plaintiff's Properties.

24 34. Plaintiff's Properties have each acquired a secondary and distinctive
25 meaning among the public, which have come to identify Plaintiff through various
26 media, including films, books, television, magazines and other sources, and through
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1 the distribution and sale of authorized merchandise, and the distinctive features of
2 each of, as designating products associated with Plaintiff. As a result of the extensive
3 advertising, media exposure, sales and public recognition of Plaintiff's Properties,
4 combined with the positive experiences of the public in its relationship with Plaintiff,
5 Plaintiff's Properties are each symbolic of the Plaintiff and representative of the image
6 which the public has of Plaintiff.

7 35. Plaintiff is informed and believes, and upon that basis alleges, that
8 Defendants, and each of them, have, without permission, authority or license from
9 Plaintiff or their licensees, affixed, applied and/or used in connection with the
10 manufacture, importation, advertisement, display, promotion, marketing, distribution,
11 sale and/or offer for sale, false descriptions and representations including words or
12 other symbols which tend falsely to describe or represent such goods as Plaintiff's
13 and/or affiliated with Plaintiff, and have caused the entry of such goods into interstate
14 commerce with full knowledge of the falsity of such designations of origin and such
15 descriptions and representations, all to the detriment of Plaintiff. Defendants, and
16 each of them, by misappropriating and using one or more of the Plaintiff's Properties,
17 have misrepresented and falsely described to the general public the origin, source,
18 association, affiliation or sponsorship of their goods so as to create the likelihood of
19 confusion by the ultimate purchaser as to both the source and sponsorship of said
20 goods.

21 36. Plaintiff is informed and believes, and upon that basis alleges, that the
22 Counterfeit Product being manufactured, imported, advertised, marketed, displayed,
23 distributed, sold and/or offered for sale by Defendants, and each of them, are of
24 inferior quality and that the sale and/or offer for sale thereof will be damaging to and
25 will dilute the goodwill and reputation of Plaintiff.

26 37. Defendants' acts and conduct, as alleged herein, including, without
27 limitation, the Defendants' duplication and imitation of Plaintiff's Properties, are
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1 business practices likely to deceive or confuse the purchasing public and trade upon
2 Plaintiff's reputations, both as to the source, origin, sponsorship and approval of the
3 goods provided and as to the affiliation, connection or association of Defendants, and
4 each of them, with Plaintiff, constitute acts of unfair competition, false designation of
5 origin and false representation of affiliation, all in violation of 15 U.S.C. § 1125 (a).
6 Plaintiff is informed and believes, and upon that basis alleges, that each of
7 Defendants' respective acts of reputation appropriation and unfair competition was
8 willful.

9 38. Plaintiff has no adequate remedy at law and have each suffered and
10 continue to suffer irreparable harm and damage as a result of Defendants' respective
11 acts of unfair competition in amounts thus far not determined but within the
12 jurisdiction of this Court, which amounts should each be trebled pursuant to 15 U.S.C.
13 § 1117.

14 39. Plaintiff is informed and believes, and upon that basis alleges, that unless
15 enjoined by the Court, the confusion and deception alleged above and the likelihood
16 thereof will continue with irreparable harm and damage to Plaintiff. Accordingly,
17 Plaintiff seeks and requests preliminary and permanent injunctive relief pursuant to 15
18 U.S.C. § 1116.

19 40. Plaintiff is informed and believes, and upon that basis alleges, that
20 Defendants have each obtained gains, profits and advantages as a result of their
21 wrongful acts of unfair competition in amounts not thus far determined but within the
22 jurisdiction of this Court, which amounts should each be trebled, pursuant to 15
23 U.S.C. § 1117.

24 41. In order to determine the full extent of such damages, including such
25 profits as may be recoverable, Plaintiff will require an accounting from each
26 Defendant of all monies generated from the manufacture, importation, distribution
27 and/or sale of the Counterfeit Product.
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1 believes, and upon that basis alleges, that each of Defendants' acts of trademark
2 dilution and reputational appropriation was willful and that each Defendant willfully
3 intended to reap the benefit of each of Plaintiff's goodwill, trade upon Plaintiff's
4 reputation and/or dilute the distinctiveness of one or more of Plaintiff's famous and
5 distinctive trademarks.

6 47. Plaintiff is informed and believes, and upon that basis alleges, that unless
7 enjoined by the Court, Defendants' unlawful and unauthorized acts in violation of
8 Section 43(c) of the Lanham Act will continue to cause dilution of one or more of each
9 of Plaintiff's trademarks with the corresponding irreparable harm and damage to
10 Plaintiff. Accordingly, Plaintiff seeks preliminary and permanent injunctive relief
11 pursuant to 15 U.S.C. § 1116.

12 48. Plaintiff has no adequate remedy at law and has suffered and continues to
13 suffer irreparable harm and damage as a result of Defendants' acts of trademark
14 dilution in amounts thus far not determined, but within the jurisdiction of this Court,
15 which amounts should be trebled pursuant to 15 U.S.C. § 1116.

16 49. Plaintiff is informed and believes, and upon that basis alleges, that
17 Defendants have each obtained gains, profits and advantages as a result of their
18 wrongful acts of trademark dilution in amounts thus far not determined but within the
19 jurisdiction of this Court, which amounts should be trebled pursuant to 15 U.S.C. §
20 1117.

21 50. In order to determine the full extent of such damages, including such
22 profits as may be recoverable, Plaintiff will require an accounting from each
23 Defendant of all monies generated from the manufacture, importation, distribution
24 and/or sale of the diluting items alleged herein.

25 51. By reason of the foregoing, Plaintiff has incurred and will continue to
26 incur attorneys' fees and other costs in connection with the prosecution of their claims
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1 herein, which attorneys' fees and costs Plaintiff is entitled to recover from Defendants,
2 and each of them, pursuant to 15 U.S.C. § 1117.

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4 **FIFTH CLAIM FOR RELIEF**

5 **(For State Law Unfair Competition)**

6 52. Plaintiff repeats and realleges all of the allegations contained in
7 paragraphs 1 through 51, inclusive, as though set forth herein in full.

8 53. As alleged above, each of Plaintiff's Properties has acquired secondary
9 meaning indicative of origin, relationship, sponsorship and/or association with
10 Plaintiff. The purchasing public is likely to attribute to Plaintiff the use by Defendants
11 and/or their customers, of one or more of Plaintiff's Properties, as a source of origin,
12 authorization and/or sponsorship for Defendants and/or their customers' goods and
13 therefore to purchase such goods based upon that erroneous belief.

14 54. Plaintiff is informed and believes, and upon that basis alleges, that
15 Defendants, and each of them, have intentionally appropriated one or more of
16 Plaintiff's Properties with the intent of causing confusion, mistake and deception as to
17 the source of their and/or their third party wholesale customers' goods and with the
18 intent to palm off such goods as those of Plaintiff and, as such, Defendants have each
19 committed trademark infringement, misleading advertising and unfair competition, all
20 in violation of the California Unfair Business Practices Act, Cal. Bus. & Prof. Code, §
21 17200, et seq.

22 55. Plaintiff has no adequate remedy at law and has suffered and continues to
23 suffer irreparable harm and damage as a result of each of Defendants' acts in an
24 amount thus far not determined but within the jurisdiction of this Court.

25 56. Plaintiff is informed and believes, and upon that basis alleges, that unless
26 enjoined by the Court, the confusion and deception alleged herein and the likelihood
27 thereof will continue with irreparable harm and damage to Plaintiff.
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1 products has diluted and will continue to dilute the distinctive quality of Plaintiff's
2 Properties in violation of § 14330 of the California Business and Professions Code.

3 63. Defendants' acts as alleged herein have damaged and will continue to
4 irreparably damage the Plaintiff. Plaintiff has no adequate remedy at law for such
5 wrongs and injuries. The damage to the Plaintiff includes harm to their goodwill and
6 reputation that money cannot adequately compensate. Plaintiff therefore is entitled to
7 a preliminary and permanent injunction enjoining defendants' commercial use of the
8 Plaintiff's Properties.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff demands:

11 A. That Defendants, their agents, servants, employees, representatives,
12 successor and assigns, and all persons, firms, corporations or other entities in active
13 concert or participation with any of said Defendants, be immediately and permanently
14 enjoined from:

15 1. Directly or indirectly infringing Plaintiff's Properties in any
16 manner, including generally, but not limited to, manufacture, importation,
17 distribution, advertising, selling and/or offering for sale any merchandise which
18 infringes the said Plaintiff's Properties, and, specifically:

19 2. Importing, manufacturing, distributing, advertising, selling and/or
20 offering for sale the Counterfeit Product or any other unauthorized products
21 which picture, reproduce, copy or use the likenesses of or bear a confusing
22 and/or substantial similarity to any of Plaintiff's Properties;

23 3. Importing, manufacturing, distributing, advertising, selling and/or
24 offering for sale in connection thereto any unauthorized promotional materials,
25 labels, packaging or containers which picture, reproduce, copy or use the
26 likenesses of or bear a confusing and/or substantial similarity to any of
27 Plaintiff's Properties;
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1 4. Engaging in any conduct that tends falsely to represent that, or is
2 likely to confuse, mislead or deceive purchasers, Defendants' customers and/or
3 members of the public to believe the actions of Defendants, the products sold
4 by Defendants, or Defendants themselves are connected with Plaintiff, are
5 sponsored, approved or licensed by Plaintiff or are in some way affiliated with
6 Plaintiff;

7 5. Affixing, applying, annexing or using in connection with the
8 importation, manufacture, distribution, advertising, sale and/or offer for sale or
9 other use of any goods or services, a false description or representation,
10 including words or other symbols, tending to falsely describe or represent such
11 goods as being those of Plaintiff;

12 6. Otherwise competing unfairly with Plaintiff in any manner;

13 7. Destroying or otherwise disposing of

14 a. Merchandise falsely bearing Plaintiff's Properties;

15 b. Any other products which picture, reproduce, copy or use
16 the likenesses of or bear a substantial similarity to any of Plaintiff's
17 Properties;

18 c. Any labels, packages, wrappers, containers or any other
19 unauthorized promotion or advertising material item which
20 reproduces, copies, counterfeits, imitates or bears any of Plaintiff's
21 Properties;

22 d. Any molds, screens, patterns, plates, negatives or other
23 elements used for making or manufacturing products bearing
24 Plaintiff's Properties;

25 e. Any sales and supply or customer journals, ledgers,
26 invoices, purchase orders, inventory control documents, bank records,
27 catalogs and all other business records, believed to concern the
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1 manufacture, purchase, advertising, sale or offering for sale of the
2 Counterfeit Product;

3 B. That Plaintiff and its designees are authorized to seize the following
4 items which are in Defendants' possession, custody or control:

5 1. All unauthorized products bearing Plaintiff's Properties, or
6 likenesses thereof;

7 2. Any other unauthorized products which reproduce, copy,
8 counterfeit, imitate or bear any of Plaintiff's Properties or which picture,
9 reproduce, copy or use the likeness of or bear a substantial similarity to
10 Plaintiff's Properties;

11 3. Any labels, packages, wrappers, containers and any other
12 unauthorized promotional or advertising material which reproduce, copy,
13 counterfeit, imitate or bear any of Plaintiff's Properties or which picture,
14 reproduce, copy or use the likeness of or bear a substantial similarity to
15 Plaintiff's Properties;

16 4. Any molds, screens, patterns, plates, negatives, machinery or
17 equipment used for making or manufacturing the Counterfeit Product or
18 unauthorized items which bear Plaintiff's Properties or which bear a
19 substantial similarity to any of Plaintiff's Properties.

20 C. That those Defendants infringing upon Plaintiff's Properties be required
21 to pay actual damages increased to the maximum extent permitted by law and/or
22 statutory damages at Plaintiff's elections;

23 D. That actual damages be trebled pursuant to 15 U.S.C. § 1117;

24 E. That Defendants account for and pay over to Plaintiff all damages
25 sustained by Plaintiff and profits realized by Defendants by reason of Defendants'
26 unlawful acts herein alleged and that those profits be increased as provided by law;
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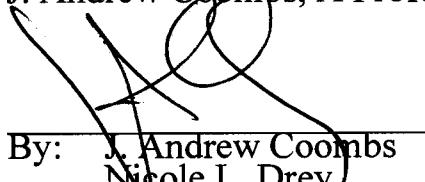
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F. That Plaintiff recover from Defendants their costs of this action and reasonable attorneys' fees; and

G. That Plaintiff have all other and further relief as the Court may deem just and proper under the circumstances.

Dated: January 8, 2010

J. Andrew Coombs, A Professional Corp.



By: J. Andrew Coombs
Nicole L. Drey
Attorneys for Plaintiff Warner Bros.
Entertainment, Inc.

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff Warner Bros. Entertainment Inc. hereby demand a trial by jury of all issues so triable.

DATED: January 8, 2010

J. Andrew Coombs, A Professional Corp.



By: J. Andrew Coombs
Nicole L. Drey
Attorneys for Plaintiff Warner Bros.
Entertainment Inc.

EXHIBIT "A"

EXHIBIT "A"
Copyright Registrations

<u>Copyright Registration Number:</u>	<u>Title of Work:</u>	<u>Author of Work:</u>
PA 1-622-014	Supernatural (Pilot)	Warner Bros. Entertainment Inc.
PA 1-622-006	Supernatural: Wendigo	Warner Bros. Entertainment Inc.
Pending	Gossip Girl: Pilot	Warner Bros. Entertainment Inc.
Pending	Gossip Girl: The Wild Brunch	Warner Bros. Entertainment Inc.

EXHIBIT “B”

EXHIBIT "B"
Trademark Registrations

Trademark	Registration Number	Registration Date
Supernatural (International Class 9)	3,188,347	December 19, 2006
Supernatural (International Class 41)	3,354,664	December 11, 2007

CIVIL COVER SHEET

I(a) PLAINTIFFS

Warner Bros. Entertainment Inc.

DEFENDANTS

Brian Kushner, an individual and d/b/a TVMerch.com; Power Star Collectibles, Inc. and Does 1-10, inclusive

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Los Angeles (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)

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J. Andrew Coombs, A P. C.,
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Telephone: (818) 500-3200 / Facsimile: (818) 500-3201

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE FOR DEFENDANT) (For Diversity Cases Only)

Table with columns PTF and DEF for Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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 Judgment

V. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$

Check YES only if demanded in complaint: JURY DEMAND: YES NO

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.)

Copyright infringement 17 U.S.C. §§ 101, et seq.

VII. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

Large table with columns: OTHER STATUTES, CONTRACT, REAL PROPERTY, PERSONAL INJURY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE / PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS.

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? YES NO

If yes, list case number(s):

CV10 0146

CV-71 (10/01)

CIVIL COVER SHEET

FOR OFFICE USE ONLY:

Pro Hac Vice fee: paid not paid
Applying IFP Judge Mag. Judge

CIVIL

CIVIL COVER SHEET
(Reverse Side)

AFTER COMPLETING THE FRONT SIDE OF FORM JS-44C, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? YES NO

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. Appear to arise from the same or substantially identical transactions, happenings, or events;
 - B. Involve the same or substantially the same parties or property;
 - C. Involve the same patent, trademark or copyright;
 - D. Call for determination of the same or substantially identical questions of law, or
 - E. Likely for other reasons may entail unnecessary duplication of labor if heard by different judges.

IX. VENUE: List the California County, or State if other than California, in which EACH named plaintiff resides (Use an additional sheet if necessary)
 CHECK HERE IF THE US GOVERNMENT, ITS AGENCIES OR EMPLOYEES IS A NAMED PLAINTIFF.

Los Angeles County

List the California County, or State if other than California, in which EACH named defendant resides. (Use an additional sheet if necessary).
 CHECK HERE IF THE US GOVERNMENT, ITS AGENCIES OR EMPLOYEES IS A NAMED DEFENDANT.

New Jersey (All Defendants)

List the California County, or State if other than California, in which EACH claim arose. (Use an additional sheet if necessary)
NOTE: In land condemnation cases, use the location of the tract of land involved.

Los Angeles County

X. SIGNATURE OF ATTORNEY (OR PRO PER): X

Date 1-8-10

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))