

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ROY'S BOYS, L.L.C.,

X
Index No.:

Plaintiff,

COMPLAINT

-against-

HOLOGRAM USA
ENTERTAINMENT, INC.,

Defendant.

X

Plaintiff, Roy's Boys L.L.C., by its attorneys, Shukat Arrow Hafer
Weber & Herbsman, L.L.P, for its Complaint, upon information and belief, states
and alleges as follows:

JURISDICTION AND VENUE

1. This proceeding is brought pursuant to CPLR § 3001 for,
inter alia, a declaration that the parties' 2015 agreement (the "Agreement") was
properly terminated in accordance with the express and unambiguous terms of
the Agreement.

2. Jurisdiction and venue in this Court are proper pursuant to a written
Agreement entered into by and between the parties which contains a mandatory
jurisdiction and venue provision, expressly conferring exclusive jurisdiction in
the Courts of the State of New York to adjudicate the claims which are the basis
of this action. Defendant has transacted business in this State as it has
participated in meetings and negotiations of the Agreement in the State and City

of New York and, upon information and belief, Defendant regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in New York. CPLR § 302(a)(1); CPLR § 302(a)(3(i); CPLR § 501 and 503.

PARTIES

3. Plaintiff, Roy's Boys L.L.C., (hereinafter "RB"), is a Nashville-based company founded by the sons of Roy Orbison to administer their late father's catalog and safeguard his legacy. All of the members of the L.L.C. are Tennessee citizens with its principal place of business located at 1625 Broadway, Nashville, Tennessee 37203. Roy Orbison was an American singer-songwriter known for his distinctive, impassioned voice, complex song structures, and dark emotional ballads. The combination led many critics to describe his music as operatic, nicknaming him "the Caruso of Rock" and "the Big O." Between 1960 and 1964, 22 of his songs placed on the *Billboard* Top 40, including "Only the Lonely" (1960), "Crying" (1961), "In Dreams" (1963), and "Oh, Pretty Woman" (1964). His honors include inductions into the Rock and Roll Hall of Fame in 1987, the Nashville Songwriters Hall of Fame in the same year, and the Songwriters Hall of Fame in 1989. *Rolling Stone* placed him at number 37 on their list of the "100 Greatest Artists of All Time" and number 13 on their list of the "100 Greatest Singers of All Time". In 2002, *Billboard* magazine listed Orbison at number 74 in the Top 600 Recording Artists.

4. Defendant Hologram USA Entertainment, Inc. (hereinafter "Hologram") is a Delaware Corporation authorized to do business in California and based in Beverly Hills at 338 North Canon Dr., Third Floor, Beverly Hills, CA 90210. Founded and controlled by its CEO, Alki David, Hologram is a media company which creates holograms of among other things, celebrity entertainers.

BACKGROUND FACTS

5. In or about 2014, Hologram approached Plaintiff to create a Roy Orbison Hologram in order to create a Roy Orbison hologram and to create and produce a "live" ninety minute performance show featuring Orbison. This genre has gained popularity and is notable for "performances" of Tupac Shakur and Michael Jackson. Orbison entered into the Agreement in order to enhance the Orbison legacy both financially and to keep Orbison's name and goodwill in the public eye. All dates in the Agreement were specifically and expressly negotiated for that purpose.

6. Hologram entered into a written contract (The "Agreement") with Plaintiff dated February 24, 2015 for the creation of the Roy Orbison performance hologram. The Agreement provided, inter alia, that Hologram must:

- (i) provide a "Roy Orbison" hologram prototype for Licensor review within nine (9) months following the Effective Date ("Prototype Deadline");
- (ii) provide a detailed binding letter of intent, including budget and business partners for distribution of the Production within nine (9) months of the Prototype

Deadline (“LOI Deadline”); and (iii) stage the first performance of the Production within nine (9) months following the LOI Deadline. *In the event that any of the aforementioned deadlines are not met, unless any such periods are extended by mutual written Agreement, Licensor shall have the right to terminate the Initial Term and retain all advances previously paid.* (Agreement Schedule 2, paragraph 1) (Emphasis added).

7. On October 22, 2015, Plaintiff agreed, in writing, to extend the deadline for the submission of the prototype until May 16, 2016.

8. Despite repeated and continuing demands, no prototype was provided.

9. On October 11, 2016, well after the contractual deadline to produce the prototype, Plaintiffs terminated the Agreement pursuant to Schedule 2, paragraph 1 of the Agreement as set forth in paragraph 8 herein above.

10. Hologram did not dispute the October 11, 2016 Notice of Termination.

11. On or about March, 2017, Plaintiff entered into a contract with BASE Holograms, L.L.C. (hereinafter “BASE”) for the production of a Roy Orbison hologram.

12. Plaintiff and BASE have expended considerable time and financial resources to create and develop the hologram and a tour.

13. On or about October 20, 2017, BASE announced the Orbison Tour (the “Tour”) in the United Kingdom with the Royal Philharmonic Orchestra and on November 2, 2017 announced a tour of Australia (the “Tour”). Tickets are on sale for both Tours. (See press releases attached hereto as Exhibit A.)

14. On November 7, 2017, Defendant’s attorney, Barry Rothman, contacted Plaintiff’s counsel in New York and advised that despite the

termination letter having been sent well over a year ago, Defendants were now disputing such termination. Mr. Rothman threatened to sue Plaintiffs and abruptly terminated the call.

15. On Wednesday, November 15, 2017, Hologram's CEO, Alki David tortiously interfered with Plaintiff's licensee, by contacting Brian Becker at BASE and threatening to sue BASE and other third parties. The conduct of Hologram, Mr. David and their attorney is improper and for the express purpose of interfering with Plaintiff and BASE's upcoming Tour.

16. By virtue of the conduct of Defendant and his attorney, Defendants have threatened and continue to threaten to interfere with Plaintiff's customers and venues.

AS AND FOR A FIRST CLAIM AGAINST DEFENDANT

(Declaratory Judgment)

17. Plaintiffs repeat and reallege the allegations of Paragraphs "1" through "16" of this Complaint, as if fully set forth herein.

18. Pursuant to Schedule 2 Paragraph 1 of the Agreement, Plaintiff had the absolute right in its sole discretion to terminate the Agreement for failure to submit a prototype.

19. Hologram did not create a prototype within the nine months as extended, nor did they object to the termination notice.

20. On October 11, 2016, Plaintiff provided written notice to Hologram that they had failed to create a prototype as required pursuant to the clear and unambiguous Terms of the Agreement and that the Agreement was terminated.

21. Hologram has refused to acknowledge the termination of the Agreement.

22. An actual controversy has thus arisen as to termination of the Agreement.

23. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff demands judgment as follows:

- i. On the First Cause of Action against Hologram, a judgment that the Agreement was terminated;
- ii. The Plaintiff also respectfully requests that the Court grant the following relief in favor of the Plaintiff against Defendant, jointly or severally:
 - a. permanently enjoining and restraining Defendant, their agents, affiliates and representatives from continuing use of the “Roy Orbison” trademarks and from producing, manufacturing, selling, printing, distributing, marketing, promoting, advertising and otherwise exploiting the “Roy Orbison” Marks or intellectual property

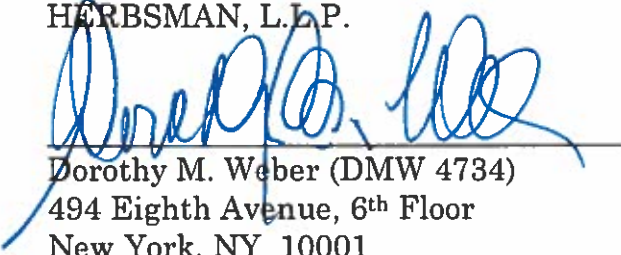
iii. That the Defendant be required to pay to the Plaintiff the costs and disbursements for maintaining this action, including reasonable attorneys fees.

iv. That Plaintiff has such other and further relief as to this Court may seem just and proper together with the costs of this action.

Dated: November 20, 2017
New York, New York

SHUKAT ARROW HAFER WEBER &
HERBSMAN, L.L.P.

By:


Dorothy M. Weber (DMW 4734)
494 Eighth Avenue, 6th Floor
New York, NY 10001
(212) 245-4580

Attorneys for Plaintiff Roy's Boys, L.L.C.