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BY ANDRE WILLIAMS, DEPUTY

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**HART, WATTERS & CARTER**

A PROFESSIONAL LAW CORPORATION  
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**THOMAS L. WATTERS (State Bar No. 78518)**

CASE MANAGEMENT CONFERENCE

**JAN 14 2013**

Date

Attorneys for Plaintiff  
Howard Scott King, formerly dba  
Stages 'N' Motion

**Norman P. Tarte**

*Dept B 830am*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - WEST DISTRICT

**SC118527**

HOWARD SCOTT KING, formerly dba  
STAGES 'N' MOTION

CASE NO.

Plaintiff,

COMPLAINT FOR:

v.

1. MISAPPROPRIATION OF TRADE SECRETS UNDER CC § 3426 ET SEQ.;
2. COMMON LAW MISAPPROPRIATION OF TRADE SECRETS;
3. UNFAIR COMPETITION UNDER B&P CODE § 17200;
4. Accounting
5. BREACH OF PROMISE

TOMMY LEE, aka THOMAS LEE BASS;  
MÖTLEY CRÜE, INC., a California  
corporation; MÖTLEY CRÜE TOURING  
INC., a California Corporation;  
and DOES 1-100

Defendants.

I.

**GENERAL ALLEGATIONS**

Plaintiff alleges as follows:

1. Plaintiff HOWARD SCOTT KING ("KING") is an individual residing in the County of Los Angeles, State of California, who formerly did business as STAGES 'N' MOTION. His principal place of business is located at 9406 Ventura Way, Chatsworth, CA, in the County of Los Angeles, State of California.

2. Defendant TOMMY LEE aka THOMAS LEE BASS ("LEE") is an individual residing and maintaining an office in the County of Los

1 Angeles, State of California.

2 3. Plaintiff is informed and believes and thereon alleges  
3 that Defendant MÖTLEY CRÜE, INC. ("MÖTLEY CRÜE") is a California  
4 corporation, maintaining its primary place of business at 2850  
5 Ocean Park Blvd., Suite 300, Santa Monica, CA 90405, which is  
6 doing business in Los Angeles County, and under which LEE and the  
7 band named MÖTLEY CRÜE perform.

8 4. Plaintiff is informed and believes and thereon alleges  
9 that Defendant MÖTLEY CRÜE TOURING, INC. ("MÖTLEY CRÜE TOURING")  
10 is a California corporation, maintaining its primary place of  
11 business at 2850 Ocean Park Blvd., Suite 300, Santa Monica, CA  
12 90405, which is doing business in Los Angeles County, and under  
13 which LEE and the band named MÖTLEY CRÜE perform.

14 5. The true names and capacities, whether individual,  
15 corporate, associates or otherwise, of Defendants DOES 1-100,  
16 inclusive, and each of them, are unknown to Plaintiff who,  
17 therefore, sues said Defendants, and each of them, by such  
18 fictitious names, and leave of Court will be requested to amend  
19 this Complaint to show their true names and capacities, when the  
20 same have been ascertained.

21 6. Plaintiff KING is informed and believes, and thereon  
22 alleges, that each of the Defendants designated herein as a DOE is  
23 tortiously and legally responsible in the manner herein alleged  
24 for the events and happenings herein referred to, and for the  
25 injuries and damages proximately caused thereby to Plaintiff.

26 7. At all times mentioned herein, each of the Defendants  
27 was an agent, servant and employee of the remaining Defendants,  
28 acting within the time, purpose, scope and course of said agency

1 and employment and acting with the express and implied knowledge,  
2 permission and consent of the remaining Defendants, and each of  
3 them. Further each of said Defendants ratified and affirmed the  
4 acts of the remaining Defendants, and each of them.

5 8. Plaintiff KING alleges that Defendants, and each of them,  
6 are the alter-egos of each other, and that said Defendants did,  
7 and still do, dominate, influence and control each other; that  
8 there existed, and exists, a unity of ownership and management  
9 between them; that the individuality and separateness of each such  
10 entity were, and remain, non-existent; that each such entity was,  
11 and is, a mere shell and naked framework which the other  
12 Defendants used, and use, to conduct their affairs; that each such  
13 entity was, and remains, inadequately capitalized; and that an  
14 injustice and fraud upon Plaintiff KING will result if the  
15 theoretical separateness of each entity is not disregarded and  
16 each such Defendant held responsible for the sums and relief  
17 herein sought.

18 9. Plaintiff KING is a designer who commercially developed  
19 many ideas and concepts for over thirty (30) years at his place of  
20 business in Los Angeles County.

21 10. Defendants LEE and DOES 1-20, are drummers in the band  
22 known as MÖTLEY CRÜE. Plaintiff is informed and believes that LEE  
23 and DOES 1-20 are agents of Defendants MÖTLEY CRÜE, MÖTLEY CRÜE  
24 TOURING and DOES 21-40. Plaintiff is informed and believes and  
25 thereon alleges that Defendant MÖTLEY CRÜE and MÖTLEY CRÜE  
26 TOURING, and DOES 1-20 and that the bank MÖTLEY CRÜE operates  
27 through such entities.

28 11. In 1991, KING developed an idea and concept for the

1 "Tommy Lee Loop Coaster" which consisted of a track on which LEE  
2 would play his drums on a platform on wheels which would follow  
3 the track until LEE was in an upside down position playing the  
4 drums and he would continue playing the drums as the platform  
5 followed the track in a complete loop.

6 12. In 1991, KING worked with ride and show engineering,  
7 inc. ("ride & show") to obtain a proposal for building the Tommy  
8 Lee Loop Coaster.

9 13. On or about November 21, 1991, KING and Frank McKane,  
10 met with Rich Fisher ("Fisher") and Doug Thaler ("Thaler") of Top  
11 Rock Development Corp., the agents for LEE, MÖTLEY CRÜE, MÖTLEY  
12 CRÜE TOURING and DOES 21-40 at the Top Rock Development Corp.'s  
13 office in Los Angeles, CA. After Fisher and/or Thaler signed a  
14 confidentiality agreement (which has been misplaced or lost), and  
15 KING made it clear that he expected compensation if the idea was  
16 used by their client, KING delivered the proposal, attached hereto  
17 as Exhibit 1, to them. The proposal was discussed and explained  
18 in detail to Fisher and Thaler by KING, and a small scale model  
19 was also used to demonstrate the concept to them.

20 14. The proposal expressly stated that the ideas and  
21 concepts in the proposal were the property of KING dba STAGES 'N'  
22 MOTION and their unauthorized use was expressly prohibited.

23 15. Fisher and Thaler kept the written proposal, attached  
24 hereto as Exhibit 1, after the meeting, but never communicated  
25 again, orally or in writing, with KING.

26 16. Not having heard from Fisher or Thaler, on or about  
27 September 17, 1992, KING personally delivered a copy of the  
28 proposal to LEE AND does 1-20 at their home. Again, KING received

1 no response.

2 17. At all times relevant herein, KING maintained the  
3 secrecy of his idea for the Tommy Lee Loop Coaster and only  
4 disclosed the idea as necessary to implement it.

5 18. Despite the fact that KING never heard from LEE,  
6 Fisher or Thaler, and never received any compensation, in June,  
7 2011, LEE, MÖTLEY CRÜE, MÖTLEY CRÜE TOURING and DOES 21-40 began  
8 using the idea in concerts where it became the center piece of  
9 many performances world wide and was used in commercials by Kia  
10 Motor Company and promotions for the band and their performances  
11 and otherwise.

12 II.

13 FIRST CAUSE OF ACTION

14 (FOR MISAPPROPRIATION OF TRADE SECRETS

15 AGAINST ALL DEFENDANTS)

16 19. Plaintiff hereby incorporates by this reference  
17 paragraphs 1 through 18 set forth above as if fully set forth  
18 herein at this point.

19 20. KING's idea for the Tommy Lee Loop Coaster constituted a  
20 trade secret within the meaning of California Civil Code § 3426 et  
21 seq. KING's idea had independent economic value as it was not  
22 known generally to the public or to other persons who could obtain  
23 economic value from its disclosure and would have generated income  
24 to him at his place of business in Los Angeles County.

25 21. KING used reasonable efforts to maintain the secrecy  
26 of his idea and invention and only disclosed it as necessary to  
27 further the development of the idea.

28 22. KING is informed and believes and thereon alleges that

1 in June, 2011, Defendants LEE, MÖTLEY CRÜE, MÖTLEY CRÜE TOURING  
2 and DOES 21-40, misappropriated the above described trade secret  
3 by disclosing the trade secret to others, including SGPS, Inc.  
4 which, on information and belief, made a similar loop coaster for  
5 use by said Defendants at concerts and otherwise, thus causing  
6 injury and damage to KING.

7 23. Defendants LEE, MÖTLEY CRÜE, MÖTLEY CRÜE TOURING and  
8 DOES 21-40, knew or had reason to know that the trade secret was  
9 disclosed and used improperly by them since the loop coaster was  
10 disclosed in confidence to them. Further, Defendants LEE, MÖTLEY  
11 CRÜE, MÖTLEY CRÜE TOURING and DOES 21-40, used the trade secret  
12 developed by KING at numerous concerts and otherwise, without  
13 express or implied consent of KING, knowing that the trade secret  
14 was obtained under circumstances giving rise to a duty to maintain  
15 its secrecy.

16 24. As a proximate result of the misappropriation of  
17 Plaintiff's trade secret by Defendants LEE, MÖTLEY CRÜE, MÖTLEY  
18 CRÜE TOURING and DOES 21-40, Plaintiff has suffered damages in  
19 excess of Four Hundred Thousand Dollars (\$400,000.00) and  
20 Defendants LEE, MÖTLEY CRÜE, MÖTLEY CRÜE TOURING and DOES 21-40,  
21 have been unjustly enriched in an amount to be proven at the time  
22 of the trial of this matter.

23 25. In the alternative, in the event that Plaintiff's actual  
24 damages or Defendants' unjust enrichment cannot be proven,  
25 Plaintiff is entitled to a reasonable royalty in an amount not  
26 less than five percent (5%) of the gross revenues received by  
27 Defendants LEE, MÖTLEY CRÜE, MÖTLEY CRÜE TOURING and DOES 1-20, at  
28 performances and otherwise where the Tommy Lee Loop Coaster was

1 used.

2 26. The acts of Defendants LEE, MÖTLEY CRÜE, and DOES 21-  
3 40, were willful and malicious in that said Defendants knowingly  
4 and intentionally misappropriated KING's trade secret for their  
5 own use and benefit to the exclusion of KING, despite the fact  
6 that they were aware of the duty to maintain the confidentiality  
7 of the trade secret. Plaintiff is therefore entitled to punitive  
8 damages or treble damages pursuant to Civil Code § 3426.3(c)  
9 against Defendants, and each of them, in an amount according to  
10 proof at the time of the trial of this matter.

11 27. KING has incurred and will continue to incur attorney's  
12 fees, costs, and expenses which KING is entitled to recover from  
13 Defendants, and each of them, pursuant to Civil Code § 3426.4 as a  
14 result of the wilful and malicious misappropriation of KING's  
15 trade secret.

16 28. Plaintiff KING is entitled to a temporary restraining  
17 order, preliminary injunction and permanent injunction against  
18 Defendants, and each of them, and those acting in concert with  
19 them to enjoin the misappropriation of the trade secret which is  
20 continuing.

21 III.

22 SECOND CAUSE OF ACTION

23 (FOR COMMON LAW MISAPPROPRIATION OF

24 TRADE SECRETS AGAINST ALL DEFENDANTS)

25 29. Plaintiff hereby incorporates by this reference  
26 paragraphs 1 through 28 set forth above as if fully set forth  
27 herein at this point.

28 30. In or about June, 2011, Defendants LEE, MÖTLEY CRÜE,

1 MÖTLEY CRÜE TOURING and DOES 21-40, misappropriated the above  
2 described trade secret by disclosing the confidential information  
3 to others to manufacture the Tommy Lee Loop Coaster and then using  
4 it in their concerts and otherwise.

5 31. As a proximate result of such misappropriation,  
6 Plaintiff KING has suffered actual damages in an amount in excess  
7 of Four Hundred Thousand Dollars (\$400,000.00) according to proof  
8 at the time of trial.

9 32. The actions of Defendants, and each of them, were  
10 malicious, fraudulent, oppressive, and in conscious disregard of  
11 the rights of Plaintiff KING, thus entitling Plaintiff KING to an  
12 award of punitive damages in an amount according to proof at the  
13 time of trial.

14 IV.

15 THIRD CAUSE OF ACTION

16 (FOR UNFAIR COMPETITION (B&P CODE § 17200 ET SEQ.)

17 AGAINST ALL DEFENDANTS)

18 33. Plaintiff hereby incorporates by this reference  
19 paragraphs 1 through 32 set forth above as if fully set forth  
20 herein at this point.

21 34. The actions of Defendants, and each of them,  
22 misappropriating confidential information for their own use and  
23 benefit in 2011, constitute unlawful, unfair, or fraudulent  
24 business acts and practices as defined by California B&P Code §  
25 17200 et seq.

26 35. As a result of said unfair competition, Plaintiff KING  
27 is entitled to relief, including full restitution and/or  
28 disgorgement of all revenues, earnings, profits, compensation and



1 benefits that have been obtained by Defendants, and each of them,  
2 as a result of such unfair business acts or practices in an amount  
3 according to proof at the time of trial.

4 36. The Defendants' acts of unfair competition are  
5 continuing and Plaintiff is informed and believes and thereon  
6 alleges that Defendants, and each of them, will continue to do  
7 those acts unless and until said Defendants, and those in concert  
8 with them, are ordered to cease and desist by this court.

9 V.

10 **FOURTH CAUSE OF ACTION**

11 **(FOR ACCOUNTING AGAINST ALL DEFENDANTS)**

12 37. Plaintiff hereby incorporates by this reference  
13 paragraphs 1 through 36 set forth above as if fully set forth  
14 herein at this point.

15 38. Defendants, and each of them are solely in control of  
16 the books, records, files, and electronic data evidencing the  
17 income from concerts, commercials and other data necessary to  
18 ascertain the amounts which Plaintiff is entitled to recover in  
19 this action. Said amounts cannot be accurately calculated without  
20 an accounting from Defendants, and each of them, for the use of  
21 the Tommy Lee Loop Coaster.

22 39. Defendants, and each of them, have failed and refused to  
23 provide any information regarding the use of the subject trade  
24 secret and the income generated as a result of its use.

25 40. Plaintiff is entitled to such an accounting and requests  
26 that the court order Defendants, and each of them to provide an  
27 accounting of the income generated from the use of the Tommy Lee  
28 Loop Coaster to Plaintiff.

1 VI.

2 FIFTH CAUSE OF ACTION

3 (FOR BREACH OF EXPRESS AND IMPLIED

4 PROMISE AGAINST ALL DEFENDANTS)

5 41. Plaintiff hereby incorporates by this reference  
6 paragraphs 1 through 40 set forth above as if fully set forth  
7 herein at this point.

8 42. Plaintiff disclosed his idea and concept to LEE,  
9 MÖTLEY CRÛE, MÖTLEY CRÛE TOURING, their agents, and DOES 21-40,  
10 after advising them of his expectation of receiving compensation  
11 if the idea and concept was used by them.

12 43. By using the idea and concept of the Tommy Lee Loop  
13 Coaster, LEE, MÖTLEY CRÛE, MÖTLEY CRÛE TOURING and DOES 21-40,  
14 expressly and impliedly agreed to compensate Plaintiff KING for  
15 such use.

16 44. LEE, MÖTLEY CRÛE, MÖTLEY CRÛE TOURING and DOES 21-40  
17 have breached such express and implied promises by using the Tommy  
18 Lee Loop Coaster idea and concept, but failing and refusing to  
19 compensate KING for such use.

20 45. As a proximate result of such breach, KING has suffered  
21 damages in an amount to be determined at the time of the trial of  
22 this matter.

23 WHEREFORE, Plaintiff prays for judgment against Defendants,  
24 and each of them, as follows:

25 **ON THE FIRST CAUSE OF ACTION**

26 1. For general damages in excess of Four Hundred Thousand  
27 Dollars (\$400,000.00) in an amount to be proven at the  
28 time of the trial of this matter;

- 1           2.    In the alternative, for reasonable royalties in an
- 2                    amount not less than five percent (5%) of the gross
- 3                    proceeds received by Defendants, and each of them, as a
- 4                    result of the misappropriation of Plaintiff's trade
- 5                    secret;
- 6           3.    For a temporary restraining order, a preliminary
- 7                    injunction, and a permanent injunction requiring
- 8                    Defendants, and each of them, and those acting in
- 9                    concert with said Defendants, from continuing
- 10                  misappropriation of Plaintiff's trade secret;
- 11           4.    For attorney's fees according to law;
- 12           5.    For punitive or treble damages;

13           **ON THE SECOND CAUSE OF ACTION**

- 14           6.    For general damages in an amount in excess of Four
- 15                    Hundred Thousand Dollars (\$400,000.00) according to
- 16                    proof at trial;
- 17           7.    For punitive damages in an amount according to proof at
- 18                    trial;

19           **ON THE THIRD CAUSE OF ACTION**

- 20           8.    For full restitution and/or disgorgement of all
- 21                    revenues, earnings, profits, compensation and benefits
- 22                    that may have been obtained by Defendants, and each of
- 23                    them, as a result of the unfair business acts or
- 24                    practices according to proof;
- 25           9.    For a temporary restraining order, a preliminary
- 26                    injunction, and a permanent injunction requiring
- 27                    Defendants, and each of them, and those acting in
- 28                    concert with said Defendants, from continuing

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misappropriation of Plaintiff's trade secret;

**ON THE FOURTH CAUSE OF ACTION**

- 10. For a complete accounting of the income generated from the use of the Tommy Lee Loop Coaster by Defendants, and each of them;
- 11. For an order that Defendants, and each of them, pay to Plaintiff all sums due to Plaintiff pursuant to such accounting;

**ON THE FIFTH CAUSE OF ACTION**


- 12. For damages proximately caused by the breach of the express and implied promises to pay Plaintiff for the use of his idea and concept;

**ON ALL CAUSES OF ACTION**

- 13. For prejudgment interest according to law;
- 14. For costs of suit herein; and
- 15. For such other and further relief as the court may deem appropriate.

DATED: September 24, 2012

HART, WATTERS & CARTER, A  
PROFESSIONAL LAW CORPORATION

By:   
 THOMAS L. WATTERS, ESQ.,  
 attorneys for Plaintiff HOWARD  
 SCOTT KING, formerly dba,  
 STAGES 'N' MOTION