

ESTTA Tracking number: **ESTTA765712**

Filing date: **08/19/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92064019
Party	Defendant Amusement Art , LLC
Correspondence Address	AMUSEMENT ART LLC 1110 SEWARD STREET LOS ANGELES, CA 90038 UNITED STATES amusementart@gmail.com, debora@itsawonderful-world.com, mi- kael@iawworld.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Michaelangelo Loggia
Filer's e-mail	michael@iawworld.com
Signature	/Michaelangelo Loggia/
Date	08/19/2016
Attachments	DOC081916-08192016162510.pdf(1465405 bytes ) Exhibit A.pdf(523063 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD

LIFE IS BEAUTIFUL, LLC, Petitioner,  V.  AMUSEMENT ART, LLC, Registrant.	Cancellation No.: 92064019  Mark: LIFE IS BEAUTIFUL Reg. No.: 4,971,412 Issued: June 7, 2016
--	--

**REGISTRANT'S  
MOTION TO SUSPEND  
CANCELLATION PROCEEDING**

Registrant respectfully moves the Trademark Trial and Appeal Board (“T.T.A.B.”) to suspend all proceedings in the above-captioned Cancellation proceeding, pending the final outcome of a pending litigation between the parties in the United States District Court for the Central District of California, Western Division, involving virtually identical subject matter, facts, and evidence, between the same parties.

**FACTUAL BACKGROUND**

Registrant and Petitioner are currently involved in a dispute in the United States District Court for the Central District of California, Western Division, captioned *Amusement Art, LLC v. Life is Beautiful, LLC, et al.*, Case No. 2-14-cv-08290-DDP-JPR (the “Civil Action”). Attached hereto as **Exhibit A**, are true and correct copies of the First Amended Complaint filed by Registrant in the Civil Action, and Petitioner’s Answer and Counterclaims to Registrant’s First Amended Complaint in the Civil Action.

As evident from the face of the pleadings themselves, the Civil Action raises the issues of whether the Petitioner and a related company are infringing upon Registrant’s trademark, LIFE IS BEAUTIFUL, the same trademark that is the subject of the Cancellation proceeding brought by Petitioner. The Civil Action also relates to the legal and equitable rights of both Registrant and Petitioner with respect to the mark, LIFE IS BEAUTIFUL.

In the Civil Action, Registrant filed an action against Petitioner for trademark infringement, among other claims, and Petitioner filed a counterclaim to cancel eight (8) trademark registrations owned by Registrant for the mark, LIFE IS BEAUTIFUL (the “Eight Registrations”), on the basis that the Eight Registrations were obtained by Registrant through fraud.

The Eight Registrations were filed by Patrick Guetta and Debora Guetta on behalf of the Registrant. Patrick Guetta and Debora Guetta are not attorneys, they are not from the United States, and English is not their native language. It recently came to the attention of the Registrant that the Eight Registrations contained inadvertent errors – attributable to the honest mistakes of such lay applicants – at which point the Registrant acted in good faith by promptly and voluntarily surrendering the Eight Registrations. In the Civil Action, Petitioner contends that Registrant committed fraud on the Trademark Office.

#### **LEGAL ARGUMENT**

Because the final outcome of the Civil Action will yield a construction of both the Petitioner’s and the Registrant’s rights that would undoubtedly affect the present Cancellation proceeding, or obviate the need for the Cancellation proceeding, to conserve both public and private resources litigating duplicative matters in different *fora*, the Registrant respectfully requests suspension of the present Cancellation proceeding pending a final resolution of the pending Civil Action between the Registrant and the Petitioner.

The Trademark Trial and Appeal Board Manual of Procedure (“T.B.M.P.”), June 2016, expressly provides in Section 510.02(a), 37 C.F.R. Section 2.117(a):

Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or other Board proceeding.

It is worth noting that decisions of federal district courts are binding on the T.T.A.B., but not *vice-versa*. 15 U.S.C. § 1119. Thus, the Board itself has frequently noted that suspension of administrative *inter partes* proceedings in the T.T.A.B. makes perfect sense when a related civil action is pending because “[a] decision by the district court may be binding on the Board whereas a

determination by the Board as to a defendant's right to obtain or retain a registration would not be binding or *res judicata* in respect to the proceeding pending before the court." New Orleans Louisiana Saints LLC v. Who Dat? Inc., 99 U.S.P.Q.2d 1550, 1552 (T.T.A.B. 2011), citing Whopper-Burger, Inc. v. Burger King Corp., 171 U.S.P.Q. 805, 805 (T.T.A.B. 1971); see also General Motors Corp. v. Cadillac Club Fashions Inc., 22 U.S.P.Q.2d 1933, 1936-37 (T.T.A.B. 1992) (Motion to suspend Board proceedings granted because "[a] decision by the district court will be dispositive of the issues before the Board."); Toro Co. v. Hardigg Industries, Inc., 187 U.S.P.Q. 689, 692 (T.T.A.B. 1975), rev'd on other grounds, 549 F.2d 785 (C.C.P.A. 1977) (noting Board's suspension of proceedings pending outcome of pending infringement action in district court); Other Telephone Co. v. Connecticut National Telephone Co., 181 U.S.P.Q. 125, 126-27 (T.T.A.B. 1974); petition denied, 181 U.S.P.Q. 779 (Comm'r 1974); Tokaido v. Honda Associates Inc., 179 U.S.P.Q. 861, 862 (T.T.A.B. 1973).

Because the Civil Action and the Cancellation raise virtually identical factual and legal issues between the exact same parties, the above-captioned Cancellation proceeding should be suspended.

In any event, the issues presented in the Civil Action between the parties in the District Court need not be identical, but only have a "bearing" on the outcome of the T.T.A.B. proceeding to justify suspension. See, e.g., Other Telephone Co. v. Connecticut National Telephone Co., 181 U.S.P.Q. 125, 126-27 (T.T.A.B. 1974) (decision in civil action for infringement and unfair competition would have bearing on outcome of Trademark Act § 2(d) claim before Board), pet. denied, 181 U.S.P.Q. 779 (Comm'r 1974); see also New Orleans Louisiana Saints LLC v. Who Dat? Inc., 99 U.S.P.Q.2d 1550, 1552 (T.T.A.B. 2011) (civil action need not be dispositive of Board proceeding, but only needs to have a bearing on issues before the Board); General Motors Corp v. Cadillac Club Fashions, Inc., 22 U.S.P.Q.2d 1933, 1936-37 (T.T.A.B. 1992) (relief sought in federal district court included an order directing Office to cancel registration involved in Cancellation proceeding); see also Tokaido v. Honda Associates Inc., 179 U.S.P.Q. 861, 862 (T.T.A.B. 1973); Whopper-Burger, Inc. v. Burger King Corp., 171 U.S.P.Q. 805, 806-07 (T.T.A.B. 1971); Martin Beverage Co. Colita Beverage Corp., 169 U.S.P.Q. 568, 570 (T.T.A.B. 1971).

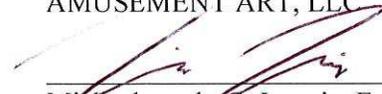
Disposition of the Civil Action will determine whether Registrant or Petitioner holds superior rights to the mark, LIFE IS BEAUTIFUL. Thus, the issues presented in the Civil Action should have a direct bearing on the Cancellation proceeding filed by Petitioner.

Therefore, Registrant respectfully moves that the above-captioned Cancellation proceeding be suspended, pending the final outcome of the Civil Action.

August 19, 2016

Respectfully submitted,

AMUSEMENT ART, LLC



---

Michaelangelo G. Loggia, Esq.  
1110 Seward Street  
Los Angeles, CA 90038  
Telephone: 323-465-2626 x101  
Email: [michael@iawworld.com](mailto:michael@iawworld.com)

Attorneys for Registrant

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing REGISTRANT'S MOTION TO SUSPEND CANCELLATION PROCEEDING was served by first class mail, postage prepaid, on this 19th day of August, 2016, upon Petitioner and Petitioner's counsel at the following addresses of record as identified:

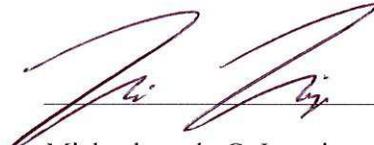
PETITIONER – PTO ADDRESS:

Life is Beautiful, LLC  
302 E. Carson Avenue, Second Floor  
Las Vegas, NV 98101

PETITIONER'S COUNSEL:

Lori N. Boatright  
Blakely Sokoloff Taylor & Zafman LLP  
12400 Wilshire Boulevard, 7th Floor  
Los Angeles, CA 90025

Dated: August 19, 2016



---

Michaelangelo G. Loggia

# EXHIBIT A

1 FARHAD NOVIAN (SBN 118129)  
 2 [Farhad@NovianLaw.com](mailto:Farhad@NovianLaw.com)  
 3 JOSEPH A. LOPEZ (SBN 268511)  
 4 [Joseph@NovianLaw.com](mailto:Joseph@NovianLaw.com)  
 5 SHARON RAMINFARD (SBN 278548)  
 6 [Sharon@NovianLaw.com](mailto:Sharon@NovianLaw.com)  
 7 **NOVIAN & NOVIAN, LLP**  
 8 **1801 Century Park East, Suite 1201**  
 Los Angeles, California 90067  
 Telephone: (310) 553-1222  
 Facsimile: (310) 553-0222

9 Attorney for Plaintiff AMUSEMENT ART, LLC

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
 FOR THE CENTRAL DISTRICT OF CALIFORNIA**

AMUSEMENT ART, LLC,  
 Plaintiff,  
 v.  
 LIFE IS BEAUTIFUL, LLC;  
 DOWNTOWN LAS VEGAS  
 MANAGEMENT LLC; LIVE NATION  
 ENTERTAINMENT, INC.;  
 TICKETMASTER, L.L.C.; and DOES 1-  
 10, inclusive,  
 Defendants.

CASE NO.: 2:14-cv-08290-DDP-JPR

[Assigned for all purposes to the  
Honorable Dean D. Pregerson, Judge  
Presiding]

**FIRST AMENDED COMPLAINT FOR:**

1. Trademark Infringement Under §32(1) of the Lanham Act;
2. Unfair Competition, False Designation Of Origin, Passing Off And False Advertising Under Lanham Act § 43(a);
3. Copyright Infringement;
4. Unfair Competition in Violation of Bus. & Prof. Code § 17200, et seq.;
5. Common Law Trademark Infringement and Unfair Competition; and
6. Declaratory Relief

**JURY TRIAL DEMANDED**

1 **JURISDICTION AND VENUE**

2 1. The Court has original subject matter jurisdiction over plaintiff’s federal  
3 claims pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1338(a) since the complaint  
4 involves issues arising under a federal statute, the Lanham Act. The Court has  
5 original subject matter jurisdiction over Plaintiff’s federal claims arising under the  
6 Copyright Act of 1976, Title 17 U.S.C., § 101 et seq. under 28 U.S.C. § 1331(m),  
7 1338 (a) and (b). The Court also has original subject matter jurisdiction over  
8 plaintiff’s federal claims pursuant to 28 U.S.C. § 1332(a)(1) because this action is  
9 between citizens of different states and the amount in controversy exceeds \$75,000.  
10 The Court also has supplemental subject matter jurisdiction over plaintiff’s state law  
11 claims under principles of pendent jurisdiction and pursuant to 28 U.S.C. § 1367(a).

12 2. This Court has personal jurisdiction over the defendants because the  
13 events or omissions giving rise to the claim occurred, the tortious acts occurred, and a  
14 substantial part of the injury took place and continues to take place, in this judicial  
15 district.

16 3. Venue is proper in the United States District Court for the Central District  
17 of California pursuant to 28 U.S.C §§ 1391(b), 1391(c), and 1400(a) as this is a  
18 judicial district in which a substantial part of the events giving rise to the claims  
19 occurred the tortious acts occurred, and a substantial part of the injury took place and  
20 continues to take place.

21 **PARTIES**

22 4. Plaintiff Amusement Art, LLC (“Plaintiff”) is, and at all times relevant  
23 hereto was, a limited liability company organized and existing under the laws of the  
24 State of California and at all times relevant herein was and is doing business in this  
25 judicial district.

26 5. Upon information and belief, defendant Life Is Beautiful, LLC (“LIB”) is,  
27 and at all times relevant hereto was, a limited liability company organized and  
28 existing under the laws of the State of Nevada and at all times relevant herein was and

1 is doing business in this judicial district.

2           6. Upon information and belief, defendant Downtown Las Vegas  
3 Management LLC (“Management”) is, and at all times relevant hereto was, a limited  
4 liability company organized and existing under the laws of the State of Nevada and at  
5 all times relevant herein was and is doing business in this judicial district. Upon  
6 information and belief, Management is the manager of LIB.

7           7. Upon information and belief, defendant Live Nation Entertainment, Inc.  
8 (“Live Nation”) is, and at all times relevant hereto was, a Delaware corporation with  
9 its principal place of business in Beverly Hills, California, and at all times relevant  
10 herein was and is doing business in this judicial district.

11           8. Upon information and belief, defendant Ticketmaster, L.L.C.  
12 (“Ticketmaster”) is, and at all times relevant hereto was, a Virginia limited liability  
13 company with its principal place of business in Beverly Hills, California, and at all  
14 times relevant herein was and is doing business in this judicial district.

15           9. Plaintiff is presently unaware of the true names and identities of Does 1-  
16 10 and will seek leave to amend this complaint when their true names become known  
17 to Plaintiff.

18           10. Plaintiff is informed and believes and based thereon alleges that in  
19 committing the acts complained of herein, defendants LIB, Management, Live Nation,  
20 Ticketmaster, and the Doe defendants (collectively, “Defendants”), and each of them,  
21 acted in concert and conspiracy with each other.

22           11. Plaintiff is informed and believes and based thereon alleges, that  
23 Defendants are the alter egos of each other, are characterized by a unity of interest in  
24 ownership and control among themselves such that any individuality and separateness  
25 between them have ceased; that each is, and at all relevant times was, a mere shell  
26 instrumentality and conduit through which the other defendants carried on their  
27 business; and that these Defendants completely controlled, dominated, managed, and  
28 operated each other's business to such an extent that any individuality or separateness

1 of the defendants does not and did not exist, and that defendants intermingled the  
2 assets of each to suit the convenience of themselves in order to evade payment of  
3 obligations and legal liability.

4 12. Plaintiff is informed and believes, and on such information and belief  
5 alleges, that adherence to the fiction of separate existence of these Defendants as  
6 entities distinct and separate from one another would promote injustice in that some of  
7 these Defendants are inadequately capitalized, have used the other Defendants as a  
8 mere shell, simply to transfer the earnings of one another while attempting to avoid  
9 legal liability. As such, Plaintiff is informed and believes, and on such information  
10 and belief alleges, that the Defendants are the alter egos of each other and are  
11 responsible in damages to Plaintiff, to the full extent of all other Defendants' liability.

12 **BACKGROUND**

13 13. Thierry Guetta aka Mr. Brainwash ("Mr. Guetta") is a prominent artist  
14 whose work has received significant press in numerous publications around the world.  
15 As a result of his innovative artwork and efforts, Mr. Guetta has received many  
16 awards and has gained recognition as an industry leader in developing and exhibiting  
17 creative artwork that has gained widespread popularity and demand among  
18 consumers.

19 14. Mr. Guetta has an ownership interest in Plaintiff and Plaintiff is the  
20 registered owner of various trademarks and copyrights created by Mr. Guetta.

21 **The "Life Is Beautiful" Trademark**

22 15. Its A Wonderful World, Inc. ("Wonderful World") is a California  
23 corporation in which Mr. Guetta has an ownership interest.

24 16. In June 2008, Wonderful World held an art show in Los Angeles,  
25 California that was called and known among the public as "LIFE IS BEAUTIFUL", in  
26 which artwork that Mr. Guetta had created was prominently showcased. The event  
27 was highly advertised and received a great amount of unsolicited media attention  
28 throughout the United States.





1           28. In or about May 2013, Defendants contacted Plaintiff regarding Plaintiff's  
2 rights in the name LIFE IS BEAUTIFUL and the use by Defendants of the same name  
3 for their art and entertainment show. Plaintiff informed Defendants that Defendants'  
4 use of the name LIFE IS BEAUTIFUL infringed upon Plaintiff's Mark and that  
5 Defendants' use of the splashed paint heart designs infringed upon Plaintiff's Heart  
6 Designs, and that Plaintiff did not consent to such use.

7           29. Despite a series of correspondence and meetings between Plaintiff and  
8 Defendant between May 2013 and September 2014, Plaintiff never agreed to  
9 Defendants' use of the Marks or Heart Designs.

10           30. In mid-September 2014, Plaintiff learned, to its great surprise, that  
11 Defendants, without Plaintiff's consent or knowledge, filed four (4) USPTO  
12 Trademark Applications bearing Serial Nos. 86367025, 86367058, 86366989, and  
13 86366959 for the Infringing Marks in International Class 41 for "Organizing  
14 community festivals featuring primarily music performances and exhibitions and also  
15 providing art exhibitions, film, fashion shows and exhibitions, food and wine tastings,  
16 wine festivals, and live entertainment shows in the nature of speaking performances"  
17 with filing dates of August 14, 2014 (the "Infringing Applications").

18           31. Plaintiff's use of the Marks and the creation and use of the Heart Designs  
19 precedes Defendants use of said marks or any marks confusingly or substantially  
20 similar thereto. Defendants' Infringing Applications list dates of first use in late 2012,  
21 approximately four (4) years after the date of first use in Plaintiff's Application and  
22 approximately three (3) years after the date of Plaintiff's Copyright Registration.

23           32. Upon learning about the Infringing Applications, it became apparent to  
24 Plaintiff that Defendants intended to use the Infringing Marks at their upcoming art  
25 and entertainment show, planned for October 24 through 26, 2014, even without  
26 Plaintiff's consent.

27           33. Even after filing the Infringing Applications, Defendants continued to  
28 contact Plaintiff in a purported effort to acquire Plaintiff's consent to use the

1 Infringing Marks. Defendants, however, at no time mentioned to Plaintiff that they  
2 have filed the Infringing Applications.

3 34. In or about late September 2014, Defendants sent Plaintiff a written  
4 proposal whereby Defendants would make a payment to Plaintiff in return for the  
5 rights to use the name LIFE IS BEAUTIFUL in connection with Defendants' art and  
6 entertainment shows as well as various merchandise. However, no payment amount  
7 was proposed.

8 35. Plaintiff did not accept Defendants' written proposal and no agreement of  
9 any sort was ever reached.

10 36. On or about October 21, 2014, Plaintiff once again informed Defendants,  
11 in writing, that it does not consent to Defendants' use of the Infringing Marks in  
12 connection with Defendants' upcoming festival.

13 37. However, Defendants still held their show on October 24, 2014 and made  
14 use of the Infringing Marks in connection therewith. Upon information and belief,  
15 Defendants will similarly hold its show as planned on October 25 and 26, 2014 and  
16 will continue to make use of the Infringing Marks in such manner.

17 **Live Nation and Ticketmaster**

18 38. Upon information and belief, defendant Live Nation is the largest live  
19 entertainment company. Among other things, Live Nation and Ticketmaster operate  
20 everything from concert promotions, venue operations, sponsorship, and ticketing.

21 39. Upon information and belief, from in or about 2012, Live Nation and  
22 Ticketmaster sponsored, promoted, advertised, organized, produced, facilitated and/or  
23 sold tickets in connection with Defendants' infringing art and entertainment shows,  
24 and continues to do so to date. In connection with such actions, Live Nation and  
25 Ticketmaster directly made substantial and material use of the Infringing Marks.

26 40. Upon information and belief, on or about May 27, 2013 and on or about  
27 June 12, 2014, Ticketmaster and LIB entered into User Agreements whereby  
28 Ticketmaster agreed to and did provide various services to Defendants, including but

1 not limited to ticketing services for Defendants' infringing shows.

2 41. Upon information and belief, Defendants Live Nation and Ticketmaster  
3 have displayed and, to date, continue to display the Infringing Marks (both the "Life  
4 Is Beautiful" mark and the splashed paint heart design) in connection with  
5 Defendants' infringing art and entertainment shows on their websites,  
6 [www.livenation.com](http://www.livenation.com) and [www.ticketmaster.com](http://www.ticketmaster.com), which, among other things, provide  
7 the public with detailed information about, reviews of, and/or photos of the shows.

8 42. Upon information and belief, Live Nation and Ticketmaster have also  
9 displayed, and, to date, continue to display the Infringing Marks in connection with  
10 Defendants' infringing shows on printed matter including, without limitation, printed  
11 tickets and advertisements.

12 43. Upon information and belief, at all times relevant herein, Live Nation and  
13 Ticketmaster made use of the Infringing Marks with knowledge and/or constructive  
14 knowledge of Plaintiff's rights in the Marks and Heart Designs.

15 44. Defendants have engaged in such infringing and tortious conduct in an  
16 illicit effort to unfairly exploit the popularity and fame of Plaintiff's Marks and Heart  
17 Designs by causing confusion among consumers as to the source of its products and  
18 shows and to cause false association or approval by Plaintiff of Defendants' products  
19 and shows. Although Plaintiff has repeatedly notified Defendants of their infringing  
20 and tortious conduct, Defendants continue to engage in such willful infringing and  
21 tortious acts.

22 **FIRST CAUSE OF ACTION**

23 **(Trademark Infringement Under §32(1) of the Lanham Act - Against All**  
24 **Defendants)**

25 45. Plaintiff repeats, reiterates and re-alleges each and every allegation  
26 contained in paragraphs designated 1 through 44, inclusive, of this Complaint, as if  
27 fully set forth herein at length. Plaintiff owns the trademark rights in the Registrations  
28 which have acquired federal registration with the USPTO.

1           46. Defendants have used, and intend to continue to use the Infringing Marks,  
2 which are confusingly similar to the Registrations to capitalize on Plaintiff's goodwill  
3 associated therewith in order to attract customers.

4           47. Defendants' use of the Infringing Marks, or other confusingly similar  
5 imitations of Plaintiff's Registrations, is willful and deliberate and with an intent to  
6 reap the benefit of Plaintiff's goodwill.

7           48. Defendants' use of the Infringing Marks, or other confusingly similar  
8 imitations of Plaintiff's Registrations, is likely to continue to cause, confusion among  
9 the public about whether Plaintiff has authorized or endorsed the Defendants' goods  
10 and services, and about whether Plaintiff is affiliated with the Defendants' goods and  
11 services.

12           49. Defendants' use of the Infringing Marks, or other confusingly similar  
13 imitations of Plaintiff's Registrations, in connection with goods and services  
14 unconnected to that of Plaintiff and without the authorization of Plaintiff infringes  
15 Plaintiff's exclusive rights in its trademark in violation of § 32(1) of the Lanham Act,  
16 15 U. S.C. § 1114(1), in that the public is likely to be confused, deceived or mistaken  
17 regarding the source or sponsorship of Defendants' goods and services, or to  
18 erroneously believe that Defendants' goods and services emanate from or are  
19 authorized by Plaintiff, or to believe that Plaintiff is the creator of, or has otherwise  
20 affiliated with the Defendants' goods and services.

21           50. Defendants' actions, as alleged herein, constitute direct, contributory,  
22 and/or vicarious trademark infringement.

23           51. Defendants' acts of trademark infringement have caused and are causing  
24 great and irreparable injury to Plaintiff and to the Registrations and to the business  
25 and goodwill represented thereby, in an amount that cannot be ascertained at this time  
26 and, unless restrained, will cause further irreparable injury, leaving Plaintiff with no  
27 adequate remedy at law.

28 ///



1 products, and about whether Plaintiff is affiliated with Defendants and its imposter  
2 shows and products.

3 60. By engaging in the activities described above, Defendants have made and  
4 is making false, deceptive and misleading statements constituting false designation of  
5 origin, passing off, false advertising and unfair competition in violation of Section  
6 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

7 61. Defendants' acts of unfair competition, false designation of origin,  
8 passing off and false advertising are willful, deliberate and fraudulent, and without  
9 extenuating circumstances, and with an intent to reap the benefit of Plaintiff's name,  
10 goodwill and reputation.

11 62. Defendants' acts of unfair competition, false designation of origin,  
12 passing off and false advertising have caused irreparable injury to Plaintiff's goodwill  
13 and reputation in an amount that cannot be ascertained at this time and, unless  
14 restrained, will cause further irreparable injury, leaving Plaintiff with no adequate  
15 remedy at law.

16 63. By reason of the foregoing, Plaintiff is entitled to injunctive relief against  
17 Defendants, permanently restraining further acts of unfair competition, false  
18 designation of origin, passing off and false advertising, and, after trial, to recover any  
19 damages proven to have been caused by reason of Defendants' aforesaid acts of unfair  
20 competition, false designations of origin, passing off and false advertising, together  
21 with all other remedies available under the Lanham Act, including, but not limited to,  
22 treble damages, disgorgement of profits, costs and attorney's fees.

23 **THIRD CAUSE OF ACTION**

24 **(For Copyright Infringement - Against All Defendants)**

25 64. Plaintiff repeats, reiterates and re-alleges each and every allegation  
26 contained in paragraphs designated 1 through 44, inclusive, of this Complaint, as if  
27 fully set forth herein at length.

28 ///

1           65. Plaintiff is the owner of the copyrights in the Heart Designs and the owner  
2 of the Copyright Registration, as alleged herein.

3           66. Defendants, and each of them, had access to the Heart Designs, including,  
4 without limitation, through (a) access to Plaintiff's art shows; and (b) access Plaintiff's  
5 artwork.

6           67. Plaintiff is informed and believes and thereon alleges that Defendants  
7 infringed Plaintiff's Heart Designs by using substantially similar splashed paint heart  
8 designs in connection with their art and entertainment shows. Such use includes,  
9 without limitation, use of said designs on the websites, [www.lifeisbeautiful.com](http://www.lifeisbeautiful.com),  
10 [www.livenation.com](http://www.livenation.com), [www.ticketmaster.com](http://www.ticketmaster.com), social media sites such as Facebook,  
11 Instagram, and Twitter, advertisements, signage and merchandise including, but not  
12 limited to, posters and clothing.

13           68. Defendants' actions, as alleged herein, constitute direct, contributory,  
14 and/or vicarious copyright infringement.

15           69. Due to Defendants' acts of copyright infringement as alleged herein,  
16 Plaintiff has suffered general and special damages in an amount to be established at  
17 trial.

18           70. Due to Defendants' acts of copyright infringement as alleged herein,  
19 Defendants have obtained direct and indirect profits it would not otherwise have  
20 realized but for its infringement of the copyright. As such, Plaintiff is entitled to  
21 disgorgement of Defendants' profits directly and indirectly attributable to Defendants'  
22 infringement of the Heart Designs in an amount to be established at trial.

23           71. Defendants began such wrongful activities with full knowledge of  
24 Plaintiff's superior rights to the copyrights in the Heart Designs and continued such  
25 wrongful activities after being placed on notice by Plaintiff that its activities were  
26 wrongful and infringing.

27 ///

28 ///









1 the Marks and Heart Designs, or any copies, simulations, variations or colorable  
2 imitations thereof on or in connection with the offering of any goods or service  
3 associated with any art or entertainment show or any other goods and services for  
4 which Plaintiff has acquired prior rights, including but not limited to the Marks, he  
5 Heart Designs and the Application;

6 (ii) Using, authorizing, maintaining or making available for use or aiding  
7 in any way any third party to use or copy the Marks, Application, and Heart Designs  
8 or from otherwise infringing the Marks and Heart Designs;

9 (iii) Using, any trademark, trade name, logo, business name, computer  
10 address or other identifier, or acting in any fashion, which may be calculated to falsely  
11 represent that the goods or services provided, promoted or offered by Defendants are  
12 sponsored by, authorized by, licensed by, or in any other way associated with  
13 Plaintiff;

14 (iv) Aiding, assisting or abetting any other party in doing any act  
15 prohibited by any of the above sub-paragraphs;

16 (v) Committing any other act that falsely represents, or that has the effect  
17 of falsely representing, that the goods and services of Defendants is licensed by,  
18 authorized by, offered by, produced by, sponsored by, or in any way associated or  
19 affiliated with Plaintiff;

20 2. An Order directing that Defendants abandon each of its existing and  
21 pending USPTO Trademark Applications bearing Serial Nos. 86367025, 86367058,  
22 86366989, and 86366959 and refrain from filing any trademark applications for, or  
23 making any use of, such marks or any other marks confusingly similar to the Marks or  
24 Heart Designs in the future;

25 3. Directing that Defendants file with the Court and serve upon Plaintiff's  
26 counsel within thirty (30) days after entry of Judgment a report in writing under Oath  
27 setting forth in detail the manner and form in which the Defendants have complied  
28 with the requirements of the Injunction and Order.

1           4.     Directing that Defendants account for all gains, profits, and advantages  
2 derived from its acts of infringement;

3           5.     A judgment in Plaintiff’s favor declaring that Plaintiff is the owner of the  
4 Marks, Application, and Heart Designs, that they are valid and enforceable marks, and  
5 that Defendants have no interest therein.

6           6.     Directing such other relief as the Court may deem appropriate to prevent  
7 the public from deriving the erroneous impression that any goods or services provided  
8 by or promoted by Defendants is authorized by Plaintiff or related in any way to  
9 Plaintiff, its products or its services.

10          7.     Awarding Plaintiff: (i) All of the Defendants’ profits, gains and  
11 advantages derived from the unauthorized use of the Marks and Heart Designs or any  
12 imitation or simulation thereof, and that such sums be trebled; (ii) All damages  
13 sustained by Plaintiffs by reason of Defendants’ acts of trademark infringement,  
14 dilution and unfair competition, and that such damages be trebled; (iii) Exemplary and  
15 punitive damages as the court finds appropriate to deter any future willful conduct,  
16 and (iv) Interest, including prejudgment interest, on the foregoing sums.

17          8.     Awarding to Plaintiff its attorney’s fees and costs incurred by reason of  
18 Defendants’ violations;

19          9.     Directing such other relief as the Court may deem appropriate to prevent  
20 the Defendants from participating in this or other trademark infringements.

21           **On the Third Cause of Action:**

22          10.    That Defendants, their agents and servants be enjoined from creating or  
23 using any splashed heart designs or other designs that are substantially similar to the  
24 Heart Designs, including but not limited to in connection with the Infringing Marks,  
25 or in their fashion and art shows;

26 ///

27 ///

28 ///

1           11. That Plaintiff be awarded all profits of Defendants plus all losses of  
2 Plaintiff, the exact sum to be proven at the time of trial, or, if elected before final  
3 judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et  
4 seq.;

5           12. That Plaintiff be awarded his attorneys' fees as available under the  
6 Copyright Act 17 U.S.C. § 101 et seq.;

7           13. Directing such other relief as the Court may deem appropriate to prevent  
8 the Defendants from participating in this or other copyright infringements; and

9           14. Such other relief as the Court may deem appropriate.

10           **On the Fourth Cause of Action:**

11           15. Preliminary and permanent injunctive relief ordering Defendants to cease  
12 their unfair competition.

13           16. Disgorgement of any and all of Defendants' profits associated with this  
14 unfair competition.

15           17. Such other and further relief as the Court may deem just and proper.

16           **On the Sixth Cause of Action:**

17           18. A determination that Plaintiff's Marks and Heart Designs had prior use to  
18 the Defendants' Infringing Marks, and that the Infringing Marks are confusingly  
19 similar.

20           19. An Order directing that Defendants abandon each of its existing and  
21 pending USPTO Trademark Applications bearing Serial Nos. 86367025, 86367058,  
22 86366989, and 86366959 and refrain from filing any trademark applications for, or  
23 making any use of, such marks or any other marks confusingly similar to the Marks or  
24 Heart Designs in the future;

25           20. A determination that Defendants' use of splashed heart designs on the  
26 Infringing Marks infringes upon Plaintiff's copyrights in the Heart Designs.

27           21. An order directing that Defendants refrain from filing any copyright  
28 applications for, making any use of, or creating any such designs or substantially

1 similar designs in the future, including but not limited to such use on the Infringing  
2 Marks.

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Date: November 20, 2015

NOVIAN & NOVIAN, LLP

By: /s/ Farhad Novian  
Attorney for Plaintiff  
AMUSEMENT ART, LLC

**JURY DEMAND**

Plaintiff hereby demands a jury trial of all issues so triable.

Respectfully submitted,

Date: November 20, 2015

NOVIAN & NOVIAN, LLP

By: /s/ Farhad Novian  
Attorney for Plaintiff  
AMUSEMENT ART, LLC

1 TAMERLIN J. GODLEY (State Bar No. 194507)  
tamerlin.godley@mto.com  
2 SAMUEL T.S. BOYD (State Bar No. 297748)  
samuel.boyd@mto.com  
3 MUNGER, TOLLES & OLSON LLP  
355 South Grand Avenue  
4 Thirty-Fifth Floor  
Los Angeles, California 90071-1560  
5 Telephone: (213) 683-9100  
Facsimile: (213) 687-3702

6 Attorneys for Defendants  
7 LIFE IS BEAUTIFUL, LLC and  
DOWNTOWN LAS VEGAS MANAGEMENT LLC  
8

9  
10 UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION  
11

12 AMUSEMENT ART, LLC,

13 Plaintiff,

14 vs.

15 LIFE IS BEAUTIFUL, LLC;  
16 DOWNTOWN LAS VEGAS  
MANAGEMENT LLC; AND DOES 1-  
17 10, inclusive,

18 Defendants.  
19

Case No. 2-14-cv008290-DDP-JPR

**ANSWER AND COUNTERCLAIM  
OF DEFENDANTS LIFE IS  
BEAUTIFUL, LLC AND  
DOWNTOWN LAS VEGAS  
MANAGEMENT LLC TO  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT;**

**DEMAND FOR JURY TRIAL**

Judge: Hon. Dean D. Pregerson

Trial Date: July 19, 2016

20  
21 Answer

22 Defendants Life is Beautiful, LLC and Downtown Las Vegas Management,  
23 LLC (collectively "LIB") hereby answer the First Amended Complaint of Plaintiff  
24 Amusement Art, LLC as follows:

25 1. LIB does not contest the Court's jurisdiction over the claims in the First  
26 Amended Complaint at this time. Except as otherwise admitted herein, the  
27 allegations in Paragraph 1 are denied.  
28

1           2.     LIB does not contest that this Court has personal jurisdiction over LIB  
2 at this time for this matter. Except as otherwise admitted herein, the allegations in  
3 Paragraph 2 are denied.

4           3.     LIB does not contest venue in this Court at this time for this matter.  
5 Except as otherwise admitted herein, the allegations in Paragraph 3 are denied.

6           4.     LIB lacks knowledge or information sufficient to form a belief about  
7 the truth of the allegations in Paragraph 4.

8           5.     LIB admits that Life Is Beautiful, LLC is a limited liability company  
9 organized and existing under the laws of the State of Nevada. Except as otherwise  
10 admitted herein, the allegations in Paragraph 5 are denied.

11          6.     LIB admits that Downtown Las Vegas Management LLC is a limited  
12 liability company organized and existing under the laws of the State of Nevada.  
13 LIB further admits that Downtown Las Vegas Management LLC is a manager of  
14 Life is Beautiful, LLC. Except as otherwise admitted herein, the allegations in  
15 Paragraph 6 are denied.

16          7.     LIB lacks knowledge or information sufficient to form a belief about  
17 the truth of the allegations in Paragraph 7.

18          8.     LIB lacks knowledge or information sufficient to form a belief about  
19 the truth of the allegations in Paragraph 8.

20          9.     LIB lacks knowledge or information sufficient to form a belief about  
21 the truth of the allegations in Paragraph 9.

22          10.    LIB denies the allegations in Paragraph 10.

23          11.    LIB denies the allegations in Paragraph 11.

24          12.    LIB denies the allegations in Paragraph 12.

25          13.    LIB admits that Mr. Guetta is an artist who sometimes refers to himself  
26 as Mr. Brainwash. LIB lacks knowledge or information sufficient to form a belief  
27 about the truth of the remaining allegations in Paragraph 13.

28

1           14. LIB admits that Amusement Art is listed on the U.S. Patent and  
2 Trademark Office Database as owning certain trademarks. LIB lacks knowledge or  
3 information sufficient to form a belief about the truth of the remaining allegations in  
4 Paragraph 14.

5           15. LIB lacks knowledge or information sufficient to form a belief about  
6 the truth of the allegations in Paragraph 15.

7           16. LIB lacks knowledge or information sufficient to form a belief about  
8 the truth of the allegations in Paragraph 16.

9           17. LIB admits that Wonderful World filed a trademark application bearing  
10 Serial No. 86405252, which document speaks for itself. Except as otherwise  
11 admitted herein, LIB denies the allegations in Paragraph 17.

12           18. Lib lacks knowledge or information sufficient to form a belief about the  
13 truth of the allegations in Paragraph 18

14           19. LIB admits the United States Patent and Trademark Office lists  
15 Registration Nos. 4230609, 4222551, 4230601, 4230603, 4230604, 4230605,  
16 4568728, and 4400693. Except as otherwise admitted herein, LIB denies the  
17 allegations in Paragraph 19.

18           20. LIB lacks knowledge or information sufficient to form a belief about  
19 the truth of the allegations in Paragraph 20.

20           21. LIB lacks knowledge or information sufficient to form a belief about  
21 the truth of the allegations in Paragraph 21.

22           22. LIB admits that Mr. Guetta is listed on the United States Copyright  
23 Office website as being the registered owner of 2009 United States Copyright Office  
24 Registration No. VAu 1-000-397. LIB lacks knowledge or information sufficient to  
25 form a belief about the truth of the remaining allegations in Paragraph 22.

26           23. LIB lacks knowledge or information sufficient to form a belief about  
27 the truth of the allegations in Paragraph 23.

28

1           24. LIB denies that its use of the name “Life is Beautiful” and its heart logo  
2 infringe on any trademarks or copyrights that Plaintiff owns. LIB admits the  
3 remaining allegations in Paragraph 24.

4           25. LIB admits that it sold tickets to shows to patrons throughout the  
5 United States. Except as otherwise admitted herein, LIB denies the remaining  
6 allegations in Paragraph 25.

7           26. LIB admits that it has used the name “Life is Beautiful” as the title of  
8 the festival it operates, that the festival includes art exhibitions and other  
9 entertainment, and that it has used an image of a heart in connection with the  
10 festival. Except as otherwise admitted herein, LIB denies the remaining allegations  
11 in Paragraph 26.

12           27. To the extent Paragraph 27 states a legal conclusion, no response is  
13 required. LIB denies the remaining allegations in Paragraph 27.

14           28. LIB admits that there were contacts between LIB and Wonderful World  
15 in May 2013. Except as otherwise admitted herein, LIB denies the remaining  
16 allegations in Paragraph 28.

17           29. LIB admits that it held meetings and exchanged correspondence with  
18 representatives of Mr. Guetta between May 2013 and September 2014. Except as  
19 otherwise admitted herein, LIB denies the allegations of Paragraph 29.

20           30. LIB admits that it filed Trademark Applications bearing Serial Nos.  
21 86367025, 86367058, 86366989, and 86366959, which applications speak for  
22 themselves. LIB lacks knowledge or information sufficient to form a belief  
23 regarding Plaintiff’s knowledge or reaction. LIB denies the remaining allegations in  
24 Paragraph 30.

25           31. To the extent Paragraph 31 states a legal conclusion, no response is  
26 required. LIB otherwise denies the allegations in Paragraph 31.

27  
28

1           32. LIB lacks knowledge or information sufficient to form a belief about  
2 what Plaintiff thought when it learned of LIB's trademark applications. LIB  
3 otherwise denies the allegations in Paragraph 32.

4           33. LIB admits that it had correspondence with Plaintiff through the fall of  
5 2014. LIB denies the remainder of the allegations in Paragraph 33.

6           34. LIB admits that it had correspondence with Plaintiff through the fall of  
7 2014. LIB denies the remainder of the allegations in Paragraph 34.

8           35. LIB admits that it had correspondence with Plaintiff through the fall of  
9 2014. LIB denies the remainder of the allegations in Paragraph 35.

10          36. LIB admits that it had correspondence with Plaintiff through the fall of  
11 2014. LIB denies the remainder of the allegations in Paragraph 36.

12          37. LIB admits that it held its festival from October 24 to October 26, 2014  
13 and that it used its heart design and the phrase Life is Beautiful in connection  
14 therewith. To the extent Paragraph 37 states a legal conclusion, no response is  
15 required. LIB denies the remainder of the allegations in Paragraph 37.

16          38. LIB lacks knowledge or information sufficient to form a belief about  
17 the truth of the allegations in Paragraph 38.

18          39. LIB admits that Ticketmaster sold tickets for its 2013 and 2014  
19 festivals. To the extent Paragraph 39 states a legal conclusion, no response is  
20 required. LIB denies the remainder of the allegations in Paragraph 39.

21          40. LIB admits that it entered into an agreement with Ticketmaster on May  
22 27, 2013, which document speaks for itself. LIB denies the remainder of the  
23 allegations in Paragraph 40.

24          41. LIB admits that the websites named in Paragraph 41, which speak for  
25 themselves, exist. LIB denies the remainder of the allegations in Paragraph 41.

26          42. LIB denies the allegations in Paragraph 42.

27          43. LIB denies the allegations in Paragraph 43.

28          44. LIB denies the allegations in Paragraph 44.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FIRST CAUSE OF ACTION**

**(Trademark Infringement Under §32(1) of the Lanham Act—Against All Defendants)**

45. Answering Paragraph 45 of the First Amended Complaint, LIB reincorporates its answers to Plaintiff’s allegations in Paragraphs 1-44 as if fully set forth herein.

46. LIB lacks knowledge or information sufficient to form a belief about what rights Plaintiff owns, if any. LIB denies the remaining allegations in Paragraph 46.

47. LIB denies the allegations in Paragraph 47.

48. LIB denies the allegations in Paragraph 48.

49. LIB denies the allegations in Paragraph 49.

50. LIB denies the allegations in Paragraph 50.

51. LIB denies the allegations in Paragraph 51.

52. LIB denies the allegations in Paragraph 52 and denies that Amusement Art is entitled to any of the relief listed in Paragraph 52.

**SECOND CAUSE OF ACTION**

**(Unfair Competition, False Designation of Origin, Passing Off and False Advertising under Lanham Act § 43(a)—Against All Defendants)**

53. Answering Paragraph 53 of the First Amended Complaint, LIB reincorporates its answers to Plaintiff’s allegations in Paragraphs 1-52 as if fully set forth herein.

54. LIB denies the allegations in Paragraph 54.

55. LIB denies the allegations in Paragraph 55.

56. LIB denies the allegations in Paragraph 56.

57. LIB admits that it has used and continues to use in the United States the four trademarks described in Paragraph 29 of the First Amended Complaint. LIB denies all other allegations in Paragraph 57.

1 58. LIB denies the allegations in paragraph 58.

2 59. LIB denies the allegations in Paragraph 59.

3 60. LIB denies the allegations in Paragraph 60.

4 61. LIB denies the allegations in Paragraph 61.

5 62. LIB denies the allegations in Paragraph 62.

6 63. LIB denies the allegations in Paragraph 63 and denies that Amusement  
7 Art is entitled to any of the relief listed in Paragraph 63.

8 **THIRD CAUSE OF ACTION**

9 **(For Copyright Infringement—Against All Defendants)**

10 64. Answering Paragraph 64 of the First Amended Complaint, LIB  
11 reincorporates its answers to Plaintiff’s allegations in Paragraphs 1-63 as if fully set  
12 forth herein.

13 65. LIB lacks knowledge or information sufficient to form a belief about  
14 Plaintiff’s ownership rights, if any. LIB denies the remaining allegations in  
15 Paragraph 65.

16 66. LIB denies the allegations in Paragraph 66.

17 67. LIB denies the allegations in Paragraph 67.

18 68. LIB denies the allegations in Paragraph 68.

19 69. LIB denies the allegations in Paragraph 69.

20 70. LIB denies the allegations in Paragraph 70 and denies that Amusement  
21 Art is entitled to any of the relief listed in Paragraph 70.

22 71. LIB denies the allegations in Paragraph 71.

23 72. LIB denies the allegations in Paragraph 72 and denies that Amusement  
24 Art is entitled to any of the relief listed in Paragraph 72.

25 73. LIB denies the allegations in Paragraph 73.

26  
27  
28

**FOURTH CAUSE OF ACTION**

**(Unfair Competition in Violation of Bus. & Prof. Code § 17200, et seq.  
Against All Defendants)**

74. Answering Paragraph 74 of the First Amended Complaint, LIB reincorporates its answers to Plaintiff’s allegations in Paragraphs 1-73 as if fully set forth herein.

75. LIB denies the allegations in Paragraph 75.

76. LIB denies the allegations in Paragraph 76.

77. LIB denies the allegations in Paragraph 77.

78. LIB denies the allegations in Paragraph 78 and denies that Amusement Art is entitled to any of the relief listed in Paragraph 78.

79. LIB denies the allegations in Paragraph 79 and denies that Amusement Art is entitled to any of the relief listed in Paragraph 79.

**FIFTH CAUSE OF ACTION**

**(Common Law Trademark Infringement and Unfair Competition—Against All Defendants)**

80. Answering Paragraph 80 of the First Amended Complaint, LIB reincorporates its answers to Plaintiff’s allegations in Paragraphs 1-79 as if fully set forth herein.

81. LIB lacks knowledge or information sufficient to form a belief about the allegations in Paragraph 81.

82. LIB denies the allegations in Paragraph 82.

83. LIB admits it has used and continues to use the trademarks listed in Paragraph 30 of the First Amended Complaint. LIB admits it has used its heart logo in the past. LIB denies all other allegations in Paragraph 83.

84. LIB denies the allegations in Paragraph 84.

85. LIB denies the allegations in Paragraph 85.

86. LIB denies the allegations in Paragraph 86.

1 87. LIB denies the allegations in Paragraph 87.

2 88. LIB denies the allegations in Paragraph 88.

3 89. LIB denies the allegations in Paragraph 89 and denies that Amusement  
4 Art is entitled to any of the relief listed in Paragraph 89.

5 **SIXTH CAUSE OF ACTION**

6 **(For Declaratory Relief—Against All Defendants)**

7 90. Answering Paragraph 90 of the First Amended Complaint, LIB  
8 reincorporates its answers to Plaintiff’s allegations in Paragraphs 1-89 as if fully set  
9 forth herein.

10 91. Paragraph 91 states legal conclusions to which no response is required.  
11 To the extent a response to the paragraph is required, LIB admits a dispute exists  
12 between the parties. Except as otherwise admitted herein, LIB denies the allegations  
13 in Paragraph 91.

14 92. LIB admits that Plaintiff purports to seek the relief listed in Paragraph  
15 92. Except as otherwise admitted herein, LIB denies the allegations in Paragraph 92.

16 93. Paragraph 93 states legal conclusions to which no response is required.  
17 To the extent a response to the paragraph is required, LIB admits a dispute exists  
18 between the parties. Except as otherwise admitted herein, LIB denies the allegations  
19 in Paragraph 93.

20 94. LIB admits that Plaintiff purports to seek the relief listed in Paragraph  
21 94. Except as otherwise admitted herein, LIB denies the allegations in Paragraph  
22 94.

23 95. Paragraph 95 states a legal conclusion to which no response is required.

24 **AFFIRMATIVE DEFENSES**

25 In addition to the affirmative defenses asserted below, LIB reserves the right  
26 to assert additional affirmative defenses based on facts which are revealed during  
27 discovery:

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim Upon Which Relief Can be Granted)**

96. The First Amended Complaint and each claim for relief contained therein fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

97. The First Amended Complaint and each claim for relief contained therein are barred as a result of Plaintiff’s unclean hands.

**THIRD AFFIRMATIVE DEFENSE**

**(Waiver / Acquiescence)**

98. The First Amended Complaint and each claim of relief contained therein are barred by the doctrines of waiver and acquiescence.

**FOURTH AFFIRMATIVE DEFENSE**

**(Laches / Statute of Limitations)**

99. The First Amended Complaint and each claim for relief contained therein are barred by the applicable statute of limitations and by the doctrine of laches.

**FIFTH AFFIRMATIVE DEFENSE**

**(Innocent Intent)**

100. Without in any way admitting any of the allegations in the First Amended Complaint, any infringement arising from the acts complained of in the First Amended Complaint, if any, was innocent and not intentional.

**SIXTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

101. Without in any way admitting any of the allegations in the First Amended Complaint, and without admitting that Plaintiff suffered any damages at all, Plaintiff failed to take reasonable steps to mitigate those purported damages.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SEVENTH AFFIRMATIVE DEFENSE**

**(Fair Use)**

102. The First Amended Complaint and each claim of relief contained therein is barred because LIB’s alleged conduct constitutes fair use.

**EIGHTH AFFIRMATIVE DEFENSE**

**(First Amendment)**

103. The First Amended Complaint and each claim of relief contained therein is barred because LIB’s alleged conduct is protected by the First Amendment.

**NINTH AFFIRMATIVE DEFENSE**

**(Statutory Damages and Attorney’s Fees)**

104. The First Amended Complaint fails to state facts sufficient to entitle Plaintiff to an award of statutory damages and/or attorney’s fees.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Counterclaim**

Defendants Life is Beautiful, LLC and Downtown Las Vegas Management, LLC (collectively “LIB”) allege as follows:

105. Thierry Guetta, through his company, Plaintiff Amusement Art LLC, uses the phrase “Life is Beautiful” in a small percentage of the works of art he sells. Neither Mr. Guetta nor Amusement Art have ever used that phrase to identify themselves as the source of goods or services.

106. Nonetheless, Amusement Art filed eight “Intent to Use” trademark registration applications (registration nos. 4222551, 4230601, 4230603, 4230604, 4230605, 4230609, 4400693, and 4568728) for the phrase “Life is Beautiful.”

107. Amusement Art’s representatives subsequently filed statements of use for each of these registrations, claiming under penalty of perjury that Amusement Art had in fact used the phrase in commerce to sell a vast variety of types goods.

108. In fact, upon information and belief, Amusement Art never sold goods in the overwhelming majority of categories described in the trademark registrations. Moreover, Amusement Art did not use the phrase “Life is Beautiful” to identify itself as the source of any goods or services.

109. As a result of its fraudulent filings, Amusement Art received eight trademark registrations for the phrase “Life is Beautiful.” Amusement Art’s registrations should be cancelled because they were obtained through fraud. *See* 15 U.S.C. § 1064.

**General Allegations**

***Mr. Guetta’s Non-Use of the Mark***

110. Mr. Guetta is known in the art world as “Mr. Brainwash.” His websites are mrbrainwash.com, mrbrainwashcreative.com, and creativeamericanproducts.com. He signs his work “Mr. Brainwash” and his art shows are always promoted as featuring the work of Mr. Brainwash. In short, he

1 uses the name Mr. Brainwash to identify his work in the minds of the public as  
2 having been created by him.

3 111. Mr. Guetta includes the phrase “Life is Beautiful,” along with  
4 numerous other phrases, as a visual element in a small percentage of his artwork and  
5 merchandise. Mr. Guetta also uses many other inspirational phrases such as “love is  
6 the answer” and “follow your dreams” in his work and sells products based upon  
7 those artworks as well.

8 *Amusement Art’s Trademark Registrations*

9 112. Amusement Art filed eight “intent-to-use” trademark applications,  
10 between January 2011 and March 2012, for use of the phrase “Life is Beautiful”  
11 with various of goods and services.

12 113. Amusement Art subsequently filed a Statement of Use for each  
13 trademark application, asserting under penalty of perjury that Amusement Art had in  
14 fact use the mark in connection with the sale of goods in *each* sub-category  
15 identified in the Statement of use. In fact, however, Amusement Art never sold any  
16 goods in the vast majority of the categories of goods covered in the statements of  
17 use. Nor did it ever use the phrase “Life is Beautiful” to identify Amusement Art or  
18 Mr. Guetta as the source of any goods or services.

19 Class 002 (Paints)

20 114. On January 31, 2011 Amusement Art’s Chief Administrative Officer  
21 Patrick Guetta filed a trademark application on behalf of Amusement Art with the  
22 Registration No. 4222551 for use of the mark “Life is Beautiful” with International  
23 Trademark Class 002.

24 115. On August 13, 2012 Patrick Guetta filed a Statement of Use on behalf  
25 of Amusement Art in connection with the same application in which he swore,  
26 under penalty of perjury, that “[t]he [“Life is Beautiful”] mark is in use in commerce  
27 on or in connection with all goods or services listed in the application,” which the  
28 Statement of Use described as “Colourants; Fingerpaint; Food coloring; Paints,

1 lacquers, varnishes; Primers; Varnish; Watercolor paints; Aerosol Spray Paints;  
2 Clear and pigmented coatings used in the nature of paint.”

3 116. Amusement Art did not sell goods in any of the categories of goods  
4 listed in its Statement of Use for Class 002 prior to August 13, 2012. Nor did  
5 Amusement Art use the phrase “Life is Beautiful” to identify itself, Thierry Guetta,  
6 or any related entities or persons as the source of any of the goods listed in its  
7 Statement of Use for Class 002 prior to or after August 13, 2012.

8 Class 014 (Jewelry, Cocks, and Watches)

9 117. On February 1, 2011 Patrick Guetta filed a trademark application on  
10 behalf of Amusement Art with the Registration No. 4230601 for use of the mark  
11 “Life is Beautiful” with International Trademark Class 014.

12 118. On August 13, 2012 Patrick Guetta filed a Statement of Use on behalf  
13 of Amusement Art in connection with the same application in which he swore,  
14 under penalty of perjury, that “[t]he [“Life is Beautiful”] mark is in use in commerce  
15 on or in connection with all goods or services listed in the application,” which the  
16 Statement of Use described as “Ankle bracelets; Bracelets; Charms for collar  
17 jewelry and bracelet; Clocks; Cuff links; Diamond jewelry; Earrings; Imitation  
18 jewelry; Jewelry; Neck chains; Pendants; Rings; Tie clips; Trophies of precious  
19 metals; Wall clocks; Watch bands and straps; Watch boxes; Watch bracelets; Watch  
20 cases; Watches; Women's jewelry; Wristwatches.”

21 119. Amusement Art sold three bracelets and three necklaces which may or  
22 may not have borne the phrase “Life is Beautiful” to a single buyer identified in the  
23 sale’s invoice as “PSDI USA” on April 4, 2012.

24 120. Amusement Art did not sell a non-token quantity of goods in any of the  
25 categories of goods listed in its Statement of Use for Class 014 prior to August 13,  
26 2012. Nor did Amusement Art use the phrase “Life is Beautiful” to identify itself,  
27 Thierry Guetta, or any related entities or persons as the source of any of the goods  
28 listed in its Statement of Use for Class 014 prior to or after August 13, 2012.

1 Class 018 (Leather and Travel Goods)

2 121. On February 1, 2011 Patrick Guetta filed a trademark application on  
3 behalf of Amusement Art with the Registration No. 4230603 for use of the mark  
4 “Life is Beautiful” with International Trademark Class 018.

5 122. On August 13, 2012 Patrick Guetta filed a Statement of Use on behalf  
6 of Amusement Art in connection with the same application in which he swore,  
7 under penalty of perjury, that “[t]he [“Life is Beautiful”] mark is in use in commerce  
8 on or in connection with all goods or services listed in the application,” which the  
9 Statement of Use described as “All purpose sport bags; All-purpose athletic bags;  
10 Backpacks; Beach bags; Beach umbrellas; Billfolds; Book bags; Business card  
11 cases; Clutch bags; Coin purses; Cosmetic bags sold empty; Credit card cases;  
12 Duffel bags; Handbags; Key cases; Knapsacks; Luggage; Luggage and trunks;  
13 Luggage tags; Messenger bags; Purses; School bags; Shoulder bags; Sport bags;  
14 Sports bags; Suitcases; Toiletry bags sold empty; Toiletry cases sold empty; Tote  
15 bags; Traveling bags; Umbrellas; Vanity cases sold empty; Wallets.”

16 123. Amusement Art sold one “wristlet bag,” one “sling bag,” one “clutch  
17 bag,” and one “regular bag,” which may or may not have borne the phrase “Life is  
18 Beautiful,” to a single buyer identified in the sale’s invoice as “PSDI USA” on  
19 March 5, 2012.

20 124. Amusement Art did not sell a non-token quantity of any goods in any  
21 of the categories of goods listed in its Statement of Use for Class 018 prior to  
22 August 13, 2012. Nor did Amusement Art use the phrase “Life is Beautiful” to  
23 identify itself, Thierry Guetta, or any related entities or persons as the source of any  
24 of the goods listed in its Statement of Use for Class 018 prior to or after August 13,  
25 2012.

26  
27  
28

1 Class 021 (Household and Kitchen Goods)

2 125. On February 1, 2011 Patrick Guetta filed a trademark application on  
3 behalf of Amusement Art with the Registration No. 4230604 for use of the mark  
4 “Life is Beautiful” with International Trademark Class 021.

5 126. On August 13, 2012 Patrick Guetta filed a Statement of Use on behalf  
6 of Amusement Art in connection with the same application in which he swore,  
7 under penalty of perjury, that “[t]he [“Life is Beautiful”] mark is in use in commerce  
8 on or in connection with all goods or services listed in the application,” which the  
9 Statement of Use described as “Bakeware; Bath sponges; Beverage glassware;  
10 Bottle openers; Bottles, sold empty; Bowls; Bread baskets for domestic use; Brushes  
11 for pets; Buckets; Butter dishes; Cake molds; Candle holders; Candle holders not of  
12 precious metal; Carafes; Cardboard cups; Ceramic tissue box covers; Cleaning  
13 sponges; Coasters not of paper and not being table linen; Cocktail picks; Cocktail  
14 shakers; Cookie jars; Cookware, namely, pots and pans; Cups; Dispensers for paper  
15 towels; Drinking glasses; Drinking glasses, namely, tumblers; Earthenware basins;  
16 Earthenware mugs; Figurines made out of fiberglass; Figurines of glass, porcelain,  
17 acrylic; Flasks; Flower vases; Hair brushes; Hair combs; Hairbrushes; Holiday  
18 ornaments of porcelain; Household utensils, namely, spatulas; Household utensils,  
19 namely, turners; Ice buckets; Ice cube molds; Ice scoops; Jugs; Knife boards; Lunch  
20 boxes; Meal trays; Mugs; Napkin holders and napkin rings not of precious metal;  
21 Non-electric egg beaters; Ovenware; Paper cups; Paper plates; Pepper grinders; Pet  
22 feeding and drinking bowls; Plastic cups; Plates; Portable coolers; Portable ice  
23 chests for food and beverages; Pots; Rolling pins; Salt and pepper shakers;  
24 Sculptures of earthenware, fiberglass; Serving trays; Soap dishes; Statues of china,  
25 earthenware, glass, terra cotta, porcelain; Tea pots; Tea pots not of precious metal;

26  
27  
28

1 Tooth brushes; Toothbrush cases; Toothbrush holders; Trash cans; Trays for  
2 domestic purposes; Vases; Work gloves; Works of art of china, earthenware, glass,  
3 porcelain, terra cotta; House ware and glassware, namely, shot glasses; holiday  
4 ornaments of glass; table center sculpture made of ceramic, china, crystal,  
5 earthenware, glass, porcelain; salt and pepper cellars.”

6 127. Amusement Art has, at various times, sold plates and bowls bearing  
7 heart images. Amusement Art has never sold plates or bowls bearing the phrase  
8 “Life is Beautiful.”

9 128. Other than plates, Amusement Art did not sell goods in any of the  
10 categories of goods listed in its Statement of Use for Class 021 prior to August 13,  
11 2012. Nor did Amusement Art use the phrase “Life is Beautiful” to identify itself,  
12 Thierry Guetta, or any related entities or persons as the source of any of the goods  
13 listed in its Statement of Use for Class 021 prior to or after August 13, 2012.

14 Class 024 (Textiles)

15 129. On February 1, 2011 Patrick Guetta filed a trademark application on  
16 behalf of Amusement Art with the Registration No. 4230605 for use of the mark  
17 “Life is Beautiful” with International Trademark Class 024.

18 130. On August 13, 2012 Patrick Guetta filed a Statement of Use on behalf  
19 of Amusement Art in connection with the same application in which he swore,  
20 under penalty of perjury, that “[t]he [“Life is Beautiful”] mark is in use in commerce  
21 on or in connection with all goods or services listed in the application,” which the  
22 Statement of Use described as “Banners and flags of textile; Bath linen; Bath sheets;  
23 Bath towels; Beach towels; Bed blankets; Bed covers; Bed linen; Bed sheets; Bed  
24 spreads; Blanket throws; Blankets for outdoor use; Cashmere blankets; Comforters;  
25 Curtains; Curtains of textile or plastic; Duvet covers; Duvets; Eiderdown covers;  
26 Eiderdowns; Fabrics for textile use; Flat bed sheets; Hand towels; Kitchen towels;  
27 Pillow cases; Pillow shams; Pillowcases; Place mats, not of paper; Plastic place  
28 mats; Shower curtains; Table linen; Table linen, namely, napkins; Table mats not of

1 paper; Tablecloths, not of paper; Throws; Towels; Vinyl place mats; Sheets, namely,  
2 contour sheets, bed sheets.”

3 131. In fact, Amusement Art did not sell goods in any of the categories of  
4 goods listed in its Statement of Use for Class 024 prior to August 13, 2012. Nor did  
5 Amusement Art use the phrase “Life is Beautiful” to identify itself, Thierry Guetta,  
6 or any related entities or persons as the source of any of the goods listed in its  
7 Statement of Use for Class 024 prior to or after August 13, 2012.

8 Class 016 (Paper Goods)

9 132. On February 2, 2011 Patrick Guetta filed a trademark application on  
10 behalf of Amusement Art with the Registration No. 4230609 for use of the mark  
11 “Life is Beautiful” with International Trademark Class 016.

12 133. On August 13, 2012 Patrick Guetta filed a Statement of Use on behalf  
13 of Amusement Art in connection with the same application in which she swore,  
14 under penalty of perjury, that “[t]he [“Life is Beautiful”] mark is in use in commerce  
15 on or in connection with all goods or services listed in the application,” which the  
16 Statement of Use described as “Art pictures; Art prints; Art prints on canvas;  
17 Blackboards and scrap books; Blank journal books; Blank or partially printed  
18 postcards; Book covers; Book marks; Books in the field of art; Bumper stickers;  
19 Calendar desk pads; Calendars; Cards, namely, greeting and birthday cards;  
20 Children's books; Coasters made of paper; Coloring books; Comic books; Date  
21 books; Day planners; Decals; Diaries; Fitted fabric notebook covers; Framed art  
22 prints; Greeting cards; Heat transfer paper; Lithographic prints; Lithographic works  
23 of art; Lithographs; Mounted and unmounted photographs; Napkin paper; Note  
24 books; Note pads; Notebooks; Pens for marking; Photographic prints; Photographs;  
25 Picture postcards; Postcard paper; Postcards; Postcards and greeting cards;  
26 Postcards and picture postcards; Posters; Posters made of paper; Printed calendars;  
27 School supply kits containing various combinations of selected school supplies,  
28 namely, writing instruments, pens, pencils, mechanical pencils, erasers, markers,

1 crayons, highlighter pens, folders, notebooks, paper, protractors, paper clips, pencil  
2 sharpeners, writing grips, glue and book marks; Series of fiction works, namely,  
3 novels and books; Stationery; Stickers; Stickers and decalcomanias; Stickers and  
4 transfers; Talking children's books; Tear-off calendars; Wall calendars.”

5 134. Amusement Art has, at various times, sold artworks and art prints  
6 incorporating the phrase “Life is Beautiful.” At least some of the paintings sold by  
7 it bear the phrase “Life is Beautiful” on their back as well.

8 135. Amusement Art did not sell any goods in any of the other categories of  
9 goods listed in its Statement of Use for Class 016 prior to August 13, 2012. Nor did  
10 Amusement Art use the phrase “Life is Beautiful” to identify itself, Thierry Guetta,  
11 or any related entities or persons as the source of any of the goods listed in its  
12 Statement of Use for Class 016 prior to or after August 13, 2012.

13 Class 009 (Electronic and Mechanical Goods)

14 136. On September 21, 2011 Patrick Guetta filed a trademark application on  
15 behalf of Amusement Art with the Registration No. 4400693 for use of the mark  
16 “Life is Beautiful” with International Trademark Class 009.

17 137. On July 19, 2013 Amusement Art’s Vice President, Debora Guetta,  
18 filed a Statement of Use on behalf of Amusement Art in connection with the same  
19 application in which she swore, under penalty of perjury, that “[t]he [“Life is  
20 Beautiful”] mark is in use in commerce on or in connection with all goods or  
21 services listed in the application,” which the Statement of Use described as “Blank  
22 USB flash drives; Decorative magnets; Downloadable images in the field of  
23 artworks for mobile phones; Downloadable computer application software for  
24 mobile phones for use in electronic storage of games, images, and videos for use in  
25 cell phones, smart phones, or digital tablets; Eyeglass cases; Eyeglass frames;  
26 Eyeglasses; Goggles for sports; blank hard drives for computers; Headphones;  
27 Mouse pads; Mousepads; Ski goggles; Sunglasses; Faceplates and covers for cell  
28 phones, personal digital assistants and laptops.; Video and computer game software

1 for personal computer and home video game console; Cellular telephone  
2 accessories, namely, hands-free audio accessories, cellular telephone covers and  
3 cellular telephone face covers; Magnetically encoded cards, namely, pre-paid  
4 telephone calling cards, credit cards, cash cards, debit cards, and key cards;  
5 Downloadable screensaver software in the nature of a mobile application for use  
6 creating screen savers for cell phones, smart phones, tablet computers, and digital  
7 music players; Carrying case and bags designed for storage and transportation of  
8 Consumer electronics namely; portable computers, mp3 players, Cellular telephone,  
9 digital camera, digital tablets, digital music players, and personal digital assistant;  
10 Downloadable images in the field of art for tablets.”

11 138. Amusement Art has, at various times, sold cellphone covers  
12 incorporating the phrase “Life is Beautiful.”

13 139. Amusement Art did not sell any goods in any of the other categories of  
14 goods listed in its Statement of Use for Class 009 prior to July 19, 2013. Nor did  
15 Amusement Art use the phrase “Life is Beautiful” to identify itself, Thierry Guetta,  
16 or any related entities or persons as the source of any of the goods listed in its  
17 Statement of Use for Class 009 prior to or after July 19, 2013.

18 Class 017 (Tape)

19 140. On March 12, 2012 Patrick Guetta filed a trademark application on  
20 behalf of Amusement Art with the Registration No. 4568728 for use of the mark  
21 “Life is Beautiful” with International Trademark Class 017.

22 141. On September 20, 2013 Debora Guetta filed a Statement of Use on  
23 behalf of Amusement Art in connection with the same application in which she  
24 swore, under penalty of perjury, that “[t]he [“Life is Beautiful”] mark is in use in  
25 commerce on or in connection with all goods or services listed in the application,”  
26 which the Statement of Use described as “Adhesive packing tape for industrial or  
27 commercial use; Duct tape; Masking tape; Plastic crime scene tape used to create a  
28

1 visual barrier to deny access to a crime scene; Plastic evidence tape for sealing  
2 envelopes, bags and other packages or containers holding evidence.”

3 142. Amusement Art did not sell any goods in any of the categories of goods  
4 listed in its Statement of Use for Class 017 prior to September 20, 2013. Nor did  
5 Amusement Art use the phrase “Life is Beautiful” to identify itself, Thierry Guetta,  
6 or any related entities or persons as the source of any of the goods listed in its  
7 Statement of Use for Class 017 prior to or after September 20, 2013.

8 **FIRST COUNTERCLAIM**

9 (Cancellation of Registration No. 4222551 -- 15 U.S.C. §§ 1064, 1119)

10 143. LIB hereby realleges and incorporates by reference paragraphs 1  
11 through 142.

12 144. On August 13, 2012 Amusement Art filed a Statement of Use in  
13 support of its trademark Registration No. 4222551. In this statement of use, Patrick  
14 Guetta claimed on Amusement Art’s behalf that it had used the phrase “Life is  
15 Beautiful” in commerce in connection with each of the types of goods described  
16 therein.

17 145. Amusement Art did not sell goods in any of the categories of goods  
18 described in its Statement of Use for Registration No. 4222551.

19 146. Amusement Art did not use the phrase “Life is Beautiful” to identify  
20 itself as the source of any of the goods described in its Statement of Use for  
21 Registration No. 4222551.

22 147. Patrick Guetta must have known that the Statement of Use he filed for  
23 Registration No. 4222551 was false. As Amusement Art’s Chief Administrative  
24 Officer he necessarily would have been aware of the relatively small number of  
25 products it sold and could not have believed that Amusement Art in fact sold goods  
26 in each of the myriad categories described in the Statement of Use for Registration  
27 No. 4222551. And as Amusement Art’s Chief Administrative Officer he necessarily  
28

1 would have been aware that Amusement Art did not use the phrase “Life is  
2 Beautiful” to identify itself as the source of goods and services.

3 148. Amusement Art caused the fraudulent Statement of Use to be filed with  
4 the intent of deceiving the USPTO to obtain Registration No. 4222551.

5 149. Marks obtained through fraud are subject to cancellation by the  
6 USPTO. 15 U.S.C. § 1064.

7 150. This court has the power to cancel registrations for any reason,  
8 including fraud, for which the Lanham Act provides the USPTO may cancel a  
9 registration. 15 U.S.C. § 1119.

10 **SECOND COUNTERCLAIM**

11 (Cancellation of Registration No. 4230601 -- 15 U.S.C. §§ 1064, 1119)

12 151. LIB hereby realleges and incorporates by reference paragraphs 1  
13 through 150.

14 152. On August 13, 2012 Amusement Art filed a Statement of Use in  
15 support of its trademark Registration No. 4230601. In this statement of use, Patrick  
16 Guetta claimed on Amusement Art’s behalf that it had used the phrase “Life is  
17 Beautiful” in commerce in connection with each of the types of goods described  
18 therein.

19 153. Amusement Art did not sell a non-token quantity of goods in any of the  
20 categories of goods described in its Statement of Use for Registration No. 4230601.

21 154. Amusement Art did not use the phrase “Life is Beautiful” to identify  
22 itself as the source of any of the goods described in its Statement of Use for  
23 Registration No. 4230601.

24 155. Patrick Guetta must have known that the Statement of Use he filed for  
25 Registration No. 4230601 was false. As Amusement Art’s Chief Administrative  
26 Officer he necessarily would have been aware of the relatively small number of  
27 products it sold and could not have believed that Amusement Art in fact sold goods  
28 in each of the myriad categories described in the Statement of Use for Registration

1 No. 4230601. And as Amusement Art’s Chief Administrative Officer he necessarily  
2 would have been aware that Amusement Art did not use the phrase “Life is  
3 Beautiful” to identify itself as the source of goods and services.

4 156. Amusement Art caused the fraudulent Statement of Use to be filed with  
5 the intent of deceiving the USPTO to obtain Registration No. 4230601.

6 157. Marks obtained through fraud are subject to cancellation by the  
7 USPTO. 15 U.S.C. § 1064.

8 158. This court has the power to cancel registrations for any reason,  
9 including fraud, for which the Lanham Act provides the USPTO may cancel a  
10 registration. 15 U.S.C. § 1119.

11 **THIRD COUNTERCLAIM**

12 (Cancellation of Registration No. 4230603 -- 15 U.S.C. §§ 1064, 1119)

13 159. LIB hereby realleges and incorporates by reference paragraphs 1  
14 through 158.

15 160. On August 13, 2012 Amusement Art filed a Statement of Use in  
16 support of its trademark Registration No. 4230603. In this statement of use, Patrick  
17 Guetta claimed on Amusement Art’s behalf that it had used the phrase “Life is  
18 Beautiful” in commerce in connection with each of the types of goods described  
19 therein.

20 161. Amusement Art did not sell a non-token quantity of any of the goods in  
21 any of the categories of goods described in its Statement of Use for Registration No.  
22 4230603.

23 162. Amusement Art did not use the phrase “Life is Beautiful” to identify  
24 itself as the source of any of the goods described in its Statement of Use for  
25 Registration No. 4230603.

26  
27  
28





1 177. Amusement Art did not sell goods in any of the categories of goods  
2 described in its Statement of Use for Registration No. 4230605.

3 178. Amusement Art did not use the phrase “Life is Beautiful” to identify  
4 itself as the source of any of the goods described in its Statement of Use for  
5 Registration No. 4230605.

6 179. Patrick Guetta must have known that the Statement of Use he filed for  
7 Registration No. 4230605 was false. As Amusement Art’s Chief Administrative  
8 Officer he necessarily would have been aware of the relatively small number of  
9 products it sold and could not have believed that Amusement Art in fact sold goods  
10 in each of the myriad categories described in the Statement of Use for Registration  
11 No. 4230605. And as Amusement Art’s Chief Administrative Officer he necessarily  
12 would have been aware that Amusement Art did not use the phrase “Life is  
13 Beautiful” to identify itself as the source of goods and services.

14 180. Amusement Art caused the fraudulent Statement of Use to be filed with  
15 the intent of deceiving the USPTO to obtain Registration No. 4230605.

16 181. Marks obtained through fraud are subject to cancellation by the  
17 USPTO. 15 U.S.C. § 1064.

18 182. This court has the power to cancel registrations for any reason,  
19 including fraud, for which the Lanham Act provides the USPTO may cancel a  
20 registration. 15 U.S.C. § 1119.

21 **SIXTH COUNTERCLAIM**

22 (Cancellation of Registration No. 4230609 -- 15 U.S.C. §§ 1064, 1119)

23 183. LIB hereby realleges and incorporates by reference paragraphs 1  
24 through 182.

25  
26  
27  
28

1           184. On August 13, 2012 Amusement Art filed a Statement of Use in  
2 support of its trademark Registration No. 4230609. In this statement of use, Patrick  
3 Guetta claimed on Amusement Art’s behalf that it had used the phrase “Life is  
4 Beautiful” in commerce in connection with each of the types of goods described  
5 therein.

6           185. Amusement Art did not sell goods in the vast majority of the categories  
7 of goods described in its Statement of Use for Registration No. 4230609.

8           186. Amusement Art did not use the phrase “Life is Beautiful” to identify  
9 itself as the source of any of the goods described in its Statement of Use for  
10 Registration No. 4230609.

11           187. Patrick Guetta must have known that the Statement of Use he filed for  
12 Registration No. 4230609 was false. As Amusement Art’s Chief Administrative  
13 Officer he necessarily would have been aware of the relatively small number of  
14 products it sold and could not have believed that Amusement Art in fact sold goods  
15 in each of the myriad categories described in the Statement of Use for Registration  
16 No. 4230609. And as Amusement Art’s Chief Administrative Officer he necessarily  
17 would have been aware that Amusement Art did not use the phrase “Life is  
18 Beautiful” to identify itself as the source of goods and services.

19           188. Amusement Art caused the fraudulent Statement of Use to be filed with  
20 the intent of deceiving the USPTO to obtain Registration No. 4230609.

21           189. Marks obtained through fraud are subject to cancellation by the  
22 USPTO. 15 U.S.C. § 1064.

23           190. This court has the power to cancel registrations for any reason,  
24 including fraud, for which the Lanham Act provides the USPTO may cancel a  
25 registration. 15 U.S.C. § 1119.

26  
27  
28

**SEVENTH COUNTERCLAIM**

(Cancellation of Registration No. 4230693 -- 15 U.S.C. §§ 1064, 1119)

191. LIB hereby realleges and incorporates by reference paragraphs 1 through 190.

192. On July 19, 2013 Amusement Art filed a Statement of Use in support of its trademark Registration No. 4230693. In this statement of use, Debora Guetta claimed on Amusement Art’s behalf that it had used the phrase “Life is Beautiful” in commerce in connection with each of the types of goods described therein.

193. Amusement Art did not sell goods in the vast majority of the categories of goods described in its Statement of Use for Registration No. 4230693.

194. Amusement Art did not use the phrase “Life is Beautiful” to identify itself as the source of any of the goods described in its Statement of Use for Registration No. 4230693.

195. Debora Guetta must have known that the Statement of Use she filed for Registration No. 4230693 was false. As Amusement Art’s Vice President she necessarily would have been aware of the relatively small number of products it sold and could not have believed that Amusement Art in fact sold goods in each of the myriad categories described in the Statement of Use for Registration No. 4230693. And as Amusement Art’s Vice President she necessarily would have been aware that Amusement Art did not use the phrase “Life is Beautiful” to identify itself as the source of goods and services.

196. Amusement Art caused the fraudulent Statement of Use to be filed with the intent of deceiving the USPTO to obtain Registration No. 4230693.

197. Marks obtained through fraud are subject to cancellation by the USPTO. 15 U.S.C. § 1064.

**EIGHTH COUNTERCLAIM**

(Cancellation of Registration No. 4568728 -- 15 U.S.C. §§ 1064, 1119)

198. LIB hereby realleges and incorporates by reference paragraphs 1 through 197.

199. On September 20, 2013 Amusement Art filed a Statement of Use in support of its trademark Registration No. 4568728. In this statement of use, Debora Guetta claimed on Amusement Art’s behalf that it had used the phrase “Life is Beautiful” in commerce in connection with each of the types of goods described therein.

200. Amusement Art did not sell goods in any of the categories of goods described in its Statement of Use for Registration No. 4568728.

201. Amusement Art did not use the phrase “Life is Beautiful” to identify itself as the source of any of the goods described in its Statement of Use for Registration No. 4568728.

202. Debora Guetta must have known that the Statement of Use she filed for Registration No. 4568728 was false. As Amusement Art’s Vice President she necessarily would have been aware of the relatively small number of products it sold and could not have believed that Amusement Art in fact sold goods in each of the myriad categories described in the Statement of Use for Registration No. 4568728. And as Amusement Art’s Vice President she necessarily would have been aware that Amusement Art did not use the phrase “Life is Beautiful” to identify itself as the source of goods and services.

203. Amusement Art caused the fraudulent Statement of Use to be filed with the intent of deceiving the USPTO to obtain Registration No. 4568728.

204. Marks obtained through fraud are subject to cancellation by the USPTO. 15 U.S.C. § 1064.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**WHEREFORE**, having fully answered the First Amended Complaint and having set forth valid defenses and counterclaims thereto, LIB prays as follows:

1. For judgment in its favor on all of the claims of the First Amended Complaint;
2. For an order denying any preliminary and/or permanent injunctive relief to Plaintiff;
3. For its costs and expenses in defending this action, including its reasonable attorneys' fees;
4. For the cancellation of Amusement Art's trademark registrations Nos. 4222551, 4230601, 4230603, 4230604, 4230605, 4230609, 4400693, and 4568728.
5. For such other and further relief as the court deems just and proper.

MUNGER, TOLLES & OLSON LLP

DATED: December 3, 2015

By:           /s/ Tamerlin J. Godley            
TAMERLIN J. GODLEY  
Attorneys for Defendants  
LIFE IS BEAUTIFUL, LLC, and  
DOWNTOWN LAS VEGAS MANAGEMENT  
LLC

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Demand for Jury Trial**

Life is Beautiful LLC and Downtown Las Vegas Management LLC  
hereby demand a jury trial of all issues so triable.

Respectfully Submitted,

DATED: December 3, 2015 MUNGER, TOLLES & OLSON LLP

By:           /s/ Tamerlin J. Godley            
TAMERLIN J. GODLEY  
Attorneys for Defendants  
LIFE IS BEAUTIFUL, LLC, and  
DOWNTOWN LAS VEGAS MANAGEMENT  
LLC