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11 *Attorneys for Plaintiff*
12 Michael Gerard Tyson p/k/a Mike Tyson

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 MICHAEL GERARD TYSON p/k/a MIKE
TYSON, an individual,

Case No.

16 Plaintiff ,

17 vs.

18 THE BOXING HALL OF FAME, INC., a
19 Nevada corporation, and STEVEN LOTT, an
individual,

20 Defendants.
21

22 **COMPLAINT**
23 **(JURY TRIAL DEMANDED)**

24 Plaintiff Michael Gerard Tyson p/k/a Mike Tyson, by his attorneys, and for his complaint
25 against Defendants The Boxing Hall of Fame, Inc. (“BHF”) and Steven Lott (“Lott”), alleges as
26 follows:

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I. NATURE OF ACTION

1. This is an action for federal trademark infringement, common-law trademark infringement, trademark dilution, unfair competition, and violation of Mr. Tyson’s right of publicity, as a result of Defendants’ unauthorized use and exploitation of Mr. Tyson’s name, likeness, federally-registered trademark MIKE TYSON, and non-registered trademark IRON MIKE (collectively, the “Marks”).

II. THE PARTIES

2. Plaintiff is a citizen and resident of the state of Nevada.

3. Upon information and belief, Defendant BHF is a corporation organized and existing under the laws of the state of Nevada, having its principal place of business at 8022 South Rainbow Blvd., #355, Las Vegas, Nevada.

4. Upon information and belief, Defendant Lott is a citizen and resident of the state of Nevada, and an officer, director and shareholder of BHF, who occupied those positions at all relevant times.

III. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 (actions arising under the Federal Trademark Act) and 28 U.S.C. § 1367 because Mr. Tyson’s claims under Nevada law are so related to Mr. Tyson’s federal trademark claims that they form part of the same case or controversy under Article III of the U.S. Constitution.

IV. FACTUAL BACKGROUND

6. Mr. Tyson is one of the most famous boxers of all time.

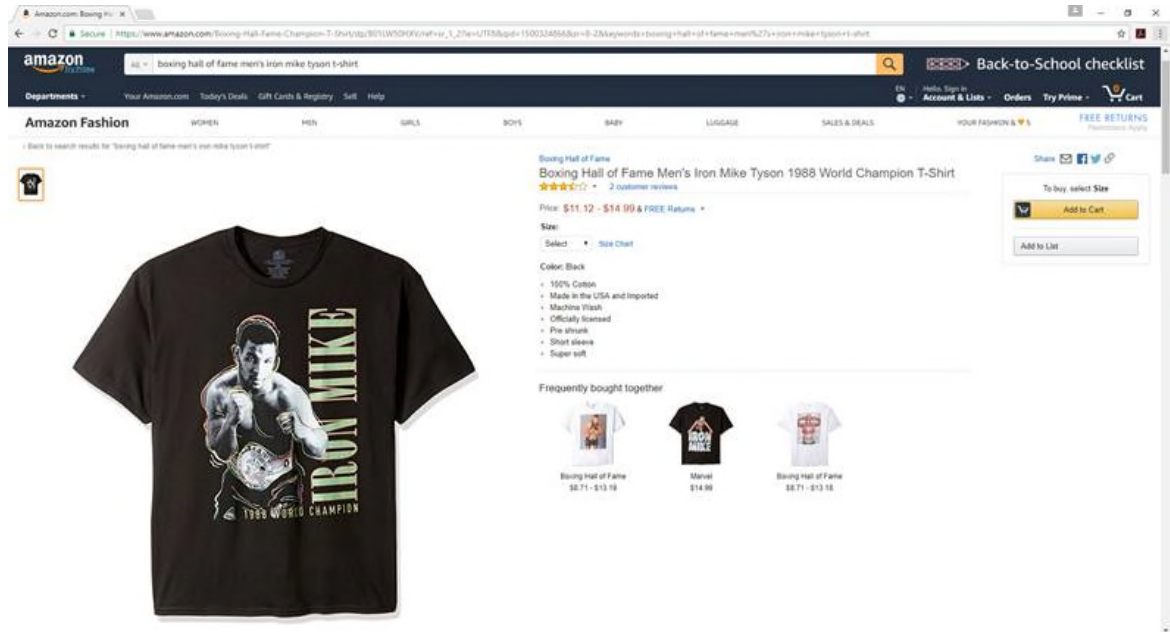
7. Mr. Tyson owns the rights in and to the federally registered trademark MIKE TYSON for apparel, United States Registration No. 3489868.

8. Mr. Tyson owns the rights in and to the non-registered trademark IRON MIKE, which is widely known by the general public to be Mr. Tyson’s nickname.

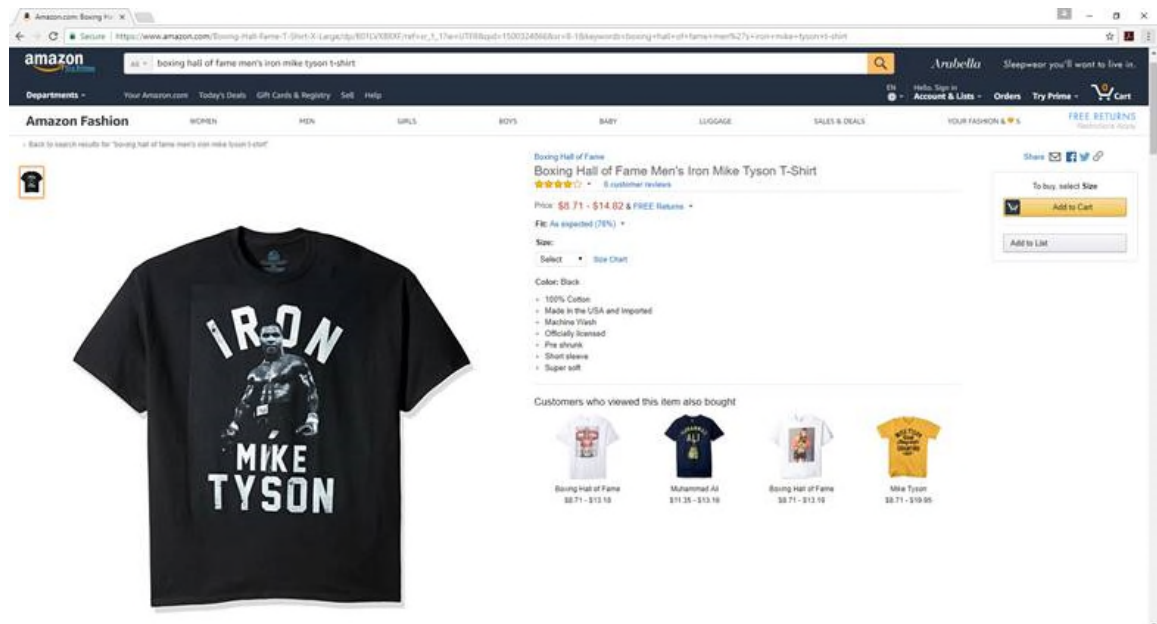
9. Mr. Tyson further enjoys statutory protections in and to his name and likeness pursuant to NRS § 597.790 and other applicable laws protecting his hard-earned right of publicity.

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10. Defendant BHF has violated Mr. Tyson’s right of publicity and right to use and exploit the MIKE TYSON and IRON MIKE trademarks by using and exploiting Mr. Tyson’s name, likeness, and marks on apparel and other items it may offer for sale. For example, the following products are offered for sale via Amazon.com:



The above shirt is available at: https://www.amazon.com/Boxing-Hall-Fame-Champion-T-Shirt/dp/B01LW50HXV/ref=sr_1_2?ie=UTF8&qid=1500324866&sr=8-2&keywords=boxing+hall+of+fame+men%27s+iron+mike+tyson+t-shirt

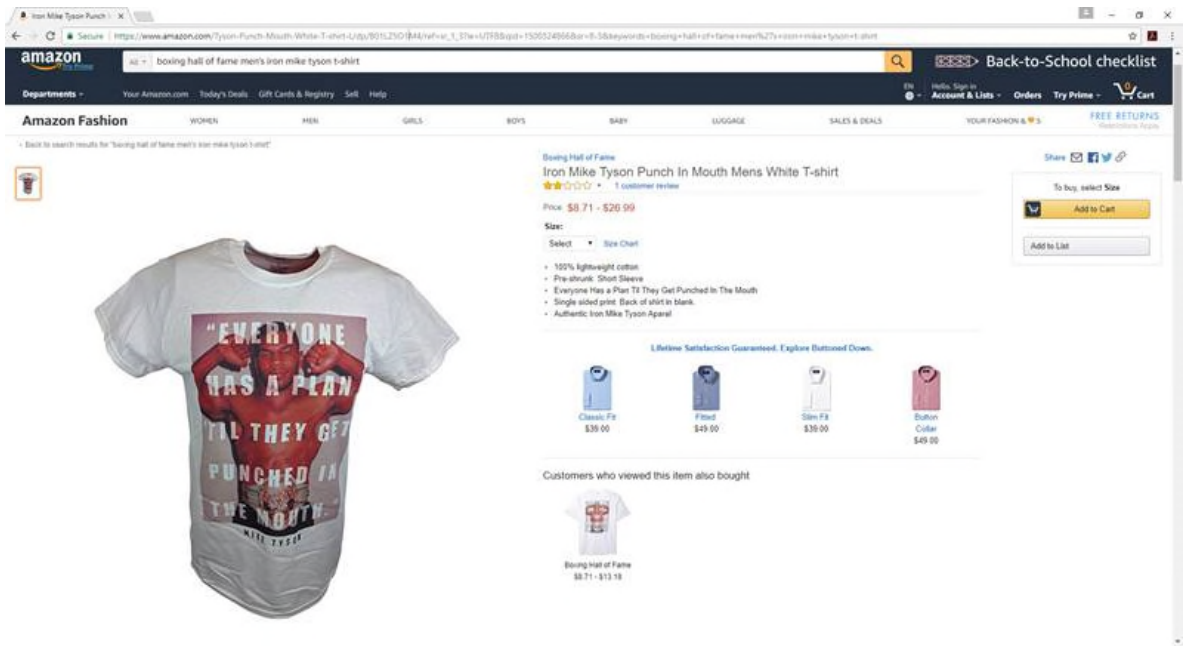


The above shirt is available at: https://www.amazon.com/Boxing-Hall-Fame-T-Shirt-X-Large/dp/B01LVXB8XF/ref=sr_1_1?ie=UTF8&qid=1500392815&sr=8-1&keywords=boxing+hall+of+fame+men%27s+iron+mike+tyson+t-shirt

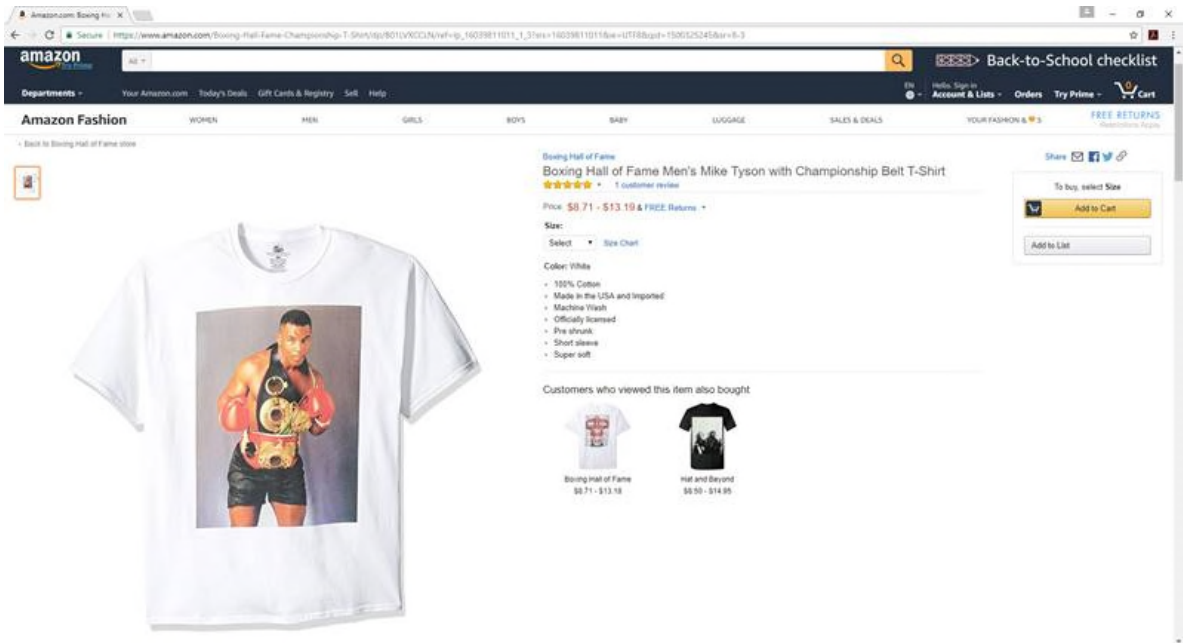
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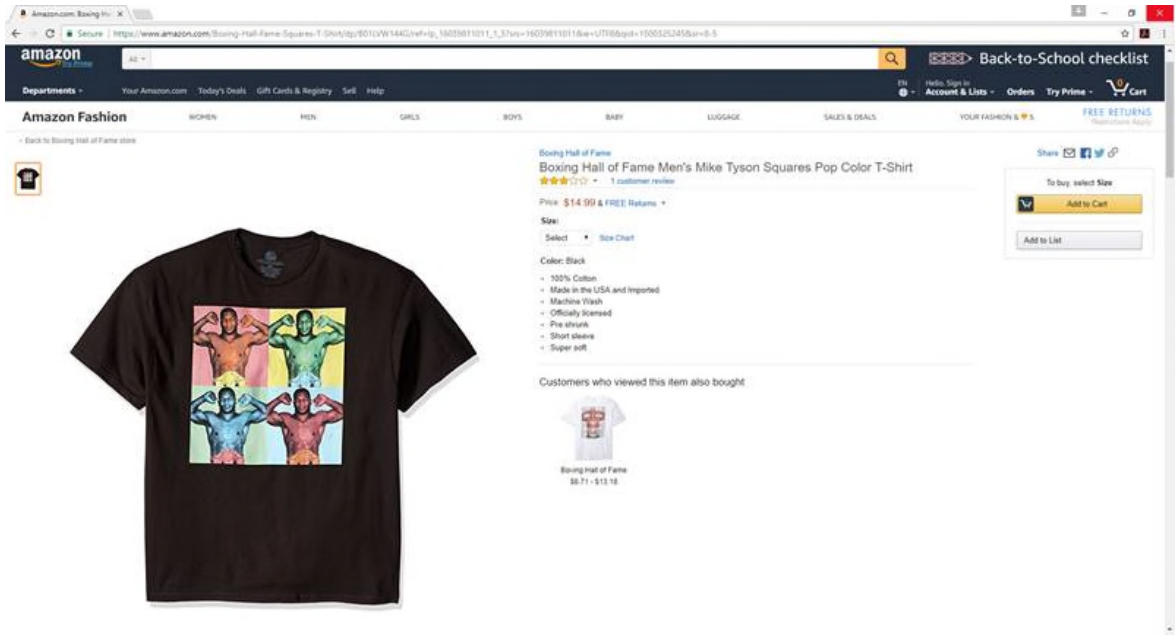
The above shirt is available at: https://www.amazon.com/Tyson-Punch-Mouth-White-T-shirt-L/dp/B01LZ5O1M4/ref=sr_1_3?ie=UTF8&qid=1500324866&sr=8-3&keywords=boxing+hall+of+fame+men%27s+iron+mike+tyson+t-shirt



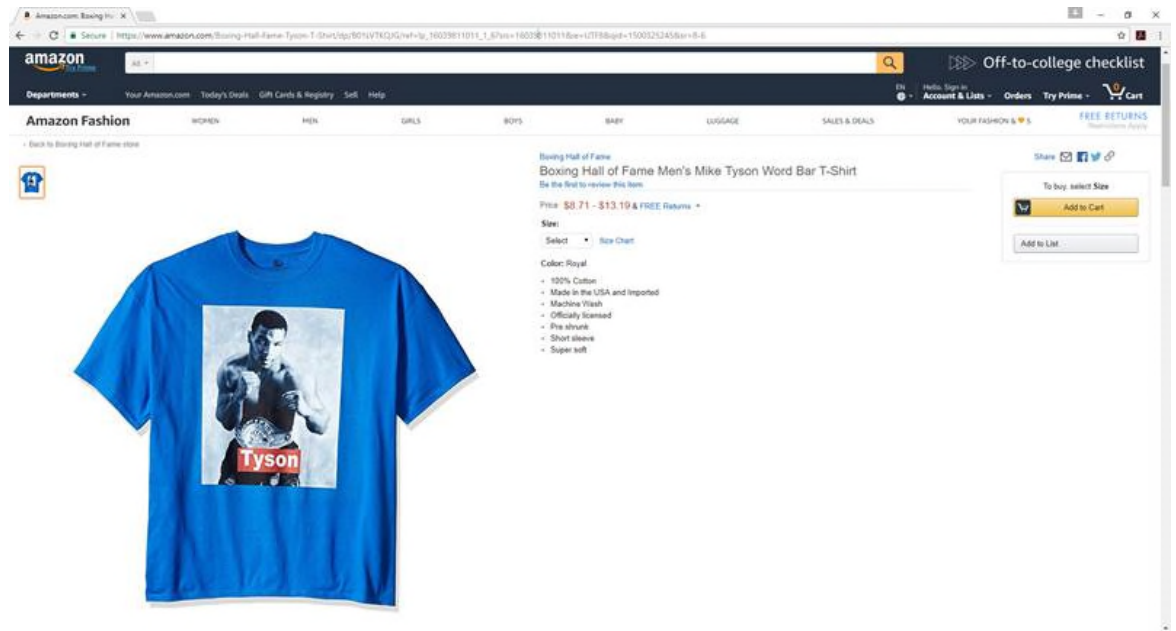
The above shirt is available at: https://www.amazon.com/Boxing-Hall-Fame-Championship-T-Shirt/dp/B01LVXCCLN/ref=lp_16039811011_1_3?srs=16039811011&ie=UTF8&qid=1500325245&sr=8-3

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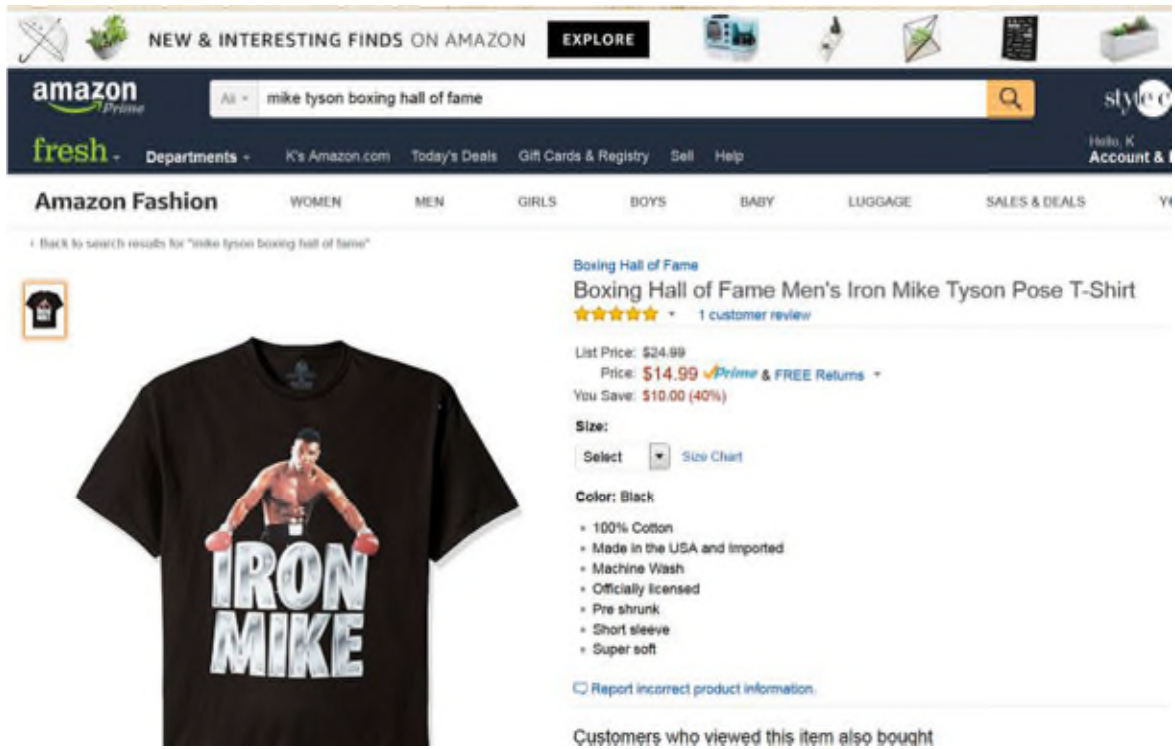
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The above shirt is available at: https://www.amazon.com/Boxing-Hall-Fame-Squares-T-Shirt/dp/B01LVW144G/ref=lp_16039811011_1_5?srs=16039811011&ie=UTF8&qid=1500325245&sr=8-5



The above shirt is available at: https://www.amazon.com/Boxing-Hall-Fame-Tyson-T-Shirt/dp/B01LVTKQJG/ref=lp_16039811011_1_6?srs=16039811011&ie=UTF8&qid=1500325245&sr=8-6



The above shirt was initially sold by BHF, but is now available through the Marvel store on Amazon at: https://www.amazon.com/Marvel-Mens-Iron-Tyson-T-Shirt/dp/B01LW2JA9O/ref=pd_rhf_se_s_cp_9?encoding=UTF8&pd_rd_i=B01LW2JA9O&pd_rd_r=F8FWEZ8AP7HZNC8PTWME&pd_rd_w=BCnPY&pd_rd_wg=Zgblu&refRID=F8FWEZ8AP7HZNC8PTWME

11. Upon information and belief, Defendant BHF has also entered into agreements with other online vendors, including American Classics Apparel, Macy’s, and Urban Outfitters, to sell products that are purportedly “officially licensed” and that bear Mr. Tyson’s name, likeness, and marks. Mr. Tyson has not authorized this use or exploitation of his name, likeness, or marks.

12. Upon information and belief, Defendant BHF has entered into negotiations with other vendors to use Mr. Tyson’s name, likeness, and marks on other products, including energy bars, energy drinks, health-related products, and gaming products. Mr. Tyson has not authorized this use or exploitation of his name, likeness, or marks.

13. Defendant Lott directed and/or authorized the infringing use of Mr. Tyson’s marks by Defendant BHF.

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1 14. Mr. Tyson has given Defendants notice that the referenced activities infringe upon his
2 rights and that he does not authorize Defendants to engage in these activities.

3 15. Mr. Tyson also has ordered Defendants to cease and desist from their unauthorized
4 use and exploitation of his name, likeness, and marks.

5 16. Defendants' failure to comply with Mr. Tyson's demand to cease and desist from
6 their activities demonstrates that their continued infringement is willful and/or willfully blind and in
7 bad faith.

8 **COUNT 1**

9 **(Violation of NRS § 597.790 (Right of Publicity))**

10 17. Mr. Tyson realleges and incorporates by reference paragraphs 1 to 16 of this
11 Complaint as if fully set forth at length herein.

12 18. Defendants have used and exploited Mr. Tyson's name and likeness for commercial
13 purposes within the state of Nevada.

14 19. Defendants did not obtain Mr. Tyson's written consent or authorization to their use of
15 his name or likeness in violation of Nevada Revised Statutes § 597.790.

16 20. Mr. Tyson has suffered damages as a direct and proximate result of Defendants'
17 unauthorized use and exploitation of his name and likeness.

18 **COUNT 2**

19 **(Violation of § 1114 of The Lanham Act (Registered Trademark Infringement))**

20 21. Mr. Tyson realleges and incorporates by reference paragraphs 1 to 20 of this
21 Complaint as if fully set forth at length herein.

22 22. Defendants have used and exploited the registered trademark MIKE TYSON without
23 Mr. Tyson's consent or authorization in connection with apparel and other items that Defendants
24 offer for sale directly or through third-party vendors in a manner that is likely to cause confusion or
25 mistake, or to deceive, in violation of 15 U.S.C. § 1114.

26 23. Mr. Tyson has suffered damages as a direct and proximate result of Defendants'
27 unauthorized use and exploitation of his trademark.

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COUNT 3

(Violation of § 1125(a) of The Lanham Act (Common Law Trademark Infringement))

24. Mr. Tyson realleges and incorporates by reference paragraphs 1 to 23 of this Complaint as if fully set forth at length herein.

25. Defendants have used and exploited Mr. Tyson’s name, likeness, and trademarks MIKE TYSON and IRON MIKE, without Mr. Tyson’s consent or authorization, in connection with apparel and other items that Defendants offer for sale directly or indirectly through third-party vendors.

26. Said use has caused and is likely to continue to cause confusion or mistake, or to deceive, as to Defendants’ connection and association with Mr. Tyson, and as to Mr. Tyson’s sponsorship or approval of said clothing, in violation of 15 U.S.C. § 1125(a).

27. Mr. Tyson has suffered damages as a direct and proximate result of Defendants’ unauthorized use and exploitation of his name, likeness, and marks.

COUNT 4

(Violation of § 1125(c) of the Lanham Act (Common Law Trademark Dilution))

28. Mr. Tyson realleges and incorporates by reference paragraphs 1 to 27 of this Complaint as if fully set forth at length herein.

29. Mr. Tyson’s name, likeness, and trademarks MIKE TYSON and IRON MIKE are both famous and distinctive.

30. Defendants have used and exploited Mr. Tyson’s name, likeness, and marks, without Mr. Tyson’s consent or authorization, in connection with apparel and other items that Defendants offer for sale directly or indirectly through third-party vendors.

31. Defendants’ unauthorized uses began after Mr. Tyson’s name, likeness, and marks became famous.

32. Defendants’ unauthorized uses have impaired and are likely to continue to impair the distinctiveness of Mr. Tyson’s name, likeness, and marks, thereby causing dilution by blurring in violation of 15 U.S.C. § 1125(c).

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1 33. Defendants have willfully and intentionally sought to trade on the recognition of Mr.
2 Tyson's name, likeness, and marks.

3 34. Mr. Tyson has suffered damages as a direct and proximate result of Defendants'
4 unauthorized use and exploitation of his name, likeness, and marks.

5 **COUNT 5**

6 **(Common-Law Trademark Infringement Under Nevada Law)**

7 35. Mr. Tyson realleges and incorporates by reference paragraphs 1 to 34 of this
8 Complaint as if fully set forth at length herein.

9 36. Defendants have used and exploited Mr. Tyson's name, likeness, and trademarks
10 MIKE TYSON and IRON MIKE, without Mr. Tyson's consent or authorization in connection with
11 apparel and other items that Defendants offer for sale directly or indirectly through third-party
12 vendors.

13 37. Defendants' unauthorized use and exploitation has caused and is likely to continue to
14 cause confusion or mistake, or to deceive, an appreciable number of reasonable consumers in
15 violation of Nevada law.

16 38. Mr. Tyson has suffered damages as a direct and proximate result of Defendants'
17 unauthorized use and exploitation of his name, likeness, and marks.

18 **COUNT 6**

19 **(Unfair Competition Under Nevada Law)**

20 39. Mr. Tyson realleges and incorporates by reference paragraphs 1 to 38 of this
21 Complaint as if fully set forth at length herein.

22 40. Defendants have used and exploited Mr. Tyson's name, likeness, and trademarks
23 MIKE TYSON and IRON MIKE, without Mr. Tyson's consent or authorization, in connection with
24 apparel and other items that Defendants offer for sale directly or indirectly through third-party
25 vendors.

26 41. Defendants' unauthorized use and exploitation has caused and is likely to continue to
27 cause confusion among consumers, in violation of Nevada law.

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1 42. Mr. Tyson has suffered damages as a direct and proximate result of Defendants'
2 unauthorized use and exploitation of his name, likeness, and marks.

3 **COUNT 7**

4 **(Violation of § 600.435 of Nevada Revised Statutes (Common Law Trademark Dilution))**

5 43. Mr. Tyson realleges and incorporates by reference paragraphs 1 to 42 of this
6 Complaint as if fully set forth at length herein.

7 44. Mr. Tyson's name, likeness, and trademarks MIKE TYSON and IRON MIKE are
8 famous in Nevada.

9 45. Defendants have used and exploited Mr. Tyson's name, likeness, and marks, without
10 Mr. Tyson's consent or authorization, in connection with apparel and other items that Defendants
11 offer for sale directly or indirectly through third-party vendors.

12 46. Defendants' unauthorized use and exploitation began after Mr. Tyson's name,
13 likeness, and marks became famous.

14 47. Defendants' unauthorized use and exploitation has lessened and is likely to continue
15 to lessen the capacity of Mr. Tyson's name, likeness, and marks to identify and distinguish goods
16 and services, thereby causing dilution in violation of Nevada Revised Statutes § 600.435.

17 48. Defendants have willfully intended to trade on Mr. Tyson's reputation.

18 49. Mr. Tyson has suffered damages as a direct and proximate result of Defendants'
19 unauthorized use and exploitation of his name, likeness, and marks.

20 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

21 A. A preliminary and permanent injunctive relief, prohibiting Defendants, their officers,
22 agents, employees, and all persons acting for, with, by, through, or under them from using the
23 Marks, whether in whole or in part, from exploiting his right of publicity and trademarks;

24 B. Damages, including pre-judgment interest, the exact amount to be determined at trial;

25 C. An award of treble damages and Defendants' profits pursuant to 15 U.S.C. § 1117, as
26 a result of Defendants' willful and intentional violations of the Lanham Act;

27 D. Destruction of the infringing articles under 15 U.S.C. § 1118;

28 E. Punitive damages;

- F. Reasonable attorney's fees and costs; and
- G. Such other and further relief as the Court may deem just and proper.

V. DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff demands a trial by jury of all triable issues in the above-captioned action.

DATED this 8th day of August, 2017.

BAILEY ❖ KENNEDY

By: /s/ Dennis L. Kennedy
DENNIS L. KENNEDY
KELLY B. STOUT

AND

JONATHAN D. DAVIS
JONATHAN D. DAVIS, P.C.
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Attorneys for Plaintiff
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