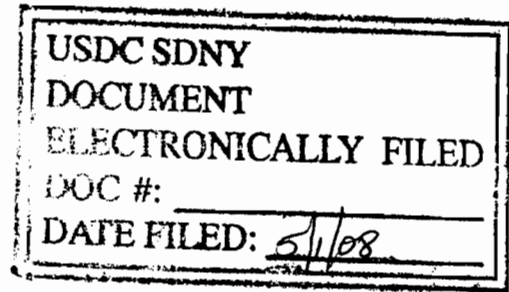


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

YOKO ONO LENNON, SEAN ONO LENNON,
JULIAN LENNON, and EMI BLACKWOOD
MUSIC, INC.,

Plaintiffs,

-against-

PREMISE MEDIA CORPORATION, L.P., C&S
PRODUCTION L.P. d/b/a RAMPANT FILMS,
PREMISE MEDIA DISTRIBUTION L.P. AND
ROCKY MOUNTAIN PICTURES, INC.,

Defendants.

-----x

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: 08 CV 3813 (SHS)(FM)
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: **ORDER TO SHOW CAUSE**
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Lennon et al v. Premise Media Corporation, L.P. et al

Doc. 19

Upon the annexed Affidavit of Yoko Ono Lennon dated April 29, 2008, Declaration of Dorothy M. Weber, Esq. dated April 30, 2008, Affidavit of Darnetha L. M'Baye dated April 29, 2008, Declaration of Nancy Weshkoff dated April 29, 2008, together with the Exhibits annexed thereto; the accompanying Memorandum of Law and the Summons and Complaint, and all proceedings heretofore had herein

~~IT APPEARING~~ that temporary relief is necessary to preserve the *status quo* herein pending the hearing and determination of Plaintiff's motion for a preliminary injunction and expedited discovery, and it appearing that, without such relief, Plaintiffs are likely to suffer further irreparable harm as a result of actions that Defendants are likely to take by continuing to distribute their Movie;

~~IT IS ORDERED~~ that, sufficient reason having been shown therefore, pending the hearing and determination of Plaintiffs' motion herein, pursuant to

~~Rule 65 of the Federal Rules of Civil Procedure~~, or as otherwise ordered by this Court, Defendants Premise Media Corporation, L.P., C&S Production L.P. d/b/a Rampant Films, Premise Media Distribution L.P. and Rocky Mountain Pictures, Inc. (the "Defendants"), their officers, agents, servants, employees and attorneys and all persons in active concert and participation with them who receive actual notice of this order by personal service or otherwise, be and they hereby are enjoined from further distribution, dissemination and publication of the Movie "Expelled: No Intelligence Allowed," (the "Movie") beyond those third party venues which possess and are showing the Movie as of the date of this Order.

~~IT IS FURTHER ORDERED~~ that the continuation of this relief beyond May 2, 2008 at 5:00 p.m. is conditioned upon Plaintiffs posting security in the amount of \$ _____ prior to that time.

~~IT IS FURTHER ORDERED~~ that Plaintiffs will be permitted to conduct expedited discovery. Defendants will produce the following documents on or before MAY 6, 2008: (i) a complete copy of the Movie, (ii) Defendants' agreements,

BY STIPULATION OF THE PARTIES in open court

on April 30, 2008

PENDING THE HEARING of the motion for a preliminary injunction

ANY ADDITIONAL COPIES

cause of the motion for preliminary injunction

Defendants ALSO AGREE THAT Pending the they WILL NOT MANUFACTURE OR PUBLICLY DISTRIBUTE ANY CDs OR DVDs OF THE MOVIE

ANYWHERE in the WORLD

licenses and contracts with third parties in connection with rights and permissions for all musical compositions or "clips" of third-party film or video footage, still photography, and any and copyrighted materials included in the Movie; (iii) documents and opinions obtained by Defendants in connection with their use of the song "Imagine" in the Movie which support any defense of fair use or first amendment; and (iv) ~~documents relating to the scheduling of distribution in~~

~~theatrical release and DVD format.~~ *PLAINTIFF WILL PRODUCE documents on or before May 6, 2008, REFLECTING THE EXCLUSIVE ADMINISTRATION BY EMI BLACKWOOD MUSIC, INC.*

~~IT APPEARING~~ ~~provisionally that the criteria for preliminary injunctive relief pursuant to Rule 65 of the Federal Rules of Civil Procedure have been satisfied in that (i) Plaintiffs have demonstrated that they are being irreparably harmed by the conduct of the Defendants; and (ii) Plaintiffs have demonstrated (a) a likelihood of success on the merits and (b) sufficiently serious questions going to the merits to make them a fair ground for litigation, plus a balance of hardships tipping decidedly in its favor,~~

IT IS FURTHER ORDERED that Defendants show cause before the Honorable Sidney H. Stein, United States District Judge, United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York, Courtroom 23A, on May 19, 2008, at ~~10:00~~ ^{4:30} p.m., or as soon thereafter as counsel may be heard, why an order should not be entered, pursuant to Rule 65 of the Federal Rule of Civil Procedure and the Court's inherent and equitable powers, during the pendency of this action:


1. enjoining and prohibiting the Defendants, their officers, agents, servants, employees and attorneys and all persons in active concert and participation with them, from further use of any portion, or the music or lyrics, in any media, of the musical composition written by John Lennon entitled "Imagine", or committing any further copyright infringement with respect thereto;
2. recalling for destruction or editing out of any and all references to the Song "Imagine" any and all copies of the Movie from all third-party distributors or editing those copies to remove the infringing Song;
3. awarding to the Plaintiffs costs, attorneys fees and such other and further relief as this Court may deem just and proper; and

IT IS FURTHER ORDERED, that good and sufficient service of this Order to Show Cause and other papers on which it is based shall be made, via hand delivery or Federal Express overnight delivery, to be received on or before ^{April 30} ~~May~~, 2008 at 5:00 p.m. on Defendants Premise Media Corporation, L.P., C&S Production L.P. d/b/a Rampant Films, Premise Media Distribution L.P. and Rocky Mountain Pictures, Inc. c/o Allen C. Wasserman, Esq., Locke Lord Bissell & Liddell LLP, 885 Third Avenue, 26th Floor, New York, NY 10022 and

IT IS FURTHER ORDERED, that answering papers, if any, shall be served upon Plaintiffs by hand delivering copies thereof to Plaintiff's counsel, Shukat Arrow Hafer Weber & Herbsman LLP, 111 West 57th Street, New York, New York 10019 on or before May ¹⁴, 2008 at 5:00 p.m.; and

IT IS FURTHER ORDERED, that reply papers, if any, shall be filed with the Court and served upon Defendants by hand delivering copies thereof to be received by Defendants' counsel, on or before May 16, 2008 at 5:00 p.m..

On consent, no undertaking is required for the T.R.O.


UNITED STATES DISTRICT JUDGE

Dated: New York, New York
April 30, 2008

ISSUED: 4:23 p.m.