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

ON REPEAT BV, a Belgian
Corporation,

Plaintiff,

v.

GOOSE, LLC, a Connecticut Limited
Liability Company,

Defendant.

Case No. 2:23-cv-01631

COMPLAINT FOR:

**1. FALSE DESIGNATION OF
ORIGIN UNDER SECTION 43 OF
THE LANHAM ACT (15 U.S.C. §
1125(a) *et seq.*)**

**2. TRADEMARK INFRINGEMENT
UNDER CALIFORNIA COMMON
LAW**

**3. UNFAIR COMPETITION (Cal.
Bus. & Prof. Code, § 17200 *et seq.*)**

**4. CANCELLATION OF FEDERAL
TRADEMARK REGISTRATIONS
FOR THE WORD AND DESIGN
MARKS “GOOSE” (15 U.S.C.
§§ 1064 & 1119)**

DEMAND FOR JURY TRIAL

1 Plaintiff On Repeat BV (“Plaintiff”) for their Complaint against Defendant
2 Goose, LLC (“Defendant”) alleges as follows:

3 **SUMMARY OF ACTION**

4 1. Plaintiff is the owner of the trademark GOOSE™ (the “GOOSE
5 trademark”) as used on or in association with, *inter alia*, audio and video recordings,
6 digital media, and entertainment services of a musical band.

7 2. Defendant willfully infringed upon Plaintiff’s exclusive rights in the
8 GOOSE trademark by providing substantially similar goods and services in
9 California and elsewhere in the U.S. under the same designation, thereby creating
10 confusion between its own goods and services and those of Plaintiff.

11 3. Plaintiff is seeking damages for the harm Defendant’s actions have
12 caused and injunctive relief to stop the infringing conduct. In addition, Plaintiff is
13 seeking the cancellation of all trademark registrations that Defendant has applied for
14 in violation of Plaintiff’s exclusive rights.

15 **THE PARTIES**

16 4. Plaintiff On Repeat BV is the business entity that controls the rights
17 and interests of the Belgian band Goose (“Goose”). It is a corporation under Belgian
18 law that advertises, sells, and distributes audio and video recordings and provides
19 other entertainment services as a musical band under the name GOOSE to consumers
20 in this district and elsewhere in the U.S.

21 5. Upon information and belief, Defendant Goose, LLC is a limited
22 liability company formed under the laws of Connecticut that also advertises, sells,
23 and distributes audio and video recordings and provides other entertainment services
24 as a musical band under the name GOOSE to consumers in this district and
25 elsewhere in the U.S.

26 **JURISDICTION AND VENUE**

27 6. This is a civil action arising under the trademark laws of the United
28 States and the statutory and common laws of the State of California.

1 7. This Court, therefore, has federal question jurisdiction over this action
2 pursuant to 15 U.S.C. § 1121, 28 U.S.C. § 1331, and 28 U.S.C. § 1338(a), as well as
3 supplemental jurisdiction over the state law claims asserted herein.

4 8. Venue is proper in this district under 28 U.S.C. §§ 1391 in that, *inter*
5 *alia*, a substantial portion of the events giving rise to this action took place in this
6 district, and Defendant is subject to this court's personal jurisdiction because of its
7 systematic and continuous contacts with California, including, on information and
8 belief, its promotion, sales, and distribution of infringing products and services to
9 California citizens both directly through its website and indirectly through licensees
10 and agents targeting and serving the California market.

11 GENERAL ALLEGATIONS

12 9. Goose was formed in Belgium in 2000 by Mickael Karkousse, Dave
13 Martijn, Tom Coghe, and Bert Libeert.

14 10. In 2002, Goose released its first single, "Audience." The recording was
15 used in a European-wide television campaign for Coca-Cola.

16 11. Shortly thereafter, Goose signed with UK label Skint Records. Its debut
17 album, *Bring It On*, was released internationally in September 2006.

18 12. Since then, Goose has consistently and continuously released audio and
19 video recordings throughout the world under its own name, including the albums
20 *Synrise* (in 2010), *Control Control Control* (in 2012), *What You Need* (in 2016),
21 *Nonstop (Live At Pukkelpop)* (in 2018), and *Endless* (in 2022) and numerous singles
22 and remixes.

23 13. Throughout the years, Goose's recordings have appeared in several
24 American tv-shows that have aired internationally, such as *CSI: NY*, *CSI: Miami*,
25 *Chuck*, and *Dirty Sexy Money*.

26 14. Goose's recordings are and have been available for physical sales,
27 download, and streaming in California and elsewhere in the United States for at least
28 fifteen years via the band's website at www.goosemusic.com and via all major music

1 and video platforms, including YouTube, iTunes, Apple Music, Amazon, Spotify,
2 Bandcamp, and Pandora.

3 15. On all platforms, Goose is and always has been prominently featured
4 as a successful recording artist with worldwide appeal and a worldwide audience.

5 16. Recently, Goose became aware that Defendant is playing shows and
6 releasing records in California and elsewhere in the U.S. under the name GOOSE
7 and, upon information and belief, has been doing so since 2016.

8 17. Upon further investigation, Goose also learned that Defendant applied
9 for federal trademark registrations in its name for the word mark GOOSE and for a
10 design mark incorporating the word GOOSE, which issued in 2020 and 2022
11 respectively, under U.S. serial numbers 88594816 and 90181496.

12 18. Goose also learned that, in addition, Defendant applied for and obtained
13 registrations in the EU for the word mark GOOSE (EUTM number 018141959) and
14 a figurative mark containing the word GOOSE (EUTM number 018141958).

15 19. Upon information and belief, because of Brexit and based on the
16 European registrations, Defendants were also granted trademark registrations in the
17 United Kingdom in classes 9 and 41 for the word mark GOOSE (UK trademark
18 number UK00918141959) and for that same figurative mark (UK trademark number
19 UK00918141958).

20 20. Plaintiff's use of the GOOSE trademark in California and elsewhere in
21 the U.S. in connection with music and video recordings and entertainment services
22 provided by a musical band predates Defendant's use of the mark for substantially
23 similar goods and services by at least a decade.

24 21. Plaintiff's use of the GOOSE trademark has been continuous since
25 2006, with no intention to abandon it.

26 22. As such, Plaintiff is and always has been the rightful owner of the
27 GOOSE trademark in California and the U.S. with respect to, *inter alia*, audio and
28 video recordings, digital media, and entertainment services of a musical band.

FIRST CLAIM FOR RELIEF

(False Designation of Origin under Section 43 of the Lanham Act - 15 U.S.C. § 1125(a) et seq.)

23. Plaintiff repeats and realleges paragraphs 1 through 22 hereof, as if fully set forth herein.

24. Through two decades of musical activity as a band and the worldwide exploitation of audio and video recordings, both directly to the public and via its licensees Skint Records/BMG Entertainment and Universal Music Group, Plaintiff owns and enjoys common law trademark rights in the name GOOSE under federal law, which rights are senior and superior to any rights that Defendant claims to have in and to that trademark with respect to its products, services, and commercial activities.

25. Plaintiff's GOOSE trademark for recordings and entertainment services by a musical band is inherently distinctive because it is arbitrary; it employs a word with no commonly understood connection to the product and services.

26. For two decades, the GOOSE trademark has naturally served to identify Plaintiff as the source of the musical goods and services advertised, sold, and distributed under that name in U.S. interstate commerce and to distinguish them from the goods and services of other musical ensembles.

27. In addition, because of Plaintiff's continuous and exclusive use of the GOOSE trademark for decades, it had also acquired secondary meaning and distinctiveness with the trade and consuming public long before Defendant began using the same name for substantially similar goods and services in or about 2016. Until then, the GOOSE trademark had been exclusively associated with Plaintiff and the unique products it licenses and musical services it provides.

28. Defendant has, without Plaintiff's permission, misappropriated the GOOSE trademark and, in doing so, has created, if not actual confusion, then at least a likelihood of confusion between Plaintiff's and Defendant's goods and services.

1 29. By way of example, on download and streaming platforms, music
2 releases by Defendant have mistakenly been listed on Plaintiff's artist profile and
3 vice versa. Plaintiff's licensees regularly need to contact those platforms to re-assign
4 record releases to the correct profile to minimize confusion with the public.

5 30. Likewise, online services such as Songkick (www.songkick.com) and
6 Bandsintown (www.bandsintown.com), the two main independent providers of
7 concert information to consumers in and outside the U.S., regularly list Defendant's
8 tour dates under Plaintiff's profile, thereby causing actual confusion with the public
9 about Plaintiff's musical performances and concert tickets.

10 31. When searching for Plaintiff's goods and services online, consumers
11 regularly end up on Defendant's website, Defendant's social media accounts, and
12 Defendant's streaming profiles.

13 32. Plaintiff's booking agents repeatedly encounter misunderstandings
14 when approaching festival and club promoters to secure shows for the band, and
15 promoters struggle to advertise these shows in a way that eliminates any possible
16 confusion between the two bands.

17 33. When viewing festival posters and other show listings, Plaintiff's fans
18 often erroneously believe that Plaintiff is performing while, in reality, it concerns a
19 concert by Defendant.

20 34. Defendant's actions as described herein are likely to cause and actually
21 cause confusion or mistake between Plaintiff's products, services, and commercial
22 activities and those of Defendant, and thus constitute common law trademark
23 infringement, false designation of origin, and unfair competition in violation of
24 Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. 11 § 1125(a)(1)(A).

25 35. As a proximate result of said actions, Plaintiff has suffered, is suffering,
26 and, unless Defendant is enjoined from continuing its wrongful conduct, will
27 continue to suffer irreparable injury to its rights and a substantial loss of goodwill
28 and loss in the value of its common law mark for which it has no adequate remedy

1 at law.

2 36. Defendant's misconduct is, moreover, willful. Defendant knew or
3 reasonably should have known of Plaintiff's prior and continuous worldwide use of
4 the GOOSE trademark for, *inter alia*, audio and video recordings and entertainment
5 services by a musical band. A simple internet search reveals as much. Despite that
6 knowledge, Defendant began using an identical name for substantially similar goods
7 and services and even applied for trademark registrations with the United States
8 Patent and Trademark Office (USPTO) and the Europe Union Intellectual Property
9 Office (EUIPO) for that name, presumably with the intent of precluding Plaintiff
10 from successfully opposing Defendant's wrongful conduct.

11 37. As such, Plaintiff is entitled to the range of relief provided by 15 U.S.C.
12 §§ 1116-17, including injunctive relief, compensatory damages in an amount to be
13 determined at trial, the costs of this action, and reasonable attorney fees.

14 **SECOND CLAIM FOR RELIEF**

15 **(California Common Law Trademark Infringement)**

16 38. Plaintiff repeats and realleges paragraphs 1 through 37 hereof, as if
17 fully set forth herein.

18 39. Plaintiff owns all right, title, and interest in and to the GOOSE
19 trademark as applied to or used in association with recordings and entertainment
20 services by a musical band.

21 40. Defendant has been infringing and continues to infringe Plaintiff's
22 GOOSE trademark in California and elsewhere in the United States by advertising,
23 distributing, selling, and offering to sell goods and services that are identical or
24 closely related to Plaintiff's goods and services marketed under its GOOSE mark,
25 using an identical mark ("Defendant's infringing activities").

26 41. Defendant's infringing activities have not been approved, authorized,
27 or otherwise consented to by Plaintiff.

28 42. Defendant's infringing activities have caused, are likely to cause, and

1 are causing confusion, mistake, and/or deception on the part of consumers regarding
2 the origin of Defendant's goods and services promoted under the GOOSE trademark.

3 43. Defendant's infringing activities have caused and are continuing to
4 cause damage to Plaintiff in an amount that is difficult to quantify.

5 44. Defendant's activities have caused, and continue to cause, irreparable
6 harm to Plaintiff and Plaintiff's goodwill and reputation.

7 45. Defendant's infringing activities constitute common law infringement
8 of Plaintiff's GOOSE trademark.

9 46. Defendant has been and continues to infringe Plaintiff's trademark
10 rights with full knowledge of or reckless disregard for Plaintiff's common law rights.

11 47. Defendant's conduct is willful and undertaken with the intent to deprive
12 Plaintiff of the ownership of a trademark that it has owned for two decades and to
13 profit from the goodwill that Plaintiff has created in that trademark throughout the
14 years.

15 48. Unless enjoined by this Court, Defendant will continue to engage in
16 such infringing activities, which irreparably harm and immediately injure Plaintiff
17 and deceive the public. Plaintiff has no adequate remedy at law in that monetary
18 damages are insufficient to make it whole.

19 49. As such, Plaintiff is entitled to injunctive relief and compensatory
20 damages in an amount to be determined at trial.

21 **THIRD CLAIM FOR RELIEF**

22 **(Unfair Competition - Cal. Bus. & Prof. Code, § 17200 et seq.)**

23 50. Plaintiff repeats and realleges paragraphs 1 through 49 hereof, as if
24 fully set forth herein.

25 51. Defendant's appropriation and actual use of the GOOSE trademark and
26 the goodwill and reputation associated therewith and attached thereto constitute
27 unfair competition in violation of Cal. Bus. & Prof. Code, § 17200 et seq.

28 52. By reason of Defendant's actions in connection with Defendant's

1 products, services, and commercial activities, Plaintiff has suffered, and will
2 continue to suffer, irreparable injury to its rights and substantial loss of goodwill and
3 loss in the value of its GOOSE trademark, unless and until Defendant is enjoined
4 from continuing its wrongful acts.

5 **FOURTH CLAIM FOR RELIEF**

6 **(Cancellation of Federal Trademark Registrations with U.S. serial numbers**
7 **88594816 and 90181496 - 15 U.S.C. §§ 1064 & 1119)**

8 53. Plaintiff repeats and realleges paragraphs 1 through 52 hereof, as if
9 fully set forth herein.

10 54. Defendant's federal trademark registrations for the word mark GOOSE
11 (U.S. serial number 88594816) and for a design mark comprising the word GOOSE
12 (U.S. serial number 90181496)—both of which are less than 5 years old—so
13 resemble the trademark and trade name GOOSE previously used in the U.S. by
14 Plaintiff, and not abandoned, as to be likely, when used on or in connection with
15 Defendant's goods or services, to cause confusion or mistake, or to deceive.

16 55. Defendant is not, and was not at the time of the filing of its application
17 for registration, the rightful owner of the registered marks.

18 56. Lack of ownership and likelihood of confusion are statutory grounds
19 for refusing a registration (Trademark Act § 2(d), 15 U.S.C. § 1052(d)) and, if a
20 registration does issue, for its cancellation pursuant to Section 14 of the Lanham act
21 (15 U.S.C. § 164). *See* TBMP § 309.03(c).

22 57. Defendant's trademark registrations have caused and will continue to
23 cause damage to Plaintiff in the future due to the likelihood of confusion with the
24 GOOSE trademark owned by Plaintiff.

25 58. Pursuant to Section 37 of the Lanham Act (15 U.S.C. § 1119), the court
26 may determine the right to federal trademark registration and order the cancellation
27 of any such registration.

28 //

PRAYER FOR RELIEF

WHEREFORE, Plaintiff On Repeat BV prays that judgment be entered by this Court, in its favor and against Defendant Goose, LLC, providing the following relief:

A. That Defendant, its agents, affiliates, subsidiaries, servants, employees, attorneys, and all other persons in active concert with or controlled by them be permanently enjoined from:

1. using Plaintiff's GOOSE trademark or any marks confusingly similar thereto in association with the licensing, sale, distribution, marketing, or advertising of Defendant's goods, services, or commercial activities or for otherwise promoting Defendant;
2. imitating, copying, duplicating, using, reproducing, registering, attempting to register, or displaying any mark incorporating or so resembling the GOOSE trademark as to be likely to cause confusion, mistake, or deception therewith;
3. any other and further acts of infringement of Plaintiff's GOOSE trademark;

B. That Defendant be required to remove from the internet, including all streaming and download platforms, all audio and video recordings, merchandising, electronic press kits, promotional materials, domain names, and any other items bearing Plaintiff's GOOSE trademark or any other mark, name or logo incorporating or so resembling the GOOSE trademark as to be likely to cause confusion, mistake, or deception therewith;

C. That Defendant be ordered to provide an accounting to Plaintiff for all revenues Defendant has received as a result of its unauthorized misappropriation and infringement of Plaintiff's GOOSE trademark from the inception of said infringement to the date of judgment herein;

D. That Defendant be liable to Plaintiff for Defendant's profits and

1 Plaintiff's actual damages, in an amount to be determined at trial or for any such
2 sum as the court in its discretion shall find to be just, and for prejudgment interest
3 based upon infringement damages accruing from the date of Defendant's acts of
4 infringement;

5 E. That Plaintiff be awarded such other and further relief as the Court
6 deems just and proper.

7 **DEMAND FOR JURY TRIAL**

8 Pursuant to Fed. R. Civ. P. 38, Plaintiff hereby requests a trial by jury
9 of all issues so triable.

10
11 DATED: March 5, 2023

By: /s/ Inge De Bruyn

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