

STATE OF INDIANA)	IN THE HAMILTON SUPERIOR COURT 01
)	
)	SS:
COUNTY OF HAMILTON)	CAUSE NUMBER: 29D01-1213-CC-_____
)	
JAMES DEAN, INC.)	
)	
Plaintiff,)	
)	
vs.)	
)	
TWITTER, INC., a Delaware)	
Corporation, and JOHN DOE)	
DEFENDANTS 1-5)	
COMPANY)	
)	
Defendant.)	

COMPLAINT FOR DAMAGES AND FOR INJUNCTIVE RELIEF

Plaintiff JAMES DEAN, INC. (hereinafter “JDI”), for its Complaint for Damages and for Injunctive Relief (hereinafter referred to as the “Complaint”) against Defendants TWITTER, INC. (hereinafter “TI”) and JOHN DOE DEFENDANTS 1-5 (hereinafter “DOES”), by counsel Theodore J. Minch, hereby states and avers as follows:

I. THE PARTIES.

1. JDI is a corporation organized and existing under the laws of the State of Indiana, having its principal place of business located at 10500 Crosspoint Boulevard, Indianapolis (Hamilton County), Indiana 46256.

2. TI is a corporation organized and existing pursuant under the laws of the State of Delaware with its principal place of business located at 1355 Market Street, Suite 900, San Francisco, California 94103.

3. Upon information and belief, DOES are individuals and / or legal entities whose identities and contact information are protected by TI.

4. CMG WORLDWIDE, INC. (hereinafter “CMG”) is the premiere celebrity licensing agency and is recognized around the world as agent and representative for such internationally recognized celebrities as James Dean, Marilyn Monroe, Jackie Robinson, Babe Ruth, Ella Fitzgerald, and Chuck Berry.

5. In its capacity as celebrity licensing agent, CMG, on behalf of JDI, the exclusive owner of the name, likeness, voice, right of publicity and endorsement, worldwide trademarks¹, copyrights, and other intellectual property including but not limited to visual and aural depictions, artifacts, memorabilia, and life-story rights, and / or trade dress of the late internationally recognized movie star, James Dean (hereinafter collectively the “Dean Intellectual Property”), licenses to third parties permission to commercially utilize the Dean Intellectual Property.

6. Also in its capacity as the exclusive licensing representative for the Dean Intellectual Property as owned by JDI, CMG enforces and protects the Dean Intellectual Property from illegal commercial use of the Dean Intellectual Property by third party unauthorized users thereof.

7. Created in 2006, TI is a global real-time communications platform with 400 million monthly visitors to twitter.com, more than 200 million monthly active users around the world. TI sees a billion tweets every 2.5 days on every conceivable topic. World leaders, major athletes, star performers, news organizations and entertainment outlets are among the millions of active TI accounts.

¹ JDI is the owner of U.S. federal trademark Reg. Nos. 1,496,806 and 1,492,324 for the internationally recognized mark, JAMES DEAN.

II. JURISDICTION AND VENUE.

8. Jurisdiction and venue is proper in this Court pursuant to Ind. Code § 33-28-1-1, I.C. § 32-36-1-9 and Ind. Tr. Rule 75(A)(5), T.R. 75(A)(8), T.R. 75(A)(9), and T.R. 75(A)(10).

III. ACTS COMPLAINED OF.

9. As a consequence of his widely recognized and acclaimed career and the attendant fame and prominence, substantial value has attached to the Dean Intellectual Property.

10. At all times pertinent hereto, since at least as early as September, 2012, TI has allowed the registration and operation of a personal twitter account, @JamesDean. A true and accurate copy of the TI website located at <https://twitter.com/JamesDean> (the “Unauthorized TI Website”), last viewed on December 31, 2013, is attached hereto as Exhibit 1.

11. DOES, the owner and proprietor of the Unauthorized TI Website, has placed objectionable content on the TI Website, and, in so doing, has used the Dean Intellectual Property, including but not limited to United States trademark registrations for the mark JAMES DEAN, without prior written authorization of JDI (collectively hereinafter the “Unauthorized Use”).

12. On numerous occasions since October 11, 2012, CMG, by and on behalf of its client, JDI, has contacted TI in an attempt to have the Unauthorized Use as herein described, ceased, and in an attempt to obtain the relevant contact information as to DOES, the owner and proprietor of the Unauthorized TI Website. A true and accurate copy of these contacts, together with TI’s various replies, are attached hereto, collectively, as Exhibit 2.

13. Neither TI nor DOES currently have nor have ever had express or implied permission from JDI and / or CMG to commercially exploit the Dean Intellectual Property, including but not limited to the trademarks for the mark JAMES DEAN as lawfully registered by CMG on behalf of JDI.

14. JDI has been and continues to be injured by TI and DOES' intentional, knowing, and willful actions. The Unauthorized TI Website and the Unauthorized Use on and / or in which TI and DOES are currently intentionally, knowingly, and maliciously engaging has resulted in and continues to result in immeasurable and irreparable damage to JDI.

15. Unless the afore-described intentional, knowing, and willful actions engaged in by TI and DOES are immediately ceased, JDI will continue to be irreparably harmed and suffer actual damages in an amount as yet undetermined.

IV. CAUSES OF ACTION.

FIRST CAUSE OF ACTION TRADEMARK INFRINGEMENT UNDER SECTION 32(1) OR 43(A) OF THE LANHAM ACT

16. JDI repeats and realleges the allegations in Paragraphs 1. through 15.

17. TI and DOES' past and continued knowing, intentional, willful, malicious, and unauthorized use of the Dean Intellectual Property, including but not limited to the lawfully registered JAMES DEAN trademarks, infringes upon JDI's exclusive rights in and to the federally protected trademarks in and to the name and / or signature of James Dean and, as such, is in violation of §§ 32(1) or 43(a) of the Lanham Act, 15 U.S.C. §§ 1114(1) or 1125(a), in that TI and DOES' conduct is likely to cause confusion, to cause mistake, or to deceive as to source, sponsorship, connection, association, or affiliation between CMG, JDI, and TI and DOES.

18. TI and DOES' unauthorized and infringing activities have been knowing, intentional, willful, deliberate, and malicious, and its misuses of the Dean Intellectual Property done with the intent to trade upon the goodwill and reputation of the Dean Intellectual Property, and to unfairly compete with CMG licensees for the use of the Dean Intellectual Property and to damage and injure CMG, JDI, and their businesses.

