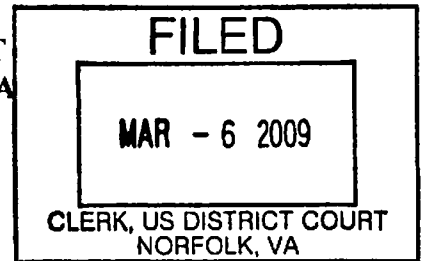


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Newport News Division



PHISH, INC.,

Plaintiff,

v.

CIVIL ACTION NO. 4:09cv22

JOHN DOES 1-100 AND  
ABC CORPORATIONS 1-5,  
Defendants.

***TEMPORARY RESTRAINING ORDER AND  
ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION***

In accordance with the Memorandum Opinion and Order issued herein:

**IT IS HEREBY ORDERED** that defendants, various John Does and ABC Corporations (collectively, "Defendants") their true identities being unknown, show cause before the Honorable Raymond A. Jackson, United States District Court Judge, in Courtroom 4 of the United States District Court for the Eastern District of Virginia, located at 600 Granby Street, Norfolk, Virginia 23510 at 10:00 a.m. on March 19, 2009, or as soon thereafter as counsel can be heard, why an order pursuant to Fed. R. Civ. P. 65 should not be entered granting to Plaintiff, Phish, Inc., a preliminary injunction and enjoining the Defendants from manufacturing, distributing, selling or holding for sale, any clothing, jewelry, photographs, posters, recordings and other merchandise (collectively, the "Infringing Merchandise") bearing the trademarks, service marks, likenesses, images, efficacies, tradenames or tour logos, or any colorable imitations thereof of the group known as "PHISH" and each of its individual members "TREY ANASTASIO, MIKE GORDON, JON FISHMAN, and PAGE MCCONNELL" and their

federally registered marks: PHISH FOOD, U.S. Registration Number 2173816; PHISH, U.S. Reg. No. 2096010; PHISH, U.S. Reg. No. 2029049; PHISH, U.S. Reg. No. 2029048; PHISH, U.S. Reg. No. 1917861; PHISH, U.S. Reg. No. 1782981; and PHISH and design, U.S. Reg. No. 1930480; OYSTERHEAD, U.S. Reg. No. 2662635; GAMEHENDGE, U.S. Reg. No. 2048310; GAMEHENDGE, U.S. Reg. No. 2053513; WATERWHEEL, U.S. Reg. No. 2247438; and VIDA BLUE, U.S. Reg. No. 2842286 (collectively, the "Plaintiff's Marks").

**AND IT APPEARING TO THE COURT** that Defendants are about to sell and distribute the Infringing Merchandise bearing any or all of the Plaintiff's Marks as set forth in Plaintiff's Complaint and Declaration, and will continue to carry out such acts unless restrained by order of the Court.

**AND IT APPEARING TO THE COURT** that immediate and irreparable injury, loss or damage will result to the Plaintiff before Defendants can be identified and given notice and their attorneys can be heard in opposition to the granting of the temporary restraining order, in that the Defendants are preparing to manufacture, distribute and sell Infringing Merchandise as set forth in the Plaintiff's Complaint, and that, unless said Defendants are enjoined from said manufacture, distribution, and sale, the Plaintiff will suffer immediate and irreparable injury and harm in the form of a loss of income, lessening and dilution of the value of the Plaintiff's Marks, interference with Plaintiff's ability to exploit, market and license its merchandising rights, confusion in the marketplace as to the duly authorized source of merchandise depicting the Plaintiff's Marks, and impairment of the good will Plaintiff and its licensors have in the Plaintiff's Marks;

**IT IS FURTHER ORDERED** that pending hearing and determination of this application, or the expiration of ten (10) days from the date hereof, the Defendants, their agents,

servants, employees, attorneys, successors and assigns and all persons, firms and corporations acting in concert with them, and each of them be and hereby are temporarily restrained from manufacturing, distributing, offering or holding for sale, advertising and selling Infringing Merchandise bearing any or all of the Plaintiff's Marks.

**AND IT IS FURTHER ORDERED** that this Order be and is hereby conditioned upon Plaintiff's filing with the Clerk of this Court an undertaking in the form of a bond, certified check, or cash in the amount of \$10,000.00 no later than March 6, 2009, receipt of which is hereby acknowledged to secure the payment of such costs and damages not to exceed such sum as may be suffered or sustained by any party who is bound to be wrongfully restrained hereby;

**AND IT IS FURTHER ORDERED** that this Temporary Restraining Order is conditioned upon the Plaintiff's advancing to the United States Marshal or other law enforcement officers such sum as is required by the same to cover the fees for their said services, in the event Plaintiff seeks their services in this or any other district;

**AND IT IS FURTHER ORDERED** that service of a copy of this Order to Show Cause together with the Complaint upon which it is based, be made upon the Defendants by the United States Marshal, state or local police, or local deputy sheriffs or by any person over the age of eighteen (18) years not a party to this action selected for that purpose by the Plaintiff, at the time the restrained activities are discovered and that such service shall be deemed good and sufficient;

**AND IT IS FURTHER ORDERED** that each and every Defendant served with a copy of this Order promptly, courteously and peaceably identify himself or herself to the aforementioned process server and that the process server or agents for Plaintiff be allowed to


photograph, videotape or otherwise identify the Defendants;

**AND IT IS FURTHER ORDERED** that Defendants' responsive papers, if any shall, be filed with the Clerk of this Court and served upon the attorneys for Plaintiff by delivering copies to its counsel on or before March 16, 2009. Any reply shall be filed by Plaintiff and served upon each appearing Defendant or his/her counsel on or before March 18, 2009. Plaintiff is to provide copies of all other pleadings filed herein at the request of any identified Defendant;

**AND IT IS FURTHER ORDERED** that any Defendant who is hereafter served with a copy of this Order who objects to the provisions hereof may submit his or her objections to this Court or otherwise move for relief from this Court according to the Federal Rules of Civil Procedure, but no such objection shall serve to suspend this Order or stay the terms herein unless otherwise ordered by this Court.

This Order shall be in effect from its entry at 1:30 p.m. on March 6, 2009 until 1:30 p.m. on March 16, 2009.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
Raymond A. Jackson  
United States District Judge

Newport News, Virginia  
March 6, 2009  
Time: 1:30 PM