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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ROLLS-ROYCE MOTOR CARS LIMITED
and ROLLS-ROYCE MOTOR CARS NA,
LLC,

Plaintiffs,

v.

ROBERT D. DAVIS, *dba* ROLLS ROYCE
RIZZY,

Defendant.

Civil Action No.:

**COMPLAINT FOR TRADEMARK
DILUTION AND INFRINGEMENT, AND
UNFAIR COMPETITION**

JURY TRIAL DEMANDED

DOCUMENT FILED ELECTRONICALLY

Plaintiffs Rolls-Royce Motor Cars Limited and Rolls-Royce Motor Cars NA, LLC
(collectively, “Plaintiffs”), by way of complaint against Defendant Robert D. Davis, *dba* Rolls
Royce Rizzy, allege as follows:

Nature of the Action

1. Plaintiffs seek injunctive and monetary relief from Defendant Robert D. Davis,
dba Rolls Royce Rizzy, for trademark dilution, infringement, and unfair competition with regard
to Plaintiffs’ famous ROLLS-ROYCE trademark and Rolls-Royce Badge (“RR Badge”).

2. As alleged more fully below, Defendant has violated, and continues to violate, the Trademark Act of 1946 as amended, 15 U.S.C. §§ 1051 *et seq.* (the “Lanham Act”), and state law by misappropriating Plaintiffs’ famous marks in connection with his music business.

Parties

3. Plaintiff Rolls-Royce Motor Cars Limited is a company organized under the laws of England with its principal place of business at Ellesfield Avenue, Bracknell, Berkshire, RG12 8TA. Rolls-Royce Motor Cars Limited distributes Rolls-Royce vehicles to Rolls-Royce Motor Cars NA, LLC (“RRMC NA”).

4. Plaintiff Rolls-Royce Motor Cars NA, LLC is a Delaware limited liability company with its principal place of business at 300 Chestnut Ridge Road, Woodcliff Lake, New Jersey 07677. Rolls-Royce Motor Cars NA, LLC is responsible for the wholesale distribution of Rolls-Royce vehicles throughout the United States.

5. Defendant Robert D. Davis resides at 3200 Lenox Road NE, Apartment E 118, Atlanta, Georgia 30324-2635. Defendant is a musician who records, offers and sells his music under the stage name “Rolls Royce Rizzy.”

Jurisdiction and Venue

6. This Court has personal jurisdiction over Defendant because Defendant conducts and/or transacts business in this State, and infringing items have been sold to residents of the state of New Jersey.


7. This Court has jurisdiction over the subject matter of this action under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1332, 1338(a) and 1338(b), and has supplemental jurisdiction under 28 U.S.C. § 1367(a) over Plaintiffs’ claims under state law.

8. Venue is proper in this District under 28 U.S.C. §1391(b), upon information and belief a substantial part of the events or omissions giving rise to the claims occurred and is occurring in this District.

The Famous ROLLS-ROYCE Name and RR Badge Marks

9. Plaintiffs are in the business of designing, manufacturing, distributing and servicing motor vehicles and a variety of products under the famous “ROLLS-ROYCE” name and mark and RR Badge.

10. Rolls-Royce Motor Cars Limited is the owner of the following U.S. Registrations for the ROLLS-ROYCE trademark and RR Badge trademark, which are depicted respectively below:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Services/Goods</u>
ROLLS-ROYCE	325,195	June 11, 1935	Automobiles and chassis
ROLLS-ROYCE	3,148,743	September 26, 2006	Automobiles and structural parts therefor
	197,089	April 7, 1925	Automobiles and chassis

11. These registrations were duly and legally issued, are valid and subsisting, and are incontestable pursuant to 15 U.S.C. § 1065.

12. Rolls-Royce Motor Cars NA, LLC is licensed to use the ROLLS-ROYCE mark and RR Badge in the United States by Rolls-Royce Motor Cars Limited in connection with the distribution and sale of the aforementioned products.

13. Plaintiffs and their predecessors-in-interest have used the ROLLS-ROYCE mark in United States commerce continuously in connection with automobiles since 1935.

14. Plaintiffs and their predecessors-in-interest have used the RR Badge in United States commerce continuously in connection with automobiles since 1905.

15. Plaintiffs and their related companies make use of the ROLLS-ROYCE mark and RR Badge through appropriate licenses and permissions. All use of the ROLLS-ROYCE mark and RR Badge by Plaintiffs' related companies inures to the benefit of Plaintiffs within the meaning of § 5 of the Federal Trademark Act, 15 U.S.C. § 1055.

16. Plaintiffs have spent well over three quarters of a century producing goods and rendering services recognized in the United States and throughout the world to be of the highest quality, and have expended large sums of money for worldwide advertising of their products and services.

17. As a result of these efforts and care, and the excellent quality of Rolls-Royce products and services, the ROLLS-ROYCE mark and RR Badge have become well known and unique and are identified by the public solely with Plaintiffs and their products and services. Accordingly, Plaintiffs enjoy an exceedingly valuable reputation and goodwill in the United States and throughout the world, not only among purchasers of their products and users of their services, but also among other members of the public.

18. As a result of the foregoing efforts and investment, the ROLLS-ROYCE mark and RR Badge have become famous and distinctive.

Defendant's Wrongful Activities


19. Defendant records and sells music under the stage name "Rolls Royce Rizzy." (See Exhibit A.) He advertises his recordings under that name on his YouTube channel, and advertises and sells "Team Rolls Royce" t-shirts through an online merchandise store he set up at <http://rollsroycerizzy.spreadshirt.com>. (*Id.*)


20. Plaintiffs sent Defendant letters on October 10, 2014 and November 25, 2014 requesting that he cease and desist use of the stage name "Rolls Royce Rizzy" and all other trademark uses of the ROLLS-ROYCE mark and any other marks owned by Plaintiffs.


21. As of the filing of this Complaint, however, Defendant is still using the ROLLS-ROYCE mark in connection with his business.


22. On January 21, 2015, Plaintiffs discovered that Defendant, even after receiving Plaintiffs' cease and desist correspondence, posted the following photograph of himself on Instagram on December 20, 2014 wearing an unauthorized "Team Rolls Royce" t-shirt and a cap bearing Plaintiffs' RR Badge:



 **roycerizzy**
1 month ago
Shoutout to @zaytovenbeatz #FatFly


 mikkie24kslot, kingjamesdiner, bankb
others like this.

 **shxtgod**
#Godbless

 **rico_ralphlauren**
Official

<http://instagram.com/p/w1-1xCrJxS/?modal=true>

January 21, 2015

 Leave a comment...

23. Plaintiffs’ ROLLS-ROYCE mark and RR Badge became famous before Defendant began using them.

24. Defendant does not have, and never has had, authority from Plaintiffs to make use of the “ROLLS-ROYCE” word mark or RR Badge in connection with his business.

25. Defendant intends by his unauthorized use of the ROLLS-ROYCE mark and RR Badge to trade off the goodwill of Plaintiffs’ business.

26. Defendant’s unauthorized use of the ROLLS-ROYCE mark and RR Badge in the manner described above:

- (a) is likely to dilute the famous and distinctive ROLLS-ROYCE mark and RR Badge;
- (b) is likely to cause confusion, to cause mistake, and/or to deceive customers and potential customers of the parties, as to the origin, sponsorship, or approval of Defendant's products and services, or as to some affiliation, connection, or association of Defendant with Plaintiffs;
- (c) enables Defendant to trade off and receive the benefit of goodwill Plaintiffs have built up at great labor and expense over many years, and to gain acceptance for Defendant's products and services not solely on their own merits, but on the reputation and goodwill of Plaintiffs, their famous ROLLS-ROYCE mark and RR Badge, and their products and services;
- (d) unjustly enriches Defendant; and
- (e) unlawfully removes from Plaintiffs the ability to control the nature and quality of products and services provided under the ROLLS-ROYCE mark and RR Badge, and places the goodwill and valuable reputation of Plaintiffs in the hands of Defendant, over whom Plaintiffs have no control.

27. Plaintiffs have been damaged and continue to be damaged by Defendant's unauthorized use of the ROLLS-ROYCE mark and RR Badge in the manner described above.

28. Unless these acts of Defendant are restrained by this Court, they will continue to cause irreparable injury to Plaintiffs and to the public for which there is no adequate remedy at law.

Count I
Federal Trademark Dilution
(Lanham Act § 43(c), 15 U.S.C. § 1125(c))

29. Plaintiffs re-allege and incorporate the allegations set forth in paragraphs 1 through 28 herein.

30. The acts of Defendant complained of herein constitute use in commerce of reproductions, copies, similar or colorable imitations of Plaintiffs' federally registered ROLLS-ROYCE mark and RR Badge that is likely to dilute Plaintiffs' famous marks in violation of 15 U.S.C. § 1125(c).

31. Defendant has unfairly profited from the dilutive actions alleged herein.

32. Due to Defendant's wrongful acts, Plaintiffs have suffered damage to the goodwill associated with their ROLLS-ROYCE trademark and RR Badge.

33. Defendant's activities have irreparably harmed and, if not enjoined, will continue to irreparably harm Plaintiffs and the goodwill they enjoy under their marks.

34. Defendant's acts complained of herein have been deliberate, willful, intentional, and in bad faith, with full knowledge and in conscious disregard of Plaintiffs' rights in their ROLLS-ROYCE mark and RR Badge and with intent to trade off Plaintiffs' vast goodwill in their marks.

Count II
Federal Trademark Infringement
(Lanham Act § 32, 15 U.S.C. § 1114(1))

35. Plaintiffs re-allege and incorporate the allegations set forth in paragraphs 1 through 34 herein.

36. The acts of Defendant complained of herein constitute use in commerce of reproductions, copies, confusingly similar or colorable imitations of Plaintiffs' federally

registered ROLLS-ROYCE mark and RR Badge in connection with the sale, offering for sale, distribution and advertising of goods and services in violation of 15 U.S.C. § 1114(1).

37. Defendant's acts complained of herein have been deliberate, willful, intentional, and in bad faith, with full knowledge and in conscious disregard of Plaintiffs' rights in their ROLLS-ROYCE mark and RR Badge and with intent to trade off Plaintiffs' vast goodwill in their marks.

38. As a result of the foregoing alleged actions of Defendant, Defendant has been unjustly enriched and Plaintiffs have been injured and damaged. Unless the foregoing alleged actions of Defendant are enjoined, Plaintiffs will continue to suffer injury and damage.

Count III
Federal Unfair Competition and False Designation of Origin
(Lanham Act §43(a), 15 U.S.C. § 1125(a))

39. Plaintiffs re-allege and incorporate the allegations set forth in paragraphs 1 through 38 herein.

40. Defendant's unauthorized use of the ROLLS-ROYCE mark and RR Badge falsely indicates that Defendant and his goods and services are connected with, sponsored by, affiliated with, or related to Plaintiffs.

41. Defendant's unauthorized use of Plaintiffs' ROLLS-ROYCE mark and RR Badge has caused, and is likely to continue to cause, confusion, mistake or deception as to the source or sponsorship of Defendant's goods and services.

42. Defendant's acts complained of herein have been deliberate, willful, and intentional, with full knowledge and in conscious disregard of Plaintiffs' rights in their marks and with intent to trade off Plaintiffs' vast goodwill in their marks.

43. Defendant's unauthorized use of the ROLLS-ROYCE mark and RR Badge in connection with his goods and services allows Defendant to receive the benefit of Plaintiffs'

goodwill, which Plaintiffs have established at great labor and expense, and further allows Defendant to expand his business and sales, based not on his own qualities, but on the reputation and goodwill of Plaintiffs.

44. The acts of Defendant complained of herein constitute unfair competition and trademark infringement in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

45. As a result of the foregoing alleged actions of Defendant, Defendant has been unjustly enriched and Plaintiffs have been injured and damaged. Unless the foregoing alleged actions of Defendant are enjoined, Plaintiffs will continue to suffer injury and damage.

Count IV
State Trademark Dilution
(New Jersey Unfair Competition Act, N.J.S.A. § 56:3-13.20)

46. Plaintiffs re-allege and incorporate the allegations set forth in paragraphs 1 through 45 herein.

47. The ROLLS-ROYCE mark and RR Badge are famous marks throughout the United States and the State of New Jersey.

48. Defendant's unauthorized use of the ROLLS-ROYCE mark and RR Badge is likely to cause and is causing dilution of the distinctive quality of the ROLLS-ROYCE mark and RR Badge.

49. The acts of Defendant complained of herein constitute dilution in violation of New Jersey Statute Annotated section 56:3-13.20.

50. As a result of the foregoing alleged actions of Defendant, Defendant has been unjustly enriched and Plaintiffs have been injured and damaged. Unless the foregoing alleged actions of Defendant are enjoined, Plaintiffs will continue to suffer injury and damage.

Count V
State Unfair Competition
(New Jersey Unfair Competition Act, N.J.S.A. 56:4-1 et seq.)

51. Plaintiffs re-allege and incorporate the allegations set forth in paragraphs 1 through 50 herein.

52. The acts of Defendant complained of herein constitute unfair competition in violation of the New Jersey Unfair Competition Act, N.J.S.A. 56:4-1 *et seq.*, as Defendant has misappropriated the ROLLS-ROYCE mark and RR Badge for his own use.

53. As a result of the foregoing alleged actions of Defendant, Defendant has been unjustly enriched and Plaintiffs have been injured and damaged. Unless the foregoing alleged actions of Defendant are enjoined, Plaintiffs will continue to suffer injury and damage.

Count VI
State Trademark Infringement and Unfair Competition
(Common Law of New Jersey)

54. Plaintiffs re-allege and incorporate the allegations set forth in paragraphs 1 through 53 herein.

55. The acts of Defendant complained of herein constitute trademark infringement and unfair competition in violation of the common law of New Jersey.

56. Defendant's use of the infringing marks as described above has caused, is causing and, unless enjoined by this Court, will continue to cause confusion and mistake in the marketplace and deception of the trade and public as to the relationship or affiliation of the parties and the source, origin, or sponsorship of Defendant's products and services.

57. Defendant's use of the infringing marks as described above has impaired, is impairing and, unless enjoined by this Court, will continue to impair Plaintiffs' reputation under their trademarks and has caused, is causing and, unless enjoined by this Court, will continue to

cause injury and damage to Plaintiffs for which Plaintiffs are entitled to relief under the common law.

58. As a result of the foregoing alleged actions of Defendant, Plaintiffs have been injured and damaged. Unless the foregoing alleged actions of Defendant are enjoined, Plaintiffs will continue to suffer injury and damage.

Count VII
Unjust Enrichment
(Common Law of New Jersey)

59. Plaintiffs re-allege and incorporate the allegations set forth in paragraphs 1 through 58 herein.

60. The acts of Defendant complained of herein constitute unjust enrichment of Defendant because Defendant is making use of, and profiting from, Plaintiffs' ROLLS-ROYCE and RR Badge mark without permission from Plaintiffs.

61. As a result of the foregoing alleged actions of Defendant, Defendant has been unjustly enriched and Plaintiffs have been injured and damaged. Unless the foregoing alleged actions of Defendant are enjoined, Plaintiffs will continue to suffer injury and damage.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that:

1. Judgment be entered for Plaintiffs on all their claims.
2. Defendant, his agents, distributors, suppliers, business partners, related companies, servants, employees, attorneys, successors and assigns, and all others in active concert or participation with any of them, be enjoined and restrained, during the pendency of this action, and permanently thereafter, from:
 - (a) using the name "Rolls Royce Rizzy" or any other reproduction, copy, or colorable imitation of the ROLLS-ROYCE mark in any manner in

connection with the conduct of his business, either alone or in conjunction with other words;

- (b) wearing or otherwise displaying or using the RR Badge in any manner in connection with his business; and
- (c) making any other representation or taking any other action likely to dilute, or to confuse, mislead, or deceive others into believing that Defendant, or his products or services, come from, or are connected with, sponsored by, or approved by Plaintiffs.

3. Require Defendant to obliterate, delete and remove the said corporate and business title and the ROLLS-ROYCE name and mark and RR Badge from his websites, business offices, stationery, telephone and other listings, signs, advertising, promotional material, and wherever else the same appear and to destroy or surrender to Plaintiffs any and all materials in his possession or subject to his control wherein the name “ROLLS-ROYCE” and RR Badge and any other Rolls-Royce marks may appear.

4. Order Defendant to change his trade name and his internet domain name and to cause the cancellation, withdrawal or amendment of all filings, licenses, and permits issued by or with federal, state or local governmental authorities or agencies so as to omit the name ROLLS-ROYCE, or any reproduction, copy, counterfeit, or colorable imitation thereof, from his business or corporate titles.

5. Order Defendant to render an accounting to determine Defendant’s profits resulting from his activities and require that such profits be paid to Plaintiffs and increased as the Court finds to be just under the circumstances of this case.

6. Defendant be required to pay:

- (a) in accordance with Section 35(a) of the United States Trademark Act, 15 U.S.C. § 1117(a) and (b), an award of Defendant's profits resulting from sales by Defendant and his agents relating to his aforesaid trademark infringement, unfair competition, and dilution; and
- (b) Plaintiffs' attorneys' fees and costs of this action.

7. Defendant, in accordance with Section 34(a) of the United States Trademark Act, 15 U.S.C. § 1116(a), be required to file with the Court, and serve upon Plaintiffs, within thirty (30) days after the entry and service on Defendant of an injunction, a report in writing and under oath, setting forth in detail the manner and form in which Defendant has complied with the terms of such injunction.

8. Plaintiffs recover such other relief as the Court may deem appropriate.

Jury Demand

Plaintiffs demand a trial by jury for all issues so triable as a matter of right.

Date: January 21, 2015

Respectfully submitted,

SAIBER LLC

*Attorneys for Plaintiffs Rolls-Royce
Motor Cars Limited and Rolls-
Royce Motor Cars NA, LLC*

/s Arnold B. Calmann

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LOCAL CIVIL RULE 11.2 CERTIFICATION

Under Local Civil Rule 11.2, the undersigned counsel for Plaintiffs hereby certifies that this matter is not the subject of any other action asserted by Plaintiffs herein in any court, or of any pending arbitration or administrative proceeding.

Dated: January 21, 2015

SAIBER LLC

*Attorneys for Plaintiffs Rolls-Royce
Motor Cars Limited and Rolls-
Royce Motor Cars NA, LLC*

/s Arnold B. Calmann

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LOCAL CIVIL RULE 201.1 CERTIFICATION

Under Local Civil Rule 201.1, the undersigned counsel for Plaintiffs hereby certifies that they seek both monetary damages greater than \$150,000 and injunctive and other equitable relief, and therefore this action is not appropriate for compulsory arbitration.

Dated: January 21, 2015

SAIBER LLC

*Attorneys for Plaintiffs Rolls-Royce
Motor Cars Limited and Rolls-
Royce Motor Cars NA, LLC*

/s Arnold B. Calmann

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