

FILED

1 ALLAN B. GELBARD, ESQ.
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2009 AUG 20 PM 1:55

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

5 Attorney for Plaintiff
Kick Ass Pictures, Inc.

BY _____

7
8 **UNITED STATES DISTRICT COURT FOR THE**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 **KICK ASS PICTURES, INC., a**
California corporation,

12 Plaintiff

13 vs.

14 **FODA INTERACTIVE CORP., a**
15 **business entity of unknown form;**
16 **WWW.KICKASSRATIOS.COM, a**
17 **business entity of unknown form; and**
DOES 1-10, INCLUSIVE,

18 Defendants

CASE NO **CV09-6091** (2009)

PLAINTIFFS COMPLAINT FOR
FEDERAL UNFAIR
COMPETITION (15 U.S.C. § 1125);
FEDERAL TRADEMARK
INFRINGEMENT (15 U.S.C. § 1117
et seq.); STATE UNFAIR
COMPETITION (Ca. B&P § 17200
et seq.); DILUTION;
ACCOUNTING; INJUNCTIVE
RELIEF.

DEMAND FOR JURY TRIAL

21
22
23 Plaintiff KICK ASS PICTURES, INC., a California corporation, by and through
24 its attorney Allan B. Gelbard, Esq., hereby files its Complaint against defendants
25 FODA INTERACTIVE CORP., a business entity of unknown form,
26 WWW.KICKASSRATIOS.COM, a business entity of unknown form, and DOES 1-
27 10, Inclusive, and alleges as follows:
28

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1 **JURISDICTION**

2
3 1. This action arises under 15 U.S.C. § 1051, *et seq* (the Lanham Trademark
4 Act of 1946). Therefore, this Court has original jurisdiction pursuant to 28 U.S.C. §§
5 1331 and 1338 as well as supplemental jurisdiction over the additional state and
6 federal causes of action pursuant to 28 U.S.C. § 1367(a).

7
8 **VENUE**

9
10 2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (d).

11
12 **PARTIES**

13
14 3. Plaintiff KICK ASS PICTURES, INC. (hereinafter “KAP” and/or
15 “Plaintiff”), is a California corporation having its principal place of business in
16 Glendale, California.

17
18 4. Plaintiff is informed and believes and thereupon alleges that defendant
19 FODA INTERACTIVE CORP. (“FODA”) is a business entity of unknown form which
20 claims to be domiciled in Panama, and which does business in California and
21 throughout the United States.

22
23 5. Plaintiff is informed and believes and thereupon alleges that defendant
24 WWW.KICKASSRATIOS.COM (hereinafter “KAR”), is a business entity of
25 unknown form, which claims to be domiciled in Panama, and which does business in
26 California and throughout the United States.

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1 6. Plaintiff is informed and believes and thereupon alleges that Defendant
2 DOES 1-10, Inclusive are the true legal names of additional individuals and/or entities
3 who's actions are at issue herein. Plaintiff does not know the true name or capacity of
4 the Defendants sued herein as DOES 1-10 and therefore sues said Defendants by such
5 fictitious names. Plaintiff is informed and believes and thereon alleges, that DOES 1-
6 10 are responsible in some manner for the occurrences herein alleged, and that
7 Plaintiff's damages as hereinafter alleged were proximately caused by the acts of such
8 Defendants, and each of them.

9
10 7. Plaintiff is informed and believes and thereupon alleges that DOES 1-10
11 personally authorised, controlled and/or assisted defendants FODA and/or KAR in the
12 unlawful activities alleged herein.

13
14 8. Plaintiff is informed and believes and thereupon alleges that at all times
15 herein relevant, Defendants and each of them, were the agents, servants and
16 employees of their Co-Defendants and were acting and conspiring both individually
17 and within the scope of such agency, service and employment while performing the
18 acts complained of herein.

19
20 9. Plaintiff is informed and believes and thereupon alleges that at all times
21 relevant hereto:

- 22
23 A) That one or more of the DOE defendants dominated, influenced and
24 controlled FODA and/or KAR.
- 25 B) That FODA and KAR are, and at all times relevant hereto were,
26 mere shells and naked frameworks which one or more of the Doe
27 defendants, used as conduits for his/her/their personal business,
28 property and affairs.

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- C) That there is such a unity of interest and ownership between one or more of the Doe defendants (on the one hand) and FODA and/or KAR (on the other hand) that the separateness of FODA and/or KAR as entities either never existed or has ceased.
- D) That adherence to the fiction of the separate corporate existence of FODA and/or KAR would, under the circumstances, sanction a fraud and promote injustice.
- E) That FODA and KAR are the alter egos of one or more of the Doe Defendants, and that they are personally liable for the obligations of FODA and/or KAR as described below.

GENERAL ALLEGATIONS

10. Plaintiff is in the business of developing, producing and marketing numerous highly successful lines of copyrighted adult entertainment productions via DVD and through the Internet.

11. Plaintiff is the holder of federally registered trademark number 3,047,281 for the mark “Kick Ass Pictures.” Said mark is registered for, among other things, “entertainment in the nature of pre-recorded adult-oriented programming distributed by audio and video media and a global computer network... in International Class 41.” Plaintiff is also the holder of seven (7) other federally registered trademarks in the adult-entertainment field for various “lines” of its adult-oriented productions. Since the federal trademark registration of Kick Ass Pictures®, Plaintiff has displayed the “r in a circle” federal registration symbol on all its productions and Internet websites.

///
///
///

1 12. Plaintiff commenced using “Kick Ass Pictures” in or about July, 2000 and
2 has developed the mark into one of the most well known, respected and famous brands
3 in the adult entertainment industry. Among others, Kick Ass Pictures has won the
4 following industry awards for its adult-oriented productions:

- 5 A) AVN Awards¹: 2008 Best Internal Series, 2007 Best Foot Fetish
6 Release, 2006 Best Overall Marketing Campaign, 2004 Best Foot
7 Fetish Tape, 2004 Best Overall Marketing Campaign, 2003 Best
8 Sex Comedy, 2003 Best Ethnic-Themed Series, 2003 Best Foot
9 Fetish Tape, 2002 Best Ethnic-Themed Series, 2002 Best Vignette
10 Series, 2002 Best Vignette Tape, 2002 Best Specialty Tape, 2001
11 Best Ethnic-Themed Series, 2001 Best Specialty Tape, 2000 Best
12 Specialty Tape.
- 13 B) Adam Film World Awards: 2004 Best Fetish-Sex Series, 2003
14 Best Comedy Movie, 2003 Best Cream Pie Series, 2003 Best
15 Fetish-Sex Series, 2003 Best Sex Scene – Video, 2002 Best Foot
16 Fetish Series
- 17 C) Adult Stars Magazine Awards: 2001 Best New Series

18
19 13. Plaintiff distributes its works on the Internet through its proprietary
20 websites WWW.KICKASSPICTURES.COM which commenced operation in or about
21 July, 2000, and WWW.KICKASS.COM which have become well know, respected and
22 famous sources of adult-oriented entertainment productions in California, the United
23 States, and throughout the world. Said websites prominently feature Plaintiff’s
24 federally registered “Kick Ass Pictures®” mark as well as its other marks.

25
26 14. Plaintiff also employs a proprietary “affiliate program” which is located at
27

28 ¹AVN stands for Adult Video News. AVN awards are considered by many the “Oscars” of
the adult entertainment industry.

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1 WWW.KICKASSPAYS.COM. Said website, which prominently features Plaintiff's
2 federally registered trademarks, including the Kick Ass Pictures® mark, enables
3 licensed third party webmasters to send traffic to Plaintiff's website and receive a share
4 in the revenue generated from said traffic, thereby increasing the revenue generated by
5 Plaintiff..
6

7 15. Plaintiff has made and continues to make substantial investments of time,
8 effort and expense in the production, manufacturing, marketing and branding of its
9 business, products and trademarks. Among other advertising media, Plaintiff runs
10 monthly advertisements in Adult Video News, the "trade magazine" for the adult
11 entertainment industry; employs thousands of affiliates to drive traffic to its websites,
12 distributes its productions on cable, hotel and satellite television systems, and
13 prominently includes Kick Ass Pictures® mark and brand in all its advertising, goods
14 and services.
15

16 16. Plaintiff is an integral participant in creating and maintaining the look and
17 quality of its works, its websites, and all goods and services offered thereby.
18

19 17. Plaintiff has not authorized Defendants to employ its trademarks or
20 deceptively similar marks, nor have Defendants obtained licenses to do so from any
21 legitimate third party.
22

23 18. Plaintiff is informed and believes and thereupon alleges that Defendants
24 are in the business of, among other things, distributing adult-oriented entertainment
25 goods and services that directly compete with Plaintiff's business via the Internet.
26
27

28 19. Plaintiff is informed and believes and thereupon alleges that Defendants

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1 commenced operation at some time after February 2008 at which time Defendants had
2 actual knowledge of Plaintiff's business, reputation and trademarks including the
3 federally registered status of Kick Ass Pictures®.

4
5 20. In or about May of 2009, Plaintiff first learned of Defendant's infringing
6 activities at a webmaster conference where Plaintiff's employees were approached by
7 numerous third parties inquiring whether Defendants' KICKASSRATIOS.COM
8 website and affiliate program were associated with Plaintiff. Plaintiff subsequently
9 attempted to discuss the matter with Defendants and was rebuffed.

10
11 21. Additionally, Defendants have commenced advertising their affiliate
12 program and websites through use of "banner adds" featuring the deceptively similar
13 "KICKASSRATIOS" mark through various adult-oriented webmaster resources, all of
14 which are available to potential customers in the United States and throughout the
15 world. Plaintiff is informed and believes, and thereupon alleges that such use is
16 intended by Defendants to confuse the public and other webmasters into believing that
17 they are associated with Plaintiff and to trade on Plaintiff's fame and goodwill in the
18 industry.

19
20 22. Plaintiff is informed and believes, and thereupon alleges that the goods
21 and/or services being marketed by Defendants under their deceptively similar URL are
22 of inferior grade and quality to Plaintiff's goods and services.

23
24 23. Additionally, Plaintiff is informed and believes and thereupon alleges that
25 Defendants' various websites, promoted through their deceptively similarly named
26 affiliate program, are not in compliance with federal law, specifically 18 U.S.C. § 2257
27 and 28 C.F.R. § 75. Failure to comply with federal law gives Defendants an unfair
28 advantage in competing with Plaintiff, which is in compliance with federal law; and

1 further subjects Plaintiff to the potential criminal prosecution for its assumed affiliation
2 with Defendants and their unlawful websites.

3
4 24. Plaintiff is informed and believes, and thereupon alleges that Defendants
5 intentionally devised, and carried out a scheme to employ the KICKASSRATIOS mark
6 and URL which they knew was deceptively similar to Plaintiff's "Kick Ass Pictures®"
7 federally registered trademark and Plaintiff's KICKASSPICTURES.COM and
8 KICKASSPAYS.COM URLs and marks in an effort to unlawfully capitalize on
9 Plaintiff's goodwill and reputation for quality goods and services and to intentionally
10 confuse the general public into believing that Defendants' KICKASSRATIOS was
11 affiliated with Plaintiff.

12
13 25. Commencing in or about May of 2009, Plaintiff advised Defendants of the
14 unlawful nature of their activities and demanded that Defendants cease and desist from
15 further infringement of Plaintiff's Trademarks. On or about July 30, 2009, Plaintiff's
16 counsel sent Defendants a letter advising them of the federally registered status of
17 Plaintiff's trademark and demanding that Defendants cease and desist employing the
18 WWW.KICKASSRATIOS.COM URL, mark, and affiliate program as it causes a
19 likelihood of confusion, has caused actual confusion with, Plaintiff's federally
20 registered, famous and well respected mark. Defendants have refused to comply with
21 Plaintiff's demands and continue to infringe on Plaintiff's rights as of the date of the
22 filing of this Complaint.

23
24 **FIRST CAUSE OF ACTION**
25 **UNFAIR COMPETITION - 15 U.S.C. § 1125**

26 26. Plaintiff re-alleges all facts included or inferred in Paragraphs 1 - 25,
27 inclusive, above.

28 27. Plaintiff's trade name "Kick Ass Pictures" is inherently distinctive.

1
2 28. Plaintiff is the holder of federally registered trademark number 3,047,281
3 for the mark “Kick Ass Pictures.” Said mark is registered for “entertainment in the
4 nature of pre-recorded adult-oriented programming distributed by audio and video
5 media and a global computer network... in International Class 41.”
6

7 29. Plaintiff’s trade name, “Kick Ass Pictures” has acquired a secondary
8 meaning through Plaintiff’s long term use of the name, their efforts to promote the
9 sales of their productions and their efforts to generate and protect the goodwill of their
10 brand and marks. As a result of Plaintiff’s efforts, a significant portion of the market
11 has come to associate the name “Kick Ass Pictures” as well as its KICKASSPAYS
12 affiliate program exclusively with Plaintiff and their goods and services.
13

14 30. Plaintiff includes the “Kick Ass Pictures®” logo and mark on its
15 productions, websites and promotional products.
16

17 31. Plaintiff has, at all times relevant hereto, taken care to enforce its mark
18 and to prevent third parties from infringing thereon.
19

20 32. Plaintiff has, at all times relevant hereto, exercised significant control over
21 the quality of its goods and services in order to maintain the overall quality of the
22 goods and the value of Kick Ass Pictures® goods and services.
23

24 33. Defendants’ use of the deceptively similar KICKASSRATIOS mark on
25 their website is employed in offering goods and services in the international classes for
26 which Plaintiff has exclusive Trademark rights.
27

28 34. Defendants’ unlawful sale of competitive goods and/or services through

1 use of the deceptive KICKASSRATIOS.COM URL constitutes an intentional and
2 unlawful use of Plaintiff's name, mark and federally registered trademark. Said misuse
3 constitutes a false designation of origin, and is likely to cause confusion, to cause
4 mistake, and to deceive the public as to the origin of these goods.

5
6 35. Defendants' unlawful infringement of Plaintiff's trademark was made in
7 connection with Defendants' sale of goods and/or services in direct competition with
8 Plaintiff.

9
10 36. Said misuse has actually caused numerous customers of Plaintiff,
11 members of the trade, and end users, to suffer confusion, mistake, and/or to be
12 deceived as to the origin and authenticity of these goods and/or services.

13
14 37. As a result of Defendants' wrongful conduct, Plaintiff has suffered
15 damages including but not limited to loss of earnings and goodwill, in an amount to be
16 proven at trial, but in no case less than one hundred thousand dollars (\$100,000.00).

17
18 38. As Defendants' conduct was an intentional infringement of Plaintiff's
19 federally registered trademark, undertaken to unfairly compete with Plaintiff's
20 business, Plaintiff is entitled to an award of statutory penalties including treble
21 damages, attorney's fees and costs of suit.

22
23 **SECOND CAUSE OF ACTION**
24 **TRADEMARK INFRINGEMENT (15 U.S.C. § 1117 et seq.)**

25 39. Plaintiff re-alleges all facts included or inferred in Paragraphs 1 - 38,
26 inclusive, above.

1 40. Plaintiff is the holder of federally registered trademark number 3,047,281
2 for the mark “Kick Ass Pictures.” Said mark is registered for “entertainment in the
3 nature of pre-recorded adult-oriented programming distributed by audio and video
4 media and a global computer network... in International Class 41.” Additionally,
5 “Kick Ass Pictures” has acquired a secondary meaning as a significant portion of the
6 market has come to associate the name “Kick Ass Pictures” exclusively with Plaintiff
7 and their goods and services.

8
9 41. Defendants’ sale of competing products through its use of a deceptively
10 named KICKASSRATIOS URL employing active portion of Plaintiff’s “Kick Ass
11 Pictures®” and KICKASSPAYS marks, constitutes an intentional and unlawful use of
12 Plaintiff’s name, mark and federally registered trademark. Said misuse constitutes a
13 false designation of origin, and is likely to cause confusion, to cause mistake, and to
14 deceive the public as to the origin of these goods.

15
16 42. Defendants’ unlawful infringement of Plaintiff’s trademark was made in
17 connection with Defendants’ sale of goods in direct competition with Plaintiff.

18
19 43. Said misuse has actually caused numerous customers of Plaintiff,
20 members of the trade, and end users, to suffer confusion, mistake, and/or to be
21 deceived as to the origin and authenticity of these goods and/or services.

22
23 44. As a result of Defendants’ wrongful conduct, Plaintiff has suffered
24 damages including but not limited to loss of earnings and goodwill, in an amount to be
25 proven at trial.

1 45. As Defendants' conduct was an intentional infringement of Plaintiff's
2 federally registered trademark, undertaken to unfairly compete with Plaintiff's
3 business, Plaintiff is entitled to an award of statutory penalties of up to two million
4 dollars (\$2,000,000.00), attorney's fees and costs of suit.

5
6 **THIRD CAUSE OF ACTION**
7 **UNFAIR COMPETITION**
8 **CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200 ET SEQ.**

9 46. Plaintiff re-alleges all facts included or inferred in Paragraphs 1 - 45,
10 inclusive, above.

11
12 47. Defendants intentionally sold competing goods and/or services employing
13 the deceptively similar marks into the State of California in an effort to gain a financial
14 windfall through unlawfully competing with Plaintiff. Defendants' activities constitute
15 unlawful, unfair and fraudulent business practices and unfair, deceptive, untrue and
16 misleading advertising.

17
18 48. Defendants' actions are likely to cause confusion, mistake and deception
19 in the minds of Plaintiff's customers, members of the trade, and the general public as
20 to the origin and/or sponsorship of Defendants' good and/or services.

21
22 49. Additionally, Defendants' websites are not in compliance with federal
23 labeling and disclosure requirements as mandated by 18 U.S.C. § 2257 and 28 C.F.R. §
24 75. Defendants thereby gain an unfair advantage against Plaintiff, which is forced to
25 expend significant financial and employee resources in complying with said statutes.
26 Defendants' failure to comply with the statutes constitutes criminal conduct which also
27 violates California Business and Professions Code § 17200 *et seq.*

1 50. As a result of Defendants’ wrongful conduct, Plaintiffs have suffered
2 damages, including but not limited to loss of earnings and goodwill, in an amount to be
3 proven at trial, but in no case less than one hundred thousand dollars (\$100,000.00).

4
5 51. As Defendants’ unlawful business practices included an intentional
6 infringement of Plaintiff’s federally registered trademark, Plaintiff is entitled to an
7 award of statutory penalties including treble damages, attorneys’ fees and costs of suit.

8
9 **FOURTH CAUSE OF ACTION**
10 **STATE TRADEMARK AND TRADE NAME INFRINGEMENT**
11 **(Ca. B&P § 14300 et seq.)**

12 52. Plaintiff re-alleges all facts included or inferred in Paragraphs 1 - 51,
13 inclusive, above.

14 53. Plaintiff uses the mark “Kick Ass Pictures” to identify goods and services
15 offered by them and to distinguish them from goods and services offered by others.

16
17 54. Plaintiff uses “Kick Ass Pictures” to identify its business, vocation or
18 occupation and distinguish it from the business, vocation or occupation of others.

19
20 55. Defendants have wrongfully, and without permission from Plaintiff,
21 employed a deceptively similar mark (KICKASSRATIOS) to offer inferior goods
22 and/or services into the State of California.

23
24 56. As a result of Defendants’ wrongful conduct, Plaintiff has suffered
25 damages including but not limited to loss of earnings and goodwill, in an amount to be
26 proven at trial, but in no case less than one hundred thousand dollars (\$100,000.00).

27 57. Defendants’ acts constitute oppression, fraud or malice, as those terms are
28 defined in California Civil Code § 3294. Therefore, Plaintiff is entitled to exemplary

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1 damages.

2

3

FIFTH CAUSE OF ACTION
DILUTION

4

5 58. Plaintiff re-alleges all facts included or inferred in Paragraphs 1 - 57,
6 inclusive, above.

7

8 59. As a result of Defendants' wrongful acts, Plaintiff has suffered and
9 continues to suffer dilution to the value of its business, trademark and trade name in an
10 amount not presently ascertained but which shall be proven at trial.

11

12

SIXTH CAUSE OF ACTION
ACCOUNTING

13

14 60. Plaintiff re-alleges all facts included or inferred in Paragraphs 1 - 59,
15 inclusive, above.

16

17 61. Plaintiff is entitled to a complete disgorgement of all revenues earned by
18 Defendants as a result of their intentional and unlawful infringement of Plaintiff's
19 trademarks.

20

21

22

SEVENTH CAUSE OF ACTION
INJUNCTIVE RELIEF

23

24 62. Plaintiff re-alleges all facts included or inferred in Paragraphs 1 - 61,
25 inclusive, above.

26

27 63. Defendants' acts of unfair competition and trademark infringement have
28 caused Plaintiff to suffer severe and irreparable harm for which there is no adequate

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1 remedy at law.

2

3 64. Plaintiff is informed and believes and thereupon alleges that absent an
4 order from this Court, Defendants will continue their acts of unfair competition, unfair
5 business practices and trademark infringement. Said acts will cause Plaintiff to suffer
6 continuing damages for which there are no adequate remedies at law.

7

8 65. Plaintiff is entitled to temporary, preliminary and permanent injunctive
9 relief to enjoin any further such acts on behalf of Defendants, or any party or entity
10 acting in consort with them.

11

12

13 **WHEREFORE; PLAINTIFF PRAYS:**

14

15 66. That the Court issue a Temporary Restraining Order enjoining Defendants
16 and their respective agents, employees, successors and assigns, and all other persons
17 acting in concert with them, from:

18

19

20

21

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23

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28

- A) Employing the KICKASSRATIOS mark, including but not limited to use in the URL WWW.KICKASSRATIOS.COM and any other deceptively similar mark(s) to Kick Ass Pictures®, to sell good in International Class 41 including but not limited to adult entertainment services; and,
- B) Erasing, deleting, altering or destroying any documents, electronic files or business records that pertain to the purchase, sale, and/or distribution of any goods in International Class 41 through use of the KICKASSRATIOS mark.

67. That the issue Preliminary and Permanent injunctive relief in accordance

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1 with the Order requested in Paragraph 66 above.

2

3 68. That Defendants be required to pay to Plaintiff’s actual damages
4 proximately resulting from Defendants’ trademark infringement and unfair
5 competition; and,

6

7 69. That Defendants account all gains, profits and advantages derived by
8 Defendants by said unfair competition, unfair business practices, and trademark
9 infringement.

10

11 70. For statutory and/or exemplary damages, as awarded by this Court; and,

12

13 71. That Defendants be required to deliver up to be impounded during the
14 pendency of this action all materials, equipment and other things employed by
15 Defendants to infringe upon Plaintiff’s rights.

16

17 72. That Defendants pay to Plaintiff reasonable attorney's fees pursuant to 15
18 U.S.C. § 1117(a) and/or CA B&P 17200 *et seq.*

19

20 73. That Defendants pay to Plaintiff the costs of this action; and,

21

22 74. For such additional and further relief which this Court deems just and
23 proper.

24

DEMAND FOR JURY TRIAL

25

26 PLAINTIFF hereby respectfully demands a jury trial as provided by Rule 38(a)
27 of the Federal Rules of Civil Procedure.

28

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1 Dated: this 19th day of September, 2008.
2

3 THE LAW OFFICES OF ALLAN B. GELBARD

4
5 

6 Allan B. Gelbard, Esq.
7 Attorney for Plaintiff
8 Kick Ass Pictures, Inc.
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Percy Anderson and the assigned discovery Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

CV09 - 6091 PA (AGR~~x~~)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:
Allan B. Gelbard, Esq.
Law Offices of Allan B. Gelbard
15760 Ventura Blvd., Suite 801
Encino, CA 91436
(818)386-9200 - xxxesq@aol.com

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

KICK ASS PICTURES, INC., a California
corporation,

PLAINTIFF(S)

v.

FODA INTERACTIVE CORP., a business entity of
unknown form; WWW.KICKASSRATIOS.COM, a
business entity of unknown form; and DOES 1-10,
INCLUSIVE

DEFENDANT(S).

CASE NUMBER

CV09-6091 71 (AGRx)

SUMMONS

TO: DEFENDANT(S): FODA INTERACTIVE CORP., WWW.KICKASSRATIOS.COM,
and DOES 1-10, INCLUSIVE

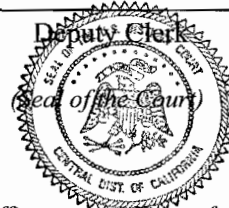
A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Allan B. Gelbard, Esq., whose address is 15760 Ventura Blvd., Suite 801 Encino, CA 91436. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: AUG 20 2009

By: NATALIE LONGORIA



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM JS-44C, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). **RELATED CASES:** Have any cases been previously filed that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Appear to arise from the same or substantially identical transactions, happenings, or events;
 B. Involve the same or substantially the same parties or property;
 C. Involve the same patent, trademark or copyright;
 D. Call for determination of the same or substantially identical questions of law, or
 E. Likely for other reasons may entail unnecessary duplication of labor if heard by different judges.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)

Check here if the U.S. government, its agencies or employees is a named plaintiff.
 Los Angeles

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

Check here if the U.S. government, its agencies or employees is a named defendant.
 Panama

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)

Note: In land condemnation cases, use the location of the tract of land involved.
 Los Angeles

X. **SIGNATURE OF ATTORNEY (OR PRO PER):** _____ **Date** 08/19/2009

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))