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9 Attorneys for Plaintiff  
10 BIG HIT ENTERTAINMENT CO. LTD.

11  
12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14 WESTERN DIVISION  
15

16 BIG HIT ENTERTAINMENT CO.  
LTD.,

17 Plaintiff,

18 v.  
19

20 JOHN DOES 1-100, JANE DOES 1-  
100, AND XYZ COMPANIES 1-100,

21 Defendants.  
22

Case No.: 2:19-cv-03330

**COMPLAINT**

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1 Plaintiff Big Hit Entertainment Co. Ltd. (“Plaintiff”), by its attorneys Loeb &  
2 Loeb LLP, complaining of Defendants herein, alleges as follows:

3 **NATURE OF THE ACTION**

4 1. This action arises under the Lanham Trademark Act of 1946, 15 U.S.C.  
5 § 1051 *et seq.* (the “Lanham Act”), Section 3344(a) of the California Civil Code,  
6 California Business and Professions Code Section 17200 *et seq.*, and the common  
7 law of the State of California.

8 **JURISDICTION AND VENUE**

9 2. This Court has jurisdiction of the claims herein pursuant to Sections  
10 1331 and 1338 of the Judicial Code, 28 U.S.C. §§ 1331 and 1338, and through the  
11 Court’s pendent jurisdiction. Venue is proper under 28 U.S.C. § 1391 because the  
12 Defendants are subject to personal jurisdiction in this district.

13 **PARTIES**

14 3. Plaintiff Big Hit Entertainment Co. Ltd. is a South Korean company  
15 with its principal place of business in Seoul, South Korea. Plaintiff is engaged in  
16 the commercial exploitation of the musical performing group known as BTS (the  
17 “Artist”) and possesses the exclusive right to use, or authorize the use of, the Artist’s  
18 name, logos, likenesses and trademarks (collectively, the “Trademark”) in  
19 connection with the production, distribution and sale of various types of music-  
20 related merchandise.

21 4. Plaintiff sells, and licenses the sale of, merchandise through retail  
22 establishments and at concert performances of the Artist. The merchandise sold by  
23 Plaintiff and/or its licensees at the Artist’s concerts includes, without limitation, tour  
24 and program books, T-shirts, jerseys, sweatshirts, hats, visors, buttons, and posters  
25 (collectively, the “Tour Merchandise”). Plaintiff is the exclusive owner and holder  
26 of rights to sell Tour Merchandise in the vicinity of the Artist’s concert perform-  
27 ances in connection with its current worldwide concert tour (the “Tour”). The  
28 Artist’s name has been used for years to identify it as a K-pop (or “Korean pop”)

1 group and boy band in all phases of the entertainment industry and to distinguish the  
2 Artist from all other such groups.

3 5. The Artist is one of the most popular and successful musical acts  
4 worldwide. The Artist has received 15 Melon Music Awards, 15 Mnet Asian Music  
5 Awards, 14 Golden Disc Awards, 12 Seoul Music Awards, 10 Gaon Chart Music  
6 Awards, 2 Billboard Music Awards, 4 Korean Music Awards, and one American  
7 Music Award, among countless of other accolades. The Artist is currently  
8 nominated for another 2 Billboard Music Awards, Best Social Artist and Best  
9 Group. The Artist was also the first K-pop band to perform on *Saturday Night Live*.

10 6. As the first Korean group to receive RIAA certification, the Artist has 1  
11 Platinum single, 3 Gold singles, and 1 Gold album in the U.S. Its previous studio  
12 album, *Love Yourself: Tear*, debuted on May 27, 2018 at number one on the U.S.  
13 Billboard 200—making it the first Korean album to top the U.S. albums chart and  
14 the highest-charting album by an Asian musical act in the U.S. ever. Its current  
15 studio album, *Map of the Soul: Persona*, debuted at #1 on the U.S. Billboard 200 on  
16 April 22, 2019. The first single off that album, “Boy With Luv,” is currently #6 on  
17 Spotify’s Global Chart and #9 on Spotify’s U.S. Chart, and is within the top 15 on  
18 Apple Music’s Global 100.

19 7. The Artist also has an ubiquitous social media presence and cultural  
20 influence. Among other things, it currently holds the world record for most Twitter  
21 “engagements,” and has spent 117 weeks at #1 on the Billboard Social 50 chart,  
22 which tracks the most active musical artists on the world’s leading social  
23 networking services.

24 8. The identities of Defendants John and Jane Does 1-100 and XYZ  
25 Companies 1-100 are not presently known, and this Complaint will be amended to  
26 include the names of such individuals and entities when identified. Upon informa-  
27 tion and belief, Defendants will be present in and about the Central District of  
28 California, in connection with the Artist’s concerts scheduled to be held at the Rose

1 Bowl Stadium in Pasadena, California on May 4, 2019, and May 5, 2019 (the  
2 “California Shows”). Defendants, therefore, will be subject to this Court’s  
3 jurisdiction.

4 **FIRST CAUSE OF ACTION**

5 **(Lanham Act)**

6 9. Plaintiff repeats and realleges each allegation set forth in paragraphs 1  
7 through 8 above.

8 10. The Artist has used its inherently distinctive name and Trademark to  
9 identify officially authorized goods and services and to distinguish the Artist from  
10 other musical performing groups. The Artist has, among other things, prominently  
11 displayed the Trademark in advertising and promotional material; in and on compact  
12 discs, audiotape boxes, and streaming services; and on merchandise, including the  
13 Tour Merchandise. Plaintiff and the Artist have realized, and expect to realize,  
14 substantial income from the sale of merchandise bearing the Artist’s Trademark  
15 (including the Tour Merchandise), and hundreds of thousands of such items have  
16 been sold throughout the United States.

17 11. As a result of the foregoing, the Artist’s Trademark has developed and  
18 now possesses secondary and distinctive meaning to purchasers of the Tour  
19 Merchandise.

20 12. The Artist has achieved wide renown during its career in the music  
21 industry. The Artist’s Trademark has been used in interstate commerce on and for  
22 the purpose of identifying, among other things, Tour Merchandise, including T-  
23 shirts and other apparel.

24 13. The Artist has a decidedly strong and loyal following among concert-  
25 goers and record buyers. The Artist has appeared—and will appear—in concerts at  
26 major arenas and stadiums in the United States and around the world and has been  
27 seen and heard in concert by millions of popular music enthusiasts.

28

1           14. The Artist commenced the Tour, titled “BTS World Tour: Love  
2 Yourself,” on August 25, 2018 at Seoul Olympic Stadium in Seoul, South Korea,  
3 and will commence an extension of the Tour, titled “BTS World Tour Love  
4 Yourself: Speak Yourself,” on May 4, 2019, and May 5, 2019, at the Rose Bowl  
5 Stadium in Pasadena, California. The Tour will continue with shows at major  
6 venues throughout the United States, South America, Europe and Asia through July  
7 2019, including shows in Chicago, Illinois on May 11, 2019, and May 12, 2019, and  
8 in the New York metropolitan area on May 18, 2019, and May 19, 2019.

9           15. In connection with the Tour, Plaintiff has licensed the Trademarks for  
10 use in and on official Tour Merchandise to be sold at and in the vicinity of each of  
11 the concert venues where the Artist is scheduled to perform.

12           16. Pursuant to an agreement with Live Nation Merchandise, Inc.  
13 (“LNM”), Plaintiff has authorized LNM to distribute official Tour Merchandise at or  
14 near the site of the Artist’s concerts, including at the California Shows, and LNM  
15 intends to sell Tour Merchandise at or near those concerts. Plaintiff has also  
16 authorized the company CompactD to distribute official Tour Merchandise at or  
17 near the site of the Artist’s concerts, including at the California Shows, and  
18 CompactD intends to sell Tour Merchandise at or near those concerts.

19           17. Upon information and belief, Defendants have engaged, and will  
20 continue to engage, in the unauthorized manufacture, distribution and sale of  
21 inferior merchandise bearing the Artist’s Trademark (the “Bootleg Merchandise”) in  
22 the vicinity of the Artist’s concerts. Plaintiff believes that the Defendant  
23 bootleggers and counterfeiters will sell, or attempt to sell, Bootleg Merchandise at or  
24 near the California Shows, as well as at or near subsequent concerts during the Tour.

25           18. The Bootleg Merchandise is of the same general appearance as the  
26 Tour Merchandise and is likely to confuse prospective purchasers as to the source or  
27 sponsorship of such Bootleg Merchandise.

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1           19. Upon information and belief, the Bootleg Merchandise is generally of  
2 inferior quality. The sale of such merchandise is likely to injure the reputation of  
3 the Artist and Plaintiff, which has developed by virtue of the Artist's public  
4 performances the reputation for high quality associated with the Tour Merchandise.

5           20. The manufacture, distribution and sale of Bootleg Merchandise by  
6 Defendants, and those acting in concert with Defendants, constitutes a false  
7 designation of the source of origin of such goods and falsely describes and  
8 represents such merchandise, in violation of Section 43(a) of the Lanham Act, 15  
9 U.S.C. § 1125(a).

10           21. The aforesaid acts by Defendants, and those acting in concert with  
11 Defendants, are likely to cause the purchasing public to believe that the sale of such  
12 Bootleg Merchandise is authorized, sponsored or approved by the Artist and  
13 Plaintiff and that such Bootleg Merchandise is subject to the same quality control  
14 and regulation required by the Artist and Plaintiff.

15           22. The use by Defendants and others of the Artist's Trademark constitutes  
16 an attempt to palm off and appropriate to themselves the Artist's and Plaintiff's  
17 exclusive rights therein.

18           23. Upon information and belief, Defendants, and those acting in concert  
19 with Defendants, have engaged, and will continue to engage, in such unauthorized  
20 activities in this state and elsewhere in interstate commerce and are likely to  
21 continue such activities throughout the Tour, to the great injury of Plaintiff and the  
22 Artist.

23           24. As a direct and proximate result of Defendants' wrongful conduct,  
24 Plaintiff has suffered injury in fact, as described herein.

25           25. Plaintiff has no adequate remedy at law and has suffered, and will  
26 continue to suffer, irreparable harm and damage as a result of Defendants' aforesaid  
27 acts, which, if not enjoined, will cause injury and monetary loss in an amount  
28 presently incalculable.

1 **SECOND CAUSE OF ACTION**

2 **(Unfair Competition)**

3 26. Plaintiff repeats and realleges each allegation set forth in paragraphs 1  
4 through 25 above.

5 27. Upon information and belief, the aforesaid acts by Defendants and  
6 others have been, and will continue to be, committed with full knowledge of the  
7 rights of Plaintiff and the Artist, and have the effect of misleading and confusing the  
8 public and misappropriating and trading upon the property rights, goodwill and  
9 reputation inhering to the name and likeness of the Artist.

10 28. Such misappropriation and unfair competition will interfere with  
11 Plaintiff's rights and ability to exploit the commercial value of the Artist's  
12 Trademark.

13 29. As a direct and proximate result of Defendants' wrongful conduct,  
14 Plaintiff has suffered injury in fact, as described herein.

15 30. Plaintiff has no adequate remedy at law and has suffered, and will  
16 continue to suffer, irreparable harm and damage as a result of Defendants' aforesaid  
17 acts, which, if not enjoined, will cause injury and monetary loss in an amount  
18 presently incalculable.

19 **THIRD CAUSE OF ACTION**

20 **(Right of Privacy)**

21 31. Plaintiff repeats and realleges each allegation set forth in paragraphs 1  
22 through 30 above.

23 32. By virtue of the expenditures of time, effort and talent by the Artist and  
24 Plaintiff in advertising, publicizing and promoting the accomplishments of the Artist  
25 and through extensive commercial exploitation of its public persona, the Artist and  
26 Plaintiff have created rights of publicity in the Artist's name

27 33. By virtue of assignment from the Artist, Plaintiff is the owner of the  
28 Artist's (and its individual members') rights of privacy in their names and



1 likenesses. Defendants have used, and will continue to use, the Artist's Trademarks  
2 without authorization and for purposes of trade and for other commercial purposes.

3 34. The aforesaid uses of the Trademark by Defendants constitute  
4 infringements of such rights of privacy.

5 35. As a direct and proximate result of Defendants' wrongful conduct,  
6 Plaintiff has suffered injury in fact, as described herein.

7 36. Plaintiff has no adequate remedy at law and has suffered, and will  
8 continue to suffer, irreparable harm and damage as a result of Defendants' aforesaid  
9 acts, which, if not enjoined, will cause injury and monetary loss in an amount  
10 presently incalculable.

11 **FOURTH CAUSE OF ACTION**

12 **(California Civil Code § 3344(a))**

13 37. Plaintiff repeats and realleges each allegation set forth in paragraphs 1  
14 through 36 above.

15 38. The aforesaid acts by Defendants and those acting in concert with  
16 Defendants constitute the knowing use of the Artist's name and/or likeness without  
17 consent in violation of Cal. Civil Code § 3344(a).

18 39. As a direct and proximate result of Defendants' wrongful conduct,  
19 Plaintiff has suffered injury in fact, as described herein.

20 40. Plaintiff has no adequate remedy at law and has suffered, and will  
21 continue to suffer, irreparable harm and damage as a result of Defendants' aforesaid  
22 acts, which, if not enjoined, will cause injury and monetary loss in an amount  
23 presently incalculable.

24 **FIFTH CAUSE OF ACTION**

25 **(California Business & Professions Code §§ 17200 et seq.)**

26 41. Plaintiff repeats and realleges each allegation set forth in paragraphs 1  
27 through 40 above.

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1           2.       That this Court authorize the United States Marshal, authorized agents  
2 of Plaintiff, the local and state police, and/or any persons acting under their  
3 supervision, to seize and impound any and all Bootleg Merchandise which the  
4 Defendants attempt to sell, distribute or hold for sale at, within, or in the vicinity of  
5 the arenas at which the Artist is performing, before, during and after said concerts.

6           3.       That Defendants deliver up for destruction all Bootleg Merchandise  
7 bearing the name, trademark, or likeness of the Artist.

8           4.       That Defendants pay to Plaintiff damages in an amount to be  
9 determined based upon Plaintiff's loss of income from Defendants' unauthorized  
10 activities.

11          5.       That Plaintiff have such other and further relief as the Court deems to  
12 be reasonable, necessary and just.

13 Dated: April 25, 2019

LOEB & LOEB LLP  
DAVID GROSSMAN  
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16 By: /s/ David Grossman

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