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

12 WESLEY EISOLD, an individual,
13 Plaintiff,

14 vs.

15 CODY GARRETT RUNNELS, an
16 individual; WORLD WRESTLING
17 ENTERTAINMENT, LLC, a limited
18 partnership; and FANATICS
19 HOLDINGS, a corporation,
20 Defendants.

Case No.

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF FOR:**

- (1) BREACH OF CONTRACT;
- (2) INDUCING BREACH OF CONTRACT;
- (3) INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS;
- (4) FEDERAL TRADEMARK INFRINGEMENT [15 U.S.C. § 1114];
- (5) CALIFORNIA TRADEMARK INFRINGEMENT [CALIFORNIA BUSINESS & PROFESSIONAL CODE SECTION § 17200 ET SEQ., CALIFORNIA COMMON LAW]

DEMAND FOR JURY TRIAL

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1 Plaintiff Wesley Eisold alleges:

2 **PRELIMINARY STATEMENT**

3 1. This is an action for federal and state trademark infringement under the
4 Lanham Act, 15 U.S.C. § 1141, California Business & Professional Code section
5 17200 et seq., and California common law as well as for substantial and related
6 claims for breach of contract, inducing breach of contract, and interference with
7 contractual relations under California law.

8 2. Wesley Eisold is the lead singer of the renowned punk rock band
9 American Nightmare. Eisold holds the registered trademark “American Nightmare”
10 in pre-recorded music, clothing and apparel, and entertainment services (“Eisold
11 Mark”). Eisold sells counterculture-style clothes and merchandise often featuring
12 the words “American Nightmare,” a logo of a black-and-white winged angel of
13 death, the American flag’s stars and stripes, or a logo of a stars-and-stripes shield
14 with wing-like baseball bats (“Eisold Shield Logo”).

15 3. Defendant Cody Garrett Runnels, professionally known as Cody
16 Rhodes, is a world-famous wrestling “Superstar” of Defendant World Wrestling
17 Entertainment, LLC. Runnels promotes himself as “The American Nightmare.”

18 4. Runnels attempted to register the trademark “The American
19 Nightmare” (“Runnels Mark”), which Eisold opposed. The two then entered into a
20 settlement agreement. Eisold allowed Runnels to use (but not register) the Runnels
21 Mark in clothing and apparel on the express condition that the only clothes and
22 apparel that Runnels was allowed to sell had to prominently feature Runnels’ name,
23 Runnels’ name and likeness, or significant indicia of wrestling—which must be 75%
24 or larger than the Runnels Mark.

25 5. Runnels, WWE, and Defendant Fanatics Holdings (“Fanatics”) sell
26 clothes that blatantly violate the express conditions in the settlement agreement and
27 Eisold’s trademark (“Runnels clothes.”) The Runnels clothes are brandished with
28 the words “American Nightmare” but do not include Runnels’ name, his name,

1 likeness, or indicia of wrestling (or do so in puny fashion). The counterculture-style
2 clothes often feature a winged skull embossed with the stars and stripes (“Runnels
3 Logo”), a black-and-white winged skull, or various representations of the U.S. flag.

4 6. Widespread confusion about Runnels’ use of the Eisold Mark persists
5 among WWE fans and Runnels’ fans. Legions of American Nightmare fans ask
6 Eisold if he endorses Runnels or the wrestler’s use of the Eisold Mark and his
7 image. Eisold’s fans frequently buy the Runnels clothes by accident, Runnels’ fans
8 regularly buy the Eisold clothes by mistake, and fans of both inadvertently make and
9 purchase apparel that mix references to both the band and to Runnels.

10 7. Eisold thus seeks damages and injunctive relief.

11 **JURISDICTION**

12 8. This Court has subject matter jurisdiction over the federal question
13 claims under 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338.

14 9. Eisold’s state law claims and federal question claims are related and
15 arise from the same case or controversy. So, this Court has supplemental jurisdiction
16 over the state law claims under 28 U.S.C. § 1338(b) and § 1367(a).

17 **VENUE**

18 10. Venue in this Court is proper under 28 U.S.C. § 1391(b)(2) because a
19 substantial part of the events or omissions giving rise to Eisold’s claims occurred in
20 this judicial district and a substantial part of the property that is subject of the action
21 is situated in this judicial district.

22 11. Should this Court decide that venue is not satisfied under 28 U.S.C.
23 § 1391(b)(1) and (b)(2), venue is proper under 28 U.S.C. § 1391(b)(3) because
24 Defendants are subject to this Court’s personal jurisdiction in this judicial district.

25 **PARTIES**

26 12. Plaintiff Wesley Eisold is an individual who resides in Los Angeles,
27 California.

28 13. On information and belief, Defendant Cody Garrett Runnels is an

1 individual who resides in Fulton County, Georgia.

2 14. On information and belief, Defendant World Wrestling Entertainment,
3 LLC is a limited liability corporation formed under the laws of Connecticut and has
4 its principal place of business at 707 Washington Blvd., Stamford, CT 06901.

5 15. On information and belief, Defendant Fanatics Holdings is a
6 corporation formed under the laws of Delaware and has its principal place of
7 business at 205 Hudson Street, 5th Floor, New York, NY 10013.

8 **FACTS**

9 **A. In 1999, musician Wesley Eisold co-founded American Nightmare, the**
10 **critically acclaimed punk rock band.**

11 16. Plaintiff Wesley Eisold is a musician known for his contributions to the
12 punk rock, hardcore punk, emo, synthpop, darkwave, and EDM genres.

13 17. About 1999, Eisold co-founded the critically acclaimed punk rock
14 band, American Nightmare. Eisold has always been the lead vocalist and frontman
15 of the band.

16 18. For the past 20 years, American Nightmare and Eisold have had an
17 indelible impact on the punk rock genre, and Eisold has been an accomplished
18 co-writer of other artists.

19 19. American Nightmare rehearses; records its music; and maintains its
20 instruments, recording equipment, and concert equipment in Los Angeles. The
21 band's booking agent, United Talent Agency, is also in Los Angeles.

22 **B. Wesley Eisold owns the trademark “American Nightmare” in clothing**
23 **and apparel, entertainment services, and pre-recorded media.**

24 20. Eisold is the owner of the valid and subsisting trademark consisting of
25 the word “American Nightmare” (“Eisold Mark”).

26 21. On November 29, 2016, Eisold registered the Eisold Mark with the
27 U.S. Patent and Trademark Office (“USPTO”).

28 22. The Eisold Mark's U.S. Trademark Registration No. is 5,089,055 on

1 the Principal Register in the USPTO. Eisold owns the mark in pre-recorded media
2 (class 9), clothing and apparel (class 25), and entertainment services (class 41).

3 23. The Eisold Mark has attained incontestable status under Section 15 of
4 the Lanham Act, 15 U.S.C. § 1065.

5 24. A true and correct copy of the registration certificate and an image of
6 the Eisold Mark are attached as Exhibit 1.

7 **C. Eisold sells counterculture clothes and merchandise featuring the words**
8 **“American Nightmare,” a black-and-white winged angel of death, the**
9 **American flag’s stars and stripes, and a stars-and-stripes shield with**
10 **wing-like baseball bats.**

11 25. Eisold has continuously used the Eisold Mark in commerce throughout
12 the United States (including in California) and internationally since American
13 Nightmare’s inception in 1999.

14 26. Eisold’s use of the mark is connected to the manufacture, distribution,
15 provision, offering for sale, sale, marketing, advertising, and promotion of clothes
16 and apparel—including t-shirts, hoodies, crewnecks, and buttons—featuring the
17 Eisold Mark (“Eisold clothes”).

18 27. The Eisold Mark is highly distinctive to the consuming public and
19 Eisold’s trade and is strong both conceptually and commercially.

20 28. The Eisold clothes feature the Eisold Mark (i.e., the words “American
21 Nightmare”) and common motifs. Frequently used images include a logo composed
22 of a black-and-white angel of death with two large white wings (“Eisold Angel
23 Logo”), the stars and stripes of the American flag, and a logo consisting of a stars-
24 and-stripes shield interposed on two baseball bats forming an “X,” emulating wings
25 (“Eisold Shield Logo”).

26 29. Beyond the Eisold clothes, his other merchandise also combine these
27 recurring tropes. As examples, one of American Nightmare’s EPs, *Year One*,
28 features the Eisold Angel Logo superimposed on the stars and stripes. The band’s

1 vinyl releases of its 2000 studio album *American Nightmare* feature the text
2 “American Nightmare” superimposed on the American flag. An American
3 Nightmare poster from 2000 features a skull wearing an “Uncle Sam” American
4 flag-styled hat. Versions of the band’s EP *The Sun Isn’t Getting Any Brighter*
5 feature the Eisold Angel Logo in red, white, or blue, mirroring the American flag.
6 And the band’s 1999 album *4 Song Demo* features the Eisold Shield Logo as well as
7 the text “American Nightmare.”

8 30. Pictures of representative samples of the Eisold clothes and
9 merchandise featuring the Eisold Mark, Eisold Angel Logo, and Eisold Shield Logo
10 are attached as Exhibit 2.

11 31. Eisold makes tens of thousands of dollars every month from his use of
12 the Eisold Mark.

13 32. Eisold manufactures the Eisold clothes in Los Angeles.

14 33. Eisold has spent substantial time, money, and resources marketing,
15 advertising, and promoting the Eisold clothes.

16 34. Eisold and American Nightmare have continuously performed concerts
17 around California, the rest of the United States, and internationally since 1999. They
18 have staged and performed at concerts as recently as 2023, including concerts in
19 Santa Ana, Los Angeles, and San Francisco. Eisold and American Nightmare have
20 consistently sold the Eisold clothes at their concert venues and on the American
21 Nightmare website.

22 35. Eisold distributes and sells the Eisold clothes through licensees and
23 authorized distributors.

24 36. Hot Topic is one of those authorized distributors. Hot Topic is a widely
25 known retail store that sells counterculture clothes and merchandise, often
26 associated with punk music and fashion. Hot Topic has locations throughout
27 California, including in Los Angeles, and runs an e-commerce store that delivers
28 goods throughout the United States.

1 37. Hot Topic, for example, sells t-shirts featuring the Eisold Mark online.

2 38. Eisold offers and sells the Eisold clothes to fans of American
3 Nightmare and, more generally, persons who love counterculture and punk rock
4 clothes.

5 39. As a result of Eisold’s widespread, continuous, and exclusive use of the
6 Eisold Mark, Eisold owns a valid and subsisting federal statutory and common law
7 rights to the Eisold Mark.

8 40. As a result of Eisold’s expenditure and efforts, the Eisold mark
9 signifies the high quality of the Eisold clothes designated by the Eisold Mark and
10 has acquired distinction, reputation, and goodwill belonging exclusively to Eisold.

11 **D. Defendant Cody Runnels is a world-famous World Wrestling**
12 **Entertainment (WWE) “Superstar” who promotes himself as “The**
13 **American Nightmare.”**

14 41. World Wrestling Entertainment, LLC is a media and entertainment
15 company that revolves around “professional wrestling.” WWE produces and
16 promotes live wrestling matches and distributes videos of these matches
17 internationally via television and online.

18 42. WWE is popular throughout the world, including in California. WWE
19 frequently hosts wrestling matches and other events in California.

20 43. In 2022, WWE netted close to \$1.3 million from selling commercial
21 products, including clothes.¹

22 44. WWE “primarily” credits its success to “the continuing popularity of
23 our Superstars.”²

24 45. Defendant Cody Runnels is by far the most prominent of the two
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26 ¹ *Licensing*, W, <https://corporate.wwe.com/what-we-do/consumer-products/licensing> (last visited
27 Aug. 19, 2024) [<https://perma.cc/HNL2-SH8U>]; *WWE® Reports Record Full Year 2022 Results*,
W (Feb. 2, 2023), [https://corporate.wwe.com/investors/news/press-releases/2023/02-02-2023-](https://corporate.wwe.com/investors/news/press-releases/2023/02-02-2023-210607072)
28 210607072 [<https://perma.cc/H59T-2YBK>].

² *Licensing*, *supra* note 1.

1 hundred and fifty WWE Superstars.

2 46. Runnels wrestles under the pseudonym “Cody Rhodes” and stage name
3 “The American Nightmare.” This moniker is an ode to Runnels’ father, Dusty
4 Rhodes, who went by “The American Dream.”

5 47. He is the reigning “Undisputed WWE Champion”—WWE’s most
6 competitive and infamous championship. Tellingly, Runnels is the top listed
7 Superstar on the “Champions” page on the WWE website.³

8 48. Music and clothes associated with counterculture, including punk rock,
9 are central to Runnels’ “The American Nightmare” persona. For example, the song
10 *Kingdom* by the band Downstait, which draws heavily on both punk rock and rock
11 n’ roll, plays as Runnels’ walk-on song and when he triumphs over his opponents in
12 the arena.

13 49. Runnels regularly wrestles at WWE events in California. Runnels, for
14 example, recently fought Shinsuke Nakamura in WWE “street fights” in Los
15 Angeles in January 2024 and in Fresno in February 2024.

16 50. WWE widely publicizes Runnels’ wrestling matches in California and
17 actively targets California residents with its advertising.

18 **E. Defendants WWE and Fanatics Holdings sell Runnels merchandise on**
19 **the WWE Shop and Fanatics.com.**

20 51. Fanatics Holdings (“Fanatics”) promotes itself as “global digital sports
21 platform” and has several loosely organized subsidiaries, sibling businesses, and
22 parent companies.

23 52. Fanatics runs and is the proprietor of the e-commerce site,
24 Fanatics.com.

25 53. WWE Shop is WWE’s official e-commerce site. It retails merchandise
26 featuring the names, likenesses, and nicknames of the company’s Superstars.

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28 ³ *W Superstars*, W, <https://www.wwe.com/superstars> (last visited Aug. 19, 2024)
[<https://perma.cc/6PDJ-ETVK>].

1 54. The WWE Shop labels itself as a “Fanatics Experience.” On
2 information and belief, the WWE Shop is co-run by or licensed to Fanatics.

3 55. Both e-commerce sites sell WWE merchandise, including clothes.

4 56. Fanatics.com targets California residents by selling clothes featuring
5 the names and logos of California sports teams. Fanatics and its subsidiaries
6 (including Lids) have retail locations throughout California.

7 **F. Runnels sought to trademark “The American Nightmare” in**
8 **entertainment services, which Eisold legally opposed.**

9 57. On March 10, 2019, Runnels filed application serial no. 88/333,305
10 with the USPTO, seeking to register the trademark consisting of the word “The
11 American Nightmare” (“Runnels Mark”) in class 41.

12 58. Runnels’ application and a picture of the Runnels Mark are attached as
13 Exhibit 3.

14 59. Eisold scrupulously enforced and protected the Eisold Mark against
15 Runnels’ infringement.

16 60. Eisold objected to and timely filed his opposition to Runnels’
17 application in the Trademark Trial and Appeal Board (“TTAB”) of the USPTO on
18 August 21, 2019.

19 61. Eisold’s opposition was assigned to TTAB proceeding no. 91250336.
20 In that proceeding, Runnels counterclaimed, seeking to cancel the Eisold Mark.

21 **G. Eisold and Runnels settled, allowing the wrestler to use “The American**
22 **Nightmare” on clothes so long as they prominently feature Runnels’**
23 **name, his name and likeness, or substantial indicia associated with**
24 **wrestling.**

25 62. On March 14, 2021, Eisold and Runnels entered into a settlement
26 agreement.

27 63. A copy of the settlement agreement is attached as Exhibit 4.

28 64. Eisold signed the agreement in California, and Runnels signed in Ohio.

1 65. In section 1(a) of the agreement, Eisold consented to Runnels’
2 registration of “The American Nightmare” in connection solely with class 41, i.e.,
3 entertainment services.

4 66. In section 1(b), Eisold allowed Runnels to use (but not register) the
5 Runnels Mark in connection with clothing and apparel in class 25 on the condition
6 that the clothes feature—75% bigger than the Runnels Mark—Runnels’ name,
7 Runnels’ name and likeness, or substantial indicia associated with wrestling.

8 67. In section 2, Runnels agreed to pay Eisold \$30,000.

9 68. In section 4(a), Eisold and Runnels agreed to withdraw their filings in
10 the TTAB proceedings.

11 69. Section 4(b) states that the parties will reasonably cooperate to prevent
12 reoccurrences of any confusion resulting from their concurrent use of the two marks.

13 70. Section 4(c) provides that “no Party shall assist any third party in
14 taking any action, or cause or request any third party to take any action, that the
15 Party is prohibited from taking under this Agreement.”

16 71. Section 7(c) bound to the agreement the parties’ principals, owners,
17 successors, assigns, licensees, affiliates, and others acting by or through them, under
18 their direction, or in privity with them.

19 72. Runnels and Eisold have not entered into an agreement superseding the
20 settlement agreement, and no one repudiated the agreement before performance was
21 due.

22 **H. Eisold has performed his obligations under the settlement agreement.**

23 73. Eisold has fully performed his obligations under the settlement
24 agreement. He has also performed all conditions precedent that the agreement
25 requires him to perform.

26 74. Specifically, Eisold has performed his duties under sections 1, 4, and 7
27 and other provisions in the settlement agreement. Eisold has allowed Runnels to
28 register the Runnels Mark in class 41 and to use the Runnels Mark in class 25.

1 Eisold has withdrawn his filings in the TTAB proceeding. And, as laid out below,
2 Eisold has attempted to reasonably cooperate with Runnels to prevent confusion
3 over their concurrent use of the two marks.

4 **I. Defendants sell clothes that violate the settlement agreement.**

5 75. Eisold received a fan inquiry in early 2022 (within one year of the
6 execution of the settlement agreement) about one of Runnels clothes—a t-shirt—
7 that Defendants were selling online.

8 76. The shirt prominently features the Eisold Mark and a stars-and-stripes
9 winged skull sporting a crown; a tiny WWE logo is featured on the left sleeve
10 (“Runnels Crown T-shirt”).

11 77. A picture of the Runnels Crown T-shirt is attached as Exhibit 5.

12 78. At this point, Eisold discovered that Runnels, WWE Shop, and Fanatics
13 manufacture, produce, market, distribute, and sell a vast array of clothes that
14 nakedly violate the 2021 settlement agreement.

15 79. The infringing clothes (“Runnels clothes”) brandish the text “American
16 Nightmare.” Like the Runnels Crown T-shirt, the other Runnels clothes do not
17 feature Runnels’ name, his name and likeness, or substantial indicia associated with
18 wrestling, or do so in a de minimis manner.

19 80. So, Runnels has not performed his obligations and conditions precedent
20 under sections 1, 4, 7 and other provisions of the settlement agreement.

21 81. On information and belief, Runnels has entered into a licensing
22 agreement or has otherwise allowed WWE and Fanatics to manufacture, produce,
23 market, distribute, and sell the Runnels clothes.

24 82. On information and belief, Defendants knew about and were familiar
25 with the Eisold Mark and the settlement agreement when they began designing,
26 manufacturing, distributing, marketing, promoting, and selling the Eisold clothes.

27 83. On information and belief, WWE and Fanatics intentionally caused
28 Runnels to breach the settlement agreement.

1 **J. Defendants violate Eisold’s trademark, and confusion has erupted over**
2 **Defendants’ use of the mark on the clothes that they retail.**

3 84. The Runnels clothes are counterculture or punk styled and often feature
4 a winged skull embossed with the stars and stripes (“Runnels Logo”), a black-and-
5 white winged skull, or various representations of the American flag.

6 85. Pictures of the Runnels clothes are attached as Exhibit 6.

7 86. Fans of WWE and wrestling continue to frequently tag the American
8 Nightmare in Facebook and social media posts. Some fans who have tagged both
9 Runnels and the band in posts have asked if Eisold and American Nightmare
10 approve of the Runnels clothes.

11 87. To date, fans of both Runnels and American Nightmare purchase the
12 Runnels clothes. Fans attending American Nightmare concerts and other events—
13 including in California and specifically this judicial district—wear both the Runnels
14 clothes and the Eisold clothes.

15 88. Fans of Runnels and Eisold commonly make, buy, and wear clothes
16 that mix Eisold Mark, the Runnels Mark, the Eisold Angel Logo, the Eisold Shield
17 Logo, the Runnels Logo, and references to both parties.

18 89. For example, one fan posted on Instagram a picture of him wearing a
19 muscle shirt brandishing the Eisold Angel Logo and the text “American Dream”—a
20 reference to Runnels and his father.

21 90. A picture of the Instagram post and another post depicting a confused
22 Runnels fan are attached as Exhibit 7.

23 91. American Nightmare fans continue to reach out to Eisold about
24 whether he endorses Runnels or the wrestler’s use of the Eisold Mark and his image.

25 92. On information and belief, Defendants have manufactured, distributed,
26 provided, marketed, advertised, promoted, offered for sale, and sold the Runnels
27 clothes using the Eisold Mark.

28 93. Defendants sell the Runnels clothes to fans of the wrestler and WWE as

1 well as consumers of counterculture and punk rock apparel more generally.

2 94. Eisold and Defendants use identical marketing channels to sell their
3 clothes. Almost all (if not all) retailers selling the parties' merchandise advertise
4 online. Searching "American Nightmare merchandise," "American Nightmare
5 clothing," or "American Nightmare shirts" on Google and other search engines
6 yields links to similar looking clothes and apparel sold by Eisold and Defendants.

7 95. The Runnels clothes are sold in California, including in Los Angeles, at
8 retail locations and interactive e-commerce pages. The clothes are sold on Runnels'
9 Instagram page, the WWE Shop, and Fanatics.com.

10 96. WWE and Fanatics are proprietors of websites, including WWE Store
11 and Fanatics.com, that facilitate, are involved in, and control the manufacturing and
12 sales of the Runnels clothes.

13 97. Defendants also sell merchandise (including the Runnels clothes) in
14 California (including in Los Angeles), at third-party stores, subsidiary retailers and
15 e-commerce sites. These include Hot Topic, The Wrestling Guy Store, Chalk Line,
16 Wal-Mart, Amazon, Target, and Tik Tok Shop.

17 98. Hot Topic is an official distributor of the Runnels clothes and other
18 WWE merchandise. As stated above, the company also officially distributes the
19 Eisold clothes.

20 99. The Wrestling Guy is a store in Los Angeles that officially distributes
21 Runnels and WWE merchandise.

22 100. Chalk Line, Wal-Mart, Amazon, Target, and Tik Tok Shop all
23 advertise, distribute, and sell clothes (including the Runnels clothes) in California,
24 including in Los Angeles.

25 101. In other words, each Defendant, in their regular course of business,
26 advertises, distributes, and sells clothes (including the Runnels clothes) throughout
27 California, including in this judicial district, via the aforementioned official, third-
28 party, and subsidiary retailers and e-commerce sites.

1 102. Defendants' sale of the Runnels clothes directly competes with the
2 Eisold clothes, which are complementary and proximate goods in the same industry.
3 On information and belief, Eisold and Defendants are business competitors that
4 maintain concrete containment plans in shared geographical regions, including in
5 this judicial district, the rest of the United States, and Europe.

6 **K. Runnels, WWE, and Fanatics have ignored Eisold's repeated notices of**
7 **their unlawful conduct.**

8 103. Eisold has diligently informed Defendants of Runnels' infringement of
9 the settlement agreement, WWE's and Fanatics' inducement of Runnels' breach of
10 the agreement, interference of contractual relations between Runnels and Eisold, and
11 Defendants' trademark infringement.

12 104. On April 15, 2022, Eisold's prior counsel notified Runnels' counsel
13 that Defendants were selling the infringing Runnels Crown T-shirt.

14 105. Runnels' counsel never responded to the April 15, 2022 email.

15 106. On April 18, 2024, Eisold's counsel sent a cease and desist letter to
16 Michael Rubin, the Chief Executive Officer of Fanatics. The letter notified Fanatics
17 of its unlawful conduct.

18 107. On May 21, 2024, Eisold's counsel sent a cease and desist letter to
19 Runnels. The letter advised Runnels that he unlawfully uses the Runnels Mark.

20 108. On May 31, 2024, counsel for WWE sent a letter to Eisold's counsel,
21 stating that Fanatics had referred the dispute to WWE.

22 109. To date, Eisold has received no other correspondence from Defendants.

23 110. Defendants have not complied with the demands set out in Eisold's
24 cease and desist letters. Defendants continue to sell the Runnels clothes and no
25 evidence exists that they have endeavored to stop doing so. Defendants continue to
26 violate the terms of the settlement agreement.

27 111. On information and belief, Defendants' have acted willfully and have
28 deliberately intended to trade on Eisold's goodwill.

1 112. Defendant's acts are causing and, unless restrained, will continue to
2 cause damage and immediate irreparable harm to Eisold and to the Eisold Mark's
3 valuable reputation and goodwill with the consuming public, for which Eisold has
4 no adequate remedy at law.

5 **LEGAL CLAIMS**

6 **COUNT I**

7 **BREACH OF CONTRACT**

8 ***(By Eisold against Runnels)***

9 113. Eisold realleges and incorporates paragraphs 1 through 112.

10 114. Eisold and Runnels entered into a valid, enforceable, and binding
11 written contract.

12 115. The settlement agreement is a valid and enforceable written contract.

13 116. Eisold has performed all obligations and conditions precedent required
14 by the settlement agreement.

15 117. Runnels has not performed all obligations and conditions precedent
16 required by the settlement agreement.

17 118. Runnels has materially and substantially breached the contract.

18 119. Eisold was harmed.

19 120. As a result of Runnels' breach, Eisold has suffered general damages of
20 at least \$150,000. *See* Cal. Civ. Proc. Code § 425.10(a)(2).

21 121. The general damages flow directly from and are the natural and
22 probable consequences of Runnels' breach.

23 122. Eisold is entitled to collect attorney fees under section 7(h) of the
24 settlement agreement and because Runnels has acted in bad faith, vexatiously,
25 wantonly, or for oppressive reasons.

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COUNT II
INDUCING BREACH OF CONTRACT
(By Eisold against WWE and Fanatics)

123. Eisold realleges and incorporates paragraphs 1 through 122.

124. The settlement agreement is a valid and enforceable written contract between Eisold and Runnels.

125. WWE and Fanatics knew of the settlement agreement.

126. WWE and Fanatics intentionally caused Runnels to breach his contract with Eisold.

127. Eisold was harmed.

128. WWE’s and Fanatics’ conduct substantially caused Eisold’s harm.

129. WWE and Fanatics have maliciously and intentionally acted to induce a breach of the contractual relationship between Eisold and Runnels.

130. Eisold has no adequate remedy at law.

131. Eisold is entitled to collect attorney fees under section 7(h) of the settlement agreement and because WWE and Fanatics have acted in bad faith, vexatiously, wantonly, and for oppressive reasons.

COUNT III
INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS
(By Eisold against WWE and Fanatics)

132. Eisold realleges and incorporates paragraphs 1 through 131.

133. The settlement agreement is a valid and enforceable written contract.

134. WWE and Fanatics knew about the settlement agreement.

135. WWE and Fanatics intended to prevent, hinder, render more expensive, and made more difficult the performance of the settlement agreement, and they were certain or substantially certain that this would occur.

136. Eisold was harmed.

137. WWE’s and Fanatics’ conduct substantially caused Eisold’s harm.

1 138. WWE and Fanatics acted maliciously and intentionally to interfere with
2 the contractual relationship between Eisold and Runnels.

3 139. Eisold has no adequate remedy at law.

4 140. Eisold is entitled to collect attorney fees under section 7(h) of the
5 settlement agreement and because WWE and Fanatics have acted in bad faith,
6 vexatiously, wantonly, and for oppressive reasons

7 **COUNT IV**

8 **FEDERAL TRADEMARK INFRINGEMENT**

9 **15 U.S.C. § 1114**

10 ***(Eisold against all Defendants)***

11 141. Eisold realleges and incorporates paragraphs 1 through 140.

12 142. Eisold owns the federally registered Eisold Mark in connection with
13 clothes and apparel (class 25).

14 143. Defendants' unauthorized use in commerce of the infringing mark as
15 alleged herein is likely to deceive consumers as to the origin, source, sponsorship, or
16 affiliation of the Runnels clothes.

17 144. Defendants' conduct is likely to cause consumers to believe, contrary to
18 reality, that the Runnels clothes are sold, authorized, endorsed, or sponsored by
19 Eisold or that Defendants are in some way affiliated with or sponsored by Eisold.

20 145. Defendant's conduct therefore constitutes trademark infringement in
21 violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

22 146. On information and belief, Defendants have, with full knowledge of
23 Runnels' prior rights in the Eisold Mark and have willfully intended to cause
24 confusion and trade on Eisold's goodwill.

25 147. Defendants' conduct causes immediate and irreparable harm and injury
26 to Eisold and to his goodwill and reputation, and their actions will continue to
27 damage Eisold and confuse the public unless enjoined by this court.

28 148. Eisold has no adequate remedy at law.

1 149. Eisold is entitled to, among other relief, injunctive relief; an award of
2 actual damages, Defendants' profits, enhanced damages and profits; reasonable
3 attorneys' fees; and costs of this action under Sections 34 and 35 of the Lanham Act,
4 15 U.S.C. §§ 1116 and 1117, together with prejudgment and post-judgment interest.

5 **COUNT V**

6 **CALIFORNIA TRADEMARK INFRINGEMENT**

7 **California Business & Professional Code section 17200 et seq.,**

8 **California Common Law**

9 ***(Eisold against all Defendants)***

10 150. Eisold realleges and incorporates paragraphs 1 through 149.

11 151. Eisold owns the federally registered Eisold Mark in connection with
12 clothes and apparel (class 25).

13 152. Defendants' unauthorized use in commerce of the infringing mark as
14 alleged herein is likely to deceive consumers as to the origin, source, sponsorship, or
15 affiliation of the Runnels clothes.

16 153. Defendants' conduct is likely to cause consumers to believe, contrary to
17 reality, that the Runnels clothes are sold, authorized, endorsed, or sponsored by
18 Eisold or that Defendants are in some way affiliated with or sponsored by Eisold.

19 154. Defendant's conduct therefore constitutes trademark infringement in
20 violation of California Business and Professional Code section 17200 et seq. and
21 California common law.

22 155. On information and belief, Defendants have, with full knowledge of
23 Runnels' prior rights in the Eisold Mark and have willfully intended to cause
24 confusion and trade on Eisold's goodwill.

25 156. Defendants' conduct causes immediate and irreparable harm and injury
26 to Eisold and to his goodwill and reputation, and their actions will continue to
27 damage Eisold and confuse the public unless enjoined by this court.

28 157. Eisold has no adequate remedy at law.

1 158. Eisold is entitled to, among other relief, injunctive relief; an award of
2 actual damages, Defendants' profits, enhanced damages and profits; reasonable
3 attorneys' fees; and costs of this action under California Civil Code section 3289(b),
4 together with prejudgment and post-judgment interest.

5 **PRAYER FOR RELIEF**

6 Eisold requests that the Court:

7 1. Conduct a jury trial on all issues triable by a jury.

8 2. Enter judgment against Runnels that he has committed breach of
9 contract, federal trademark infringement, and California trademark infringement
10 under 15 U.S.C. § 1114, California Business & Professional Code section 17200 et
11 seq., and California common law.

12 3. Enter judgment against WWE and Fanatics that they have committed
13 inducement of breach of contract, intentional interference with contractual relations,
14 federal trademark infringement, and California trademark infringement under 15
15 U.S.C. § 1114, California Business & Professional Code section 17200 et seq., and
16 California common law.

17 4. On Count One, award damages in favor of Eisold of an amount to be
18 determined at trial but no less than \$150,000.

19 5. On Count Two, award damages in favor of Eisold of an amount to be
20 determined at trial but no less than \$150,000.

21 6. On Count Three, award damages in favor of Eisold of an amount to be
22 determined at trial but no less than \$150,000.

23 7. On Count Four, award damages in favor of Eisold of an amount to be
24 determined at trial but no less than \$300,000, i.e., treble damages of \$100,000 in
25 accordance with Section 35(a) of the Lanham Act. 15 U.S.C. § 1117(a).

26 8. On Count Five, award damages in favor of Eisold, in an amount to be
27 determined at trial but no less than \$150,000.

28 9. Determine that Defendants willfully committed each alleged act.

10. Grant an injunction temporarily, preliminarily, and permanently enjoin

1 the sale of the Runnels clothes by Defendants; their employees, agents, officers,
2 directors, attorneys, successors, affiliates, subsidiaries, and assigns; and those in
3 active concert with Defendants.

4 11. Award Eisold punitive and exemplary damages as the Court finds
5 appropriate to deter future willful infringement.

6 12. Award Eisold the maximum prejudgment interest allowed by law. Cal.
7 Civ. Code § 3289(b).

8 13. Award Eisold the maximum post-judgment interest allowed by law. 28
9 U.S.C. § 1961.

10 14. Award Eisold costs.

11 15. Award Eisold reasonable attorney fees.

12 16. Award any other just and proper relief.

13 DATED: September 3, 2024 KING, HOLMES, PATERNO & SORIANO, LLP

14
15 By: /s/ Howard E. King

16 HOWARD E. KING
17 HEATHER L. PICKERELL
18 Attorneys for Plaintiff
19 WESLEY EISOLD
20
21
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27
28

EXHIBIT 1

United States of America

United States Patent and Trademark Office

American Nightmare

Reg. No. 5,089,055

Eisold, Wesley (UNITED STATES INDIVIDUAL)
5931 1/2 Franklin Ave.
Los Angeles, CA 90028

Registered Nov. 29, 2016

Int. Cl.: 9, 25, 41

CLASS 9: Pre-Recorded digital, downloadable, and physical media, namely, audio files, cassettes, CDs, discs, DVDs, hard drives, MP3s, phonograph records, records, tapes, vinyl, and WAV files, featuring music, images, videos, and performances by musicians and entertainers

Service Mark

Trademark

FIRST USE 12-31-1999; IN COMMERCE 12-31-1999

Principal Register

CLASS 25: Clothing and apparel, namely, shirts, sweatshirts, jackets; Headwear

FIRST USE 2-28-2000; IN COMMERCE 2-28-2000

CLASS 41: Entertainment services, namely, live performances by a musical group; arranging and organizing live musical performances; music publishing services; providing a website featuring information, commentary, and news about arts, musical events, and music accessible over the Internet, mobile apps, and computer/digital networks

FIRST USE 2-28-2000; IN COMMERCE 2-28-2000

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 86-430,356, FILED 10-21-2014
DOUGLAS M LEE, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

EXHIBIT 2

SAT JUNE 3, 2000 FOUR WALLS FALLING

the goodbye they never got

RAIN ON THE PARADE

from philly on 3 chord records

STRIKE ANYWHERE

from richmond, ex inquisition

NO JUSTICE

ex bladecrasher

AMERICAN NIGHTMARE

ex ten yard fight

\$6 ST. ANDREWS CHURCH, COLLEGE PARK MD.
4512 COLLEGE AVENUE



LINE UP SUBJECT TO CHANGE • MORE INFO EMAIL APOCALYPSEDUDES@HOTMAIL.COM OR CALL TRU 703.515.0483 OR ERIC 703.457.2830



AMERICAN
NIGHTMARE



*American
Nightmare*
WINTER TOUR 2006



*American
Nightmare*





American Nightmare





American Nightmare



Summer Tour 2001

HEAVY
COTTON







Enjoy free US shipping on orders over \$250. Enter VIVA at checkout.

Heartworm Press The Daily Planet New Arrivals



Angel Champion Hoodie

- Small
- Medium
- Large
- X-Large
- XXL

Sold out

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Home About Us Contact Us



American Nightmare

Angel Long Sleeve

Small

Medium

Large

X-Large

Sold out

EXHIBIT 3

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88333305

Filing Date: 03/10/2019

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	THE AMERICAN NIGHTMARE
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	THE AMERICAN NIGHTMARE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Cody Runnels
*STREET	c/o Shumaker Loop, 1000 Jackson St.
*CITY	Toledo
*STATE (Required for U.S. applicants)	Ohio
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	43604
LEGAL ENTITY INFORMATION	
*TYPE	INDIVIDUAL
*COUNTRY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment services, namely, live appearances by a professional wrestler and sports entertainment personality ; Entertainment services, namely, personal appearances by a professional wrestler and sports entertainment personality ; Entertainment services, namely, wrestling exhibits and performances by a professional wrestler and entertainer;

	Entertainment services, namely, providing podcasts in the field of professional wrestling and sports entertainment ; Entertainment services, namely, providing video podcasts in the field of professional wrestling and sports entertainment
*FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	MICHAEL E. DOCKINS
FIRM NAME	Shumaker Loop & Kendrick
STREET	1000 JACKSON ST.
CITY	TOLEDO
STATE	Ohio
COUNTRY	United States
ZIP/POSTAL CODE	43604
PHONE	419-321-1473
FAX	419-241-6894
EMAIL ADDRESS	mdockins@shumaker.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Doug Miller, Bill Clemens, Bill Ziehler, Scott Seaman, Kristen Fries
CORRESPONDENCE INFORMATION	
*NAME	MICHAEL E. DOCKINS
FIRM NAME	Shumaker Loop & Kendrick
*STREET	1000 JACKSON ST.
*CITY	TOLEDO
*STATE (Required for U.S. addresses)	Ohio
*COUNTRY	United States
*ZIP/POSTAL CODE	43604
PHONE	419-321-1473
FAX	419-241-6894
*EMAIL ADDRESS	mdockins@shumaker.com; hpeppard@shumaker.com; tlopez@shumaker.com

* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
* TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Michael E. Dockins/
* SIGNATORY'S NAME	MICHAEL E. DOCKINS
* SIGNATORY'S POSITION	Attorney for applicant
SIGNATORY'S PHONE NUMBER	419-321-1473
* DATE SIGNED	03/10/2019

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88333305

Filing Date: 03/10/2019

To the Commissioner for Trademarks:

MARK: THE AMERICAN NIGHTMARE (Standard Characters, see [mark](#))

The mark in your application is THE AMERICAN NIGHTMARE.

The applicant, Cody Runnels, a citizen of United States, having an address of
c/o Shumaker Loop, 1000 Jackson St.
Toledo, Ohio 43604
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 041: Entertainment services, namely, live appearances by a professional wrestler and sports entertainment personality; Entertainment services, namely, personal appearances by a professional wrestler and sports entertainment personality; Entertainment services, namely, wrestling exhibits and performances by a professional wrestler and entertainer; Entertainment services, namely, providing podcasts in the field of professional wrestling and sports entertainment; Entertainment services, namely, providing video podcasts in the field of professional wrestling and sports entertainment

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

MICHAEL E. DOCKINS and Doug Miller, Bill Clemens, Bill Ziehler, Scott Seaman, Kristen Fries of Shumaker Loop & Kendrick 1000 JACKSON ST.

TOLEDO, Ohio 43604

United States

419-321-1473(phone)

419-241-6894(fax)

mdockins@shumaker.com (authorized)

The applicant's current Correspondence Information:

MICHAEL E. DOCKINS

Shumaker Loop & Kendrick

1000 JACKSON ST.

TOLEDO, Ohio 43604

419-321-1473(phone)

419-241-6894(fax)

mdockins@shumaker.com; hpeppard@shumaker.com; tlopez@shumaker.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or the applicant's attorney, or the applicant's domestic representative at the e-mail address provided in this application. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Plus status and a requirement to submit an additional processing fee of \$125 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

Basis:

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

AND/OR

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
 - The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
 - To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Michael E. Dockins/ Date: 03/10/2019

Signatory's Name: MICHAEL E. DOCKINS

Signatory's Position: Attorney for applicant

Signatory's Phone Number: 419-321-1473

Payment Sale Number: 88333305

Payment Accounting Date: 03/11/2019

Serial Number: 88333305

Internet Transmission Date: Sun Mar 10 23:47:24 EDT 2019

TEAS Stamp: USPTO/FTK-XX.XXX.XXX.XXX-201903102347241

51144-88333305-620178861c9db2947c328cd2c

b6f1f2bb8f26e5b4bf1d14856844dfc4af0d798-

DA-7954-20190310234200794365

THE AMERICAN NIGHTMARE

EXHIBIT 4

SETTLEMENT AND COEXISTENCE AGREEMENT

THIS SETTLEMENT AND COEXISTENCE AGREEMENT (the “**Agreement**”), effective as of the date of full execution (the “**Effective Date**”), is by and between, Wesley Eisold (“**Eisold**”), a California individual with an address of c/o Kia Kamran P.C., 1900 Avenue of the Stars, 25th Floor, Los Angeles, California 90067 and Cody Runnels aka Cody Rhodes (“**Runnels**”), an Ohio individual with an address of c/o Michael E. Dockins, Esq., Shumaker, Loop & Kendrick, LLP, 1000 Jackson Street Toledo, Ohio 43604-5573 (each a “**Party**” and together the “**Parties**”).

WHEREAS Eisold performs, records, and distributes music, clothing and apparel, and related goods and services under the mark AMERICAN NIGHTMARE, and owns U.S. Registration No. 5,089,055 for the mark AMERICAN NIGHTMARE (the “**Eisold Mark**”) in International Classes 009, 025, and 041 at the United States Patent and Trademark Office (“**USPTO**”);

WHEREAS, on March 10, 2019, Runnels filed Application Serial No. 88/333,305 (the “**Application**”) with the USPTO seeking to register the mark THE AMERICAN NIGHTMARE (the “**Runnels Mark**”) for use in connection with the following services in International Class 041: *“Entertainment services, namely, live appearances by a professional wrestler and sports entertainment personality; Entertainment services, namely, personal appearances by a professional wrestler and sports entertainment personality; Entertainment services, namely, wrestling exhibits and performances by a professional wrestler and entertainer; Entertainment services, namely, providing podcasts in the field of professional wrestling and sports entertainment; Entertainment services, namely, providing video podcasts in the field of professional wrestling and sports entertainment”* (the “**Runnels Services**”);

WHEREAS, Eisold objected to Runnels’ use and registration of the Runnels Mark, including by timely filing a Notice of Opposition against the Application in the Trademark Trial and Appeal Board (“**TTAB**”) of the USPTO on August 21, 2019, which opposition has been assigned Proceeding No. 91250336 (the “**Opposition**”);

WHEREAS, on September 30, 2019, Runnels filed an answer to Eisold’s Opposition, and counterclaimed to cancel the Eisold Mark with the TTAB in Proceeding No. 91250336 (the “**Counterclaim**”);

WHEREAS, the Parties desire to resolve amicably the dispute between them concerning the Eisold Mark, the Runnels Mark, the Application, Opposition, and Counterclaim.

NOW, THEREFORE, in consideration of the promises and undertakings contained herein and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties, intending to be legally bound, agree as follows:

1. Eisold’s Conditional Consent to Registration and Use of the Runnels Mark.

Expressly contingent on Eisold’s receipt in full of the Settlement Payment and Runnels’ ongoing compliance with the terms hereof:

(a) Eisold consents to Runnels' registration of the Runnels Mark in connection solely with the Runnels Services and shall not oppose, seek to cancel, or otherwise interfere with Runnels' registration that issues therefrom.

(b) Eisold further consents to Runnels' use (but not registration) of the Runnels Mark in connection with clothing apparel in International Class 025 promoting the Runnels Goods and Services (collectively, the "**Runnels Apparel**") with the express condition that all uses of the Runnels Mark on or in connection with the Runnels Apparel (and on any Runnels-controlled websites, e-commerce pages, social media pages, advertisement, or other outlet used to sell or promote the Runnels Apparel) must contain, and be alongside the following, to appear in reasonably-placed and sized prominence as compared with the Runnels Mark (i.e. 75% or larger size as compared to the Runnels Mark):

- (i) Runnels' name (i.e. Cody Rhodes) or
- (ii) Runnels' name and likeness; or
- (iii) substantial indicia indicating association with wrestling (e.g., the AEW company logo).

(c) Except as expressly set forth herein, no further rights or permissions are being granted with respect to, or in connection with the Eisold Mark, all of which shall remain expressly reserved by Eisold.

2. Settlement Payment.

Upon execution hereof, Runnels shall pay Eisold the sum of Thirty Thousand U.S. Dollars (\$30,000 USD) (the "**Settlement Payment**") by wire to the following account:

Bank of America
Wesley Eisold
Acct: 000328523668
Routing: 121000358
Swift: BOFAUS3N

3. Default.

Should Runnels fail to abide by the foregoing expressed conditions in 1(b) above, and provided also that ten (10) business days have passed since Eisold's notice of such failure with Runnels' failure to cure such default, Eisold shall have the right to, without in any way prejudicing its other rights and remedies, take any and all corrective actions necessary to prevent such default including but not limited to providing notification to any website, e-commerce site, social media host, and other channel of trade of Runnels' default and demanding compliance with 1(b).

4. Joint Undertakings.

(a) Within three (3) business days of Eisold's receipt of the Settlement Payment and Runnels' execution date hereof, the Parties shall withdraw their respective Opposition and Counterclaim with prejudice, and shall thereafter take any reasonable further steps necessary to ensure the dismissal of the Opposition.

(b) In the event that, despite the Parties' expectations, a Party becomes aware of any instances of actual confusion resulting from the concurrent use of their respective marks in accordance with the terms of this Agreement, the Parties shall reasonably cooperate to seek to prevent a reoccurrence.

(c) No Party shall assist any third party in taking any action, or cause or request any third party to take any action, that the Party is prohibited from taking under this Agreement.

5. Mutual Releases.

(a) Expressly contingent on Eisold's receipt in full of the Settlement Payment and Runnels' ongoing compliance with the terms hereof, Eisold, for himself and on behalf of his past, present, and future principals, officers, directors, agents, legal representatives, affiliates, subsidiaries, parents, predecessors, successors, and assigns, forever releases and fully discharges Runnels, together with his principals, officers, members, managers, directors, agents, and legal representatives, as well as his and their affiliates, subsidiaries, parents, predecessors, successors, and assigns, from any and all claims, actions, causes of action, suits, claims, liabilities, losses, damages, costs, debts, fees, expenses, demands, and any other obligations, whether known or unknown, matured or unmatured, related to the Opposition and Counterclaim up to the Effective Date.

(b) Expressly contingent on Runnels' receipt of the signed copy hereof, Runnels, for himself and on behalf of his past, present, and future principals, officers, directors, agents, legal representatives, affiliates, subsidiaries, parents, predecessors, successors, and assigns, forever releases and fully discharges Eisold, his principals, officers, directors, agents, and legal representatives, as well as his and their affiliates, subsidiaries, parents, predecessors, successors, and assigns from any and all claims, actions, causes of action, suits, claims, liabilities, losses, damages, costs, debts, fees, expenses, demands, and any other obligations, whether known or unknown, matured or unmatured, related to the Opposition and Counterclaim up to the Effective Date.

6. Notice.

All notices, instructions, consents, and other communications pursuant to this Agreement shall be in writing and shall be given by overnight courier using the addresses set forth below, or such other address as a Party may direct. All notices shall be deemed effective one (1) business day

following deposit with any overnight courier service. Any change in the recipient of notices shall be provided pursuant to the requirements of this provision.

To: Runnels

Cody Runnels
1000 Jackson St.
Toledo, OH 43604 USA

With a courtesy copy by email to:

Michael Dockins, Esq.
SHUMAKER LOOP & KENDRICK
1000 JACKSON ST
Toledo, OH 43604
MDockins@shumaker.com

To: Eisold

Wesley Eisold
5931 1/2 Franklin Ave.
Los Angeles CA 90028 USA

With a courtesy copy by email to:

Kia Kamran, Esq.
Kia Kamran, P.C.
1900 Avenue of the Stars, 25th Floor
Los Angeles, California 90067
Kia@TuneLaw.com

7. General Provisions.

- (a) Territory. The geographic scope of this agreement shall be worldwide.
- (b) Reservation of Rights. The Parties reserve all rights not expressly addressed by this Agreement.
- (c) Binding Nature. This Agreement shall be binding on and inure to the benefit of the Parties and their principals, owners, successors, assigns, licensees, affiliates, and all others acting by or through them or with or under their direction or in privity with them.
- (d) Authority. Each Party represents and warrants that it has full authority to enter into this Agreement. Each Party knowingly enters into this Agreement, has the legal capacity to enter into this Agreement and to carry out all obligations and requirements herein, and consulted or had the opportunity to consult with counsel to approve the form and content of this Agreement.
- (e) Entire Agreement. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof and supersedes all other understandings and agreements between them, whether written or oral.
- (f) No Oral or Implied Modification or Waiver. This Agreement may not be changed, modified, extended, terminated, or discharged except in a writing signed by both Parties. No Party shall be deemed to have waived any of its rights hereunder except in a writing signed by both Parties and specifically referring to this Agreement and the right that is being waived.
- (g) Intentionally Deleted.

(h) Attorneys' Fees. In the event that any action, suit, or other proceeding is instituted concerning or arising out of this Agreement, the prevailing Party shall recover all of such Party's reasonable costs and reasonable attorneys' fees incurred in each and every such action, suit, or other proceeding, including any and all appeals or petitions therefrom, whether such costs and attorneys' fees incurred prior to or after judgment is entered

(i) Duration. This Agreement shall remain in force so long as both Parties continue to use their respective marks.

(j) Severability. If any provision or provisions of this Agreement are held to be invalid, illegal or unenforceable, in whole or in part, under any law or regulation, by a court of competent jurisdiction, then such provision or portion of such provision, as appropriate, shall remain in effect only to the extent that it is valid and the validity, legality and enforceability of the remaining provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

(k) Force and Effect. This document shall be of no force and effect unless and until duly executed by all Parties hereto.

(l) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The Agreement may be executed by any party through the means of fax copy or by the exchange of signatures through email in unmodifiable digital file formats (e.g. PDF), or by DocuSign or similar digital signature technology, and such fax, PDF signature, or other digital signature technology means shall be effective, valid and enforceable as if it was an original signature for purposes of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates indicated below:

Dated: 3/14/21

CODY RUNNELS



Dated: 3/14/21

WESLEY EISOLD



EXHIBIT 5



EXHIBIT 6

HURRY! ENDS IN: 06 HRS 04 MIN 45 SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply.
Promotions! Details
Offer expires 09/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 201625261



 Officially Licensed Gear

Men's ProSphere Black Cody Rhodes American Nightmare Flag T-Shirt

Select a size below in order to get shipping information or item stock status

Your Price: ~~\$44.99~~

 Most Popular

 Last purchased 9 hours ago

Size SIZE CHART

Quantity



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$0.45 FanCash on this item 

Shipping

- Select a size above in order to get shipping information or item stock status

Details

Description

Do more than just hoot and holler for Cody Rhodes. Proudly show your admiration with this ProSphere American Nightmare Flag T-Shirt. Claim your wardrobe kingdom in the name of Cody Rhodes and hear the echoes of "WOAH OH!" after making a great decision to pick up this Superstar apparel.

HURRY! ENDS IN:

06	01	24
HRS	MIN	SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply.
Promotional Details
Offer expires 08/18/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 201321973



 Officially Licensed Gear

Men's Mad Engine Heather Charcoal Cody Rhodes American Nightmare T-Shirt

Ships Directly From a Trusted Partner

\$22⁴⁹ with code: Superstar
Offer ends in 6hrs 1min 24sec!
Regular: ~~\$29⁰⁰~~

Coupon [Apply Code Here!](#)

 Last purchased 6 hours ago

Color: Heather Charcoal



Size

[SIZE CHART](#)

XS S M L XL 2XL 3XL

Quantity

1

Add to Cart



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$0.30 FanCash on this item [i](#)

Shipping

- Ships directly from a trusted partner. This item ships on or before Thursday, August 22, 2024.

Details

Description

Channel your inner greatness with this Cody Rhodes T-Shirt from Mad Engine. Featuring Cody Rhodes American Nightmare graphics, this tee is exactly what you need to show respect for your favorite Superstar. Stand up and salute one of the best athletes on the planet with this awesome tee.

HURRY! ENDS IN:

05 HRS 53 MIN 38 SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply. Promotions/Details Offer expires 08/16/24 @ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 200138075



Almost Gone!

Ready To Ship



W Officially Licensed Gear

Men's White Cody Rhodes American Nightmare Tank Top

In Stock - This item will ship within 1 business day.

\$22⁴⁹ with code: Superstar
Offer ends in 5hrs 53min 38sec!
Regular: \$29⁰⁰

Coupon Apply Code Here!

Last purchased an hour ago

Size SIZE CHART

S M L XL 2XL

Quantity

1

Add to Cart

90-DAY RETURNS



World's Largest Collection of Officially Licensed WWE Gear

You earn \$0.30 FanCash on this item

Shipping -
• This item will ship within 1 business day.

Details +

Description -

Featuring a classic scoop neck design, this American Nightmare cotton tank top is a comfortable piece of gear to highlight your love for Cody Rhodes. The front shows off official graphics of your favorite WWE Superstar to ensure your fandom is clear. Perfect for warm-weather, this breezy tank is just the addition any Cody Rhodes fan needs in their wardrobe.

HURRY! ENDS IN:

05 HRS 47 MIN 34 SEC

25% OFF YOUR PURCHASE

USE CODE: **SUPERSTAR**

*Terms and Exclusions Apply.
Promotional Details
Offer expires 08/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 201625260



 Officially Licensed Gear

Men's ProSphere Black Cody Rhodes American Nightmare Flag Basketball Fashion Jersey

Select a size below in order to get shipping information or item stock status

Your Price: ~~\$69.99~~

or 4 payments of \$18.50 with 

 Last purchased more than a day ago

Size SIZE CHART

XS	S	M	L	XL	2XL	3XL
----	---	---	---	----	-----	-----

Quantity

1 

Add to Cart



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$0.70 FanCash on this item 

Shipping

- Select a size above in order to get shipping information or item stock status

Details

Description

Do more than just hoot and holler for Cody Rhodes. Proudly show your admiration with this ProSphere American Nightmare Flag Basketball Fashion Jersey. Claim your wardrobe kingdom in the name of Cody Rhodes and hear the echoes of "WOAH OH!" after making a great decision to pick up this Superstar apparel.

HURRY! ENDS IN: 05 HRS 19 MIN 30 SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply.
Promotional Details
Offer expires 08/26/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 201625259



 Officially Licensed Gear

Men's ProSphere Black Cody Rhodes American Nightmare Flag Football Fashion Jersey

Ships Directly From a Trusted Partner

Your Price: \$115⁹⁹

or 4 payments of \$30.25 with 

 Last purchased more than a day ago

Size SIZE CHART

Quantity



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$1.16 FanCash on this item 

Shipping

- Ships directly from a trusted partner. This item ships on or before Monday, August 26, 2024.

Details

Description

Do more than just hoot and holler for Cody Rhodes. Proudly show your admiration with this ProSphere American Nightmare Flag Football Fashion Jersey. Claim your wardrobe kingdom in the name of Cody Rhodes and hear the echoes of "WOAH OH!" after making a great decision to pick up this Superstar apparel.

HURRY! ENDS IN:

05 HRS 09 MIN 44 SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR

*Terms and Exclusions Apply. Promotional Details Offer expires 09/16/24 @ 11:59PM ET.

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 5230217



Ready To Ship



W Officially Licensed Gear

Men's Chalk Line Black Cody Rhodes Big Logo Retro Shorts

In Stock - This item will ship within 1 business day.

\$41²⁴ with code: Superstar Offer ends in 5hrs 9min 44sec! Regular: \$54⁰⁰

Coupon Apply Code Here!

Last purchased more than a day ago

Size SIZE CHART

S M L XL 2XL 3XL 4XL

Quantity

1

Add to Cart

90-DAY RETURNS



World's Largest Collection of Officially Licensed WWE Gear

You earn \$2.75 FanCash on this item

Shipping

- This item will ship within 1 business day.

Details

Description

Show that adrenaline always courses through your soul each time you sport these Cody Rhodes Big Logo Retro Shorts. They feature unmistakable graphics that let every WWE Universe member know that it's always an American Nightmare for anyone that steps through the ropes to face the second-generation Superstar. The elastic waistband and side pockets offer all the comfort and storage space you need to enjoy every Cody Rhodes match.

HURRY! ENDS IN: 05 HRS 02 MIN 22 SEC

25% OFF YOUR PURCHASE

USE CODE: SUPERSTAR


*Terms and Exclusions Apply.
Promotional Details
Offer expires 08/16/24
@ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 200117177



Ready To Ship



 Officially Licensed Gear

Men's Chalk Line Blue/Red Cody Rhodes Allover Print Retro Shorts

In Stock - This item will ship within 1 business day.

\$31³⁴ with code: Superstar
Offer ends in 5hrs 2min 22sec!
Regular: ~~\$54⁹⁹~~ as of 06/15/2023

 Last purchased more than a day ago


Size SIZE CHART

S M L XL 2XL 3XL 4XL

Quantity

1

Add to Cart

 90-DAY RETURNS



World's Largest Collection of Officially Licensed
WWE Gear

You earn \$1.65 FanCash on this item

Shipping -

- This item will ship within 1 business day.

Details +

Description -

Show that adrenaline always courses through your soul each time you sport these Cody Rhodes Allover Print Retro Shorts. They feature unmistakable graphics that let every WWE Universe member know that it's always an American Nightmare for anyone that steps through the ropes to face the second-generation Superstar. The elastic waistband and side pockets offer all the comfort and storage space you need to enjoy every Cody Rhodes match.

HURRY! ENDS IN: 05 HRS 07 MIN 52 SEC

25% OFF YOUR PURCHASE

USE CODE: **SUPERSTAR**

*Terms and Exclusions Apply. Promotional Details Offer expires 09/16/24 @ 11:59PM ET

CODY RHODES / CODY RHODES APPAREL / PRODUCT ID: 200138875



Almost Gone!

Ready To Ship



Officially Licensed Gear

Men's White Cody Rhodes American Nightmare Tank Top

In Stock - This item will ship within 1 business day.

\$22⁴⁹ with code: Superstar
Offer ends in 5hrs 7min 52sec!
Regular: \$29⁰⁰

Coupon **Apply Code Here!**

Last purchased 2 hours ago

Size - SIZE CHART

S M L XL 2XL

Quantity

1

Add to Cart

90-DAY RETURNS



World's Largest Collection of Officially Licensed WWE Gear

You earn \$0.30 FanCash on this item

Shipping -

- This item will ship within 1 business day.

Details +

Description -

Featuring a classic scoop neck design, this American Nightmare cotton tank top is a comfortable piece of gear to highlight your love for Cody Rhodes. The front shows off official graphics of your favorite WWE Superstar to ensure your fandom is clear. Perfect for warm-weather, this breezy tank is just the addition any Cody Rhodes fan needs in their wardrobe.

EXHIBIT 7

8:26



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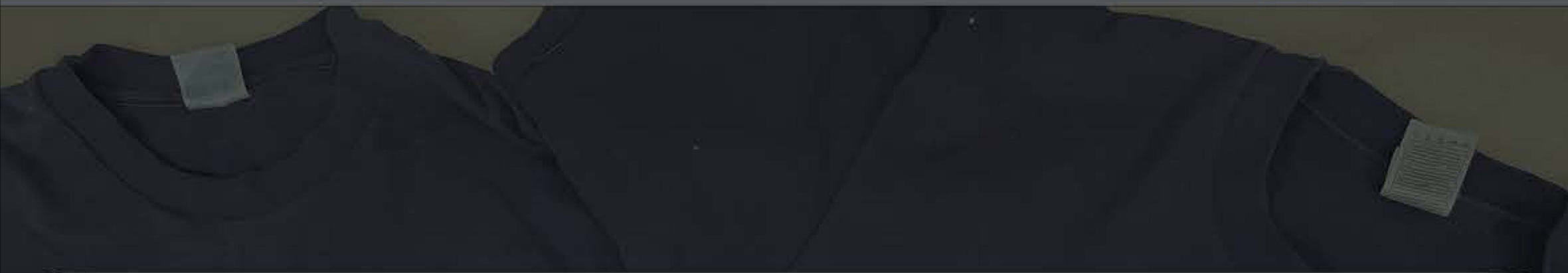
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April 9



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