

process in the State of Texas and therefore, the Secretary of State is his agent for service of process pursuant to Tex. Civ. Prac. & Rem. Code § 17.044.

4. **Mann.** Mann is an individual residing in London, United Kingdom. Service of process may be completed by serving him at his place of business or employment at Fruitcake, Studio 125/77 Break Street, London, United Kingdom, W1F, 9DB. Mann does not maintain an agent for service of process in the State of Texas and therefore the Secretary of State is his agent for service of process pursuant to Tex. Civ. Prac. & Rem. Code § 17.044.

*Sos
Kuhnholtz
Jeslally*

5. **Farrington.** Farrington is a individual residing in Greater Manchester, United Kingdom. Service of process may be completed by serving him at his residence at 130 Rostrevor Rd, Stockport, Greater Manchester, SK3 8UT, United Kingdom. Farrington does not maintain an agent for service of process in the State of Texas and therefore the Secretary of State is his agent for service of process pursuant to Tex. Civ. Prac. & Rem. Code § 17.044.

*Kuhnholtz
Jeslally*

6. **Venue.** Venue is proper in Dallas County, Texas, pursuant to Tex. Civ. Prac & Rem. Code 15.002.

FACTS

7. Nuttall is a songwriter and musician who originally worked with two other musicians, Defendants Clive Farrington ("Farrington") and Andrew Mann ("Mann") in the United Kingdom in or around 1985. The Band was named, "When In Rome," and produced one hit song in 1988 titled, "The Promise." In 1990, after one album, the Band broke up over musical differences and went their separate ways.

8. On information and belief, in 1990, Farrington and Mann began careers outside of the music industry in the United Kingdom and ceased using the name, "When In Rome." In 1992, Nuttall moved to the United States and continued working as a musician and composer. In or

around March 2006, (some 16 years after the Band broke-up) Nuttall began using the name of the Band, "When In Rome" again after he was approached by Defendant Juarez of The Boss Booking Agency, to perform live shows throughout the United States. Nuttall recruited a new singer, as the former singers, Mann and Farrington on information and belief, were no longer singing and they also resided in the United Kingdom. Juarez also joined Nuttall's band at the same time as a touring drummer/percussionist. Mann and Farrington were aware of Nuttall's use of the name, "When In Rome" and did not object to Nuttall's use thereof.

9. In May 2006, Juarez began working for Nuttall as the newly formed "When In Rome" Band's agent and paid touring drummer/percussionist. Juarez booked numerous venues for the Band and the public associated "When In Rome" with Nuttall and the new singer, John Ceravolo after Nuttall's exclusive use of the "When In Rome" mark for over five (5) years with relation to live music performances. (See Exhibit A, Good Morning Texas television show with Gary Cogill interview of Plaintiff as a representative of WHEN IN ROME band's performance, originally aired on June 5, 2006.)

10. On May 4, 2010, Nuttall filed an application for registration of the mark, "WHEN IN ROME" for *live musical performances* (Class 041) with the United States Patent Office ("USPTO"), which was registered on January 4, 2011, Registration No. 3,899,742. (See Exhibit B) Nuttall also registered the mark, "WHEN IN ROME" for live musical performances in the United Kingdom, Registration No. 2591006 on August 12, 2011. (See Exhibit C)

11. On October 19, 2010, Farrington filed a Notice of Opposition with the USPTO for Nuttall's pending application for registration of the mark, "WHEN IN ROME." On November 30, 2010, the USPTO United States Trademark Trial and Appeals Board dismissed Farrington's Opposition *with Prejudice*.

12. In February, 2011, after Juarez had worked with Nuttall for approximately five (5) years promoting and booking tours for Nuttall's Band, "When In Rome," Juarez learned that Nuttall planned to replace him as a touring member, which resulted in Juarez severing all ties with the band acrimoniously and ceased representing the band as it's agent.

13. On March 1, 2011, after Nuttall's mark, "WHEN IN ROME" was registered with the USPTO, Juarez, with full knowledge that "WHEN IN ROME" was a registered trademark, filed an application to register the mark, "WHEN IN ROME REVISITED" Serial No. 85254292 with the USPTO. On June 6, 2011, the USPTO issued an Office Action refusing to register the mark, "WHEN IN ROME REVISITED" Serial No. 85254292 due to the *likelihood of confusion* with Nuttall's registration for "WHEN IN ROME." The application for registration of "WHEN IN ROME REVISITED" Serial No. 85254292 was subsequently abandoned on January 30, 2012. (See Exhibit D)

14. In or around May 2011, Juarez joined Nuttall's former Band members, Farrington and Mann who had formed a new Band in 2010 in the UK. Juarez, who had just been a band member and agent for Nuttall's WHEN IN ROME band, began working in the same capacity as a band member and agent and once again using the name, "When In Rome," but this time with Farrington and Mann. Juarez, Farrington and Mann began using "When In Rome" with full knowledge that Nuttall had been using the name exclusively with respect to "live musical performances" for five (5) years at that time. (See Exhibit E) Juarez knew the name, "When In Rome" was a registered trademark, but on information and belief, convinced Farrington and Mann to begin using the name, "When In Rome UK," "When In Rome Revisited" and developed a website called, "When In Rome Official" using the url: www.wheninromeofficial.com.

15. In or around June 2011, Juarez, in his capacity as a talent agent, began aggressively advertising and marketing their new band as “WHEN IN ROME UK.” Despite cease and desist letters sent from Nuttall to Juarez, Farrington, and Mann, this version of the band performed a series of shows in August 2011 in the United States performing as “When In Rome UK” and “Clive Farrington and Andrew Mann formerly of When In Rome”. Some of the shows were at venues that Nuttall’s band, WHEN IN ROME had performed at as recently as the previous year. The use of this name was likely to cause confusion and actually did cause great confusion, which is apparent by the concert listings on third-party websites showing past and future concert dates for the When In Rome band. At least one of these third-party websites lists both Nuttall’s When In Rome band concert dates in the past along with the Juarez, Farrington and Mann When In Rome concert dates as if they are the same band, as there is no distinction made between the two bands. (See Exhibit F)

16. On information and belief, Juarez planned to book shows in 2012 for “When in Rome UK” in the United States. Therefore, in order to facilitate these bookings and interfere with or prevent Nuttall from using his registered mark, Defendants caused a threatening letter to be issued by their attorney, Dennis Wilson, Esq., (“Wilson”) demanding that Nuttall cease and desist from using the mark that he registered with the USPTO and in the UK; and making the unsubstantiated claim that while Nuttall had obtained a registration(s), he obtained the registration(s) wrongfully. No credible evidence was provided in support of Wilson’s argument; or to dispute Nuttall’s claim that Farrington and Mann had abandoned the name, “WHEN IN ROME” when they failed to use the name for live musical performances, for approximately twenty (20) years. Thereafter, on March 28, 2012, the then attorney for Nuttall, Michael R. Blaha, Esq. (“Blaha”) responded to Wilson’s March 14 letter refuting every claim made by

Wilson and demanding that Farrington, Mann and Juarez cease and desist within 10 days of “their infringing acts and acts of intentional interference” with Nuttall’s trademark ”WHEN IN ROME”. Farrington, Mann and Juarez have not ceased and desisted from these unlawful activities; and no further attorney communications have taken place since Blaha responded to Wilson’s baseless letter. Further, no lawsuits have been filed regarding this matter.

17. Despite the fact that the letter produced by Wilson was baseless and Blaha had refuted every allegation made by Defendants, on information and belief, Defendants provided a copy of Wilson’s threatening letter to Nuttall’s venue representatives and media outlets, including, without limitation, talent agent, Chuck Bernal of Artists Worldwide, Spectra Records, LLC and Blue Host, When In Rome’s website server. (See Exhibit G and H – Affidavits from Bobby Collins and Bennett Kaufman) On April 24, 2012, on information and belief, Wilson provided an alleged notice of trademark violation to the hosting and registration entities, Blue Host and Go Daddy demanding that Nuttall’s websites and his associates’ websites located at the following url domain addresses be taken down: www.wheninromemusic.net , www.spectrarecords.com, musicwerks@aol.com, www.artists-worldwide.com . Subsequently, Bluehost and Go Daddy requested that Nuttall remove all content immediately to avoid further action. As of this filing all content relating to When In Rome at www.spectrarecords.com (When In Rome’s Record Company) and www.artists-worldwide.com (When In Rome’s agent) have remained inactive. (See Exhibit I – email communications and Exhibits G and H)

18. On May 11, 2012, Juarez, in his capacity as a talent agent, posted the following comments in pertinent part concerning Nuttall on Facebook®:

Sorry about our last post regarding our [] show [] at the [] – it was removed by Facebook, d[ue] (Sic) to a complaint from [Nuttall] that Clive and Andrew Mann sacked in the early ‘90’s. It will be back up shortly our Attorneys tell us.

[I]t's sad the entire music world knows what [Nuttall] did by all his threats and shouting, if he thinks he'll ever get a decent gig, good luck. [P]romoters call me and first we laugh about it and in the end we still do the show however it's billed, just to SHUT HIM UP.. promoters also tell me [the] minute [*Sic*] they receive anything with [Nuttall's] info, its's tossed in the trash and discarded. [N]ot smart to piss off those who can crush you! Live Nation, AEC, Nederlander, Folgner Concerts, none of mega promoters will ever work with them. [Nuttall] could have played ball and both parties could have enjoyed it, but his pride and delusions won't allow it. They will have another fun summer sitting on the sideline and playing the local bar, where they belong and however, it's billed we'll see you at the []. Do you want to see the keyboard player with a singer that does [*Sic*] the legacy no justice or the Original Vocalist that Sang the Hits.. not a hard choice...

19. Many of the venues, record producers and record labels have expressed frustration with the harassing and interfering tactics employed by Juarez, Farrington and Mann and have delayed or cancelled concerts, recordings and other events that are immediately and irreparably damaging Nuttall. Specifically, in one instance, Nuttall had an album scheduled for release in July 2012 under his band name and registered mark "WHEN IN ROME," but it has been indefinitely postponed due to the interference by Juarez, Farrington and Mann with Nuttall's numerous contracts and business opportunities. (*See* Exhibits G and H).

20. On information and belief, Juarez has close ties to the company, Pollstar. This company advertises shows for bands all over the world. Pollstar have been served Cease and Desist letters by Nuttall's previous attorney, but on information and belief, because of their relationship with Juarez, Pollstar continues to advertise all of the upcoming 2012 live shows for When In Rome UK.

21. On information and belief, Defendants continue to act with actual intent to cause public confusion and use the name, "When In Rome UK" to infringe on Nuttall's valid and enforceable mark, perpetrate a fraud on the public. Specifically, Juarez' website for The Boss Booking

Agency is still advertising the availability of its band, When In Rome UK. (See Exhibit E) The band has a biography on The Boss Booking Agency website and a link to live shows that are already booked for the summer of 2012. (See Exhibit E and J) On information and belief, in an attempt to circumvent Nuttall's mark and to make it more difficult for Nuttall to shut down Defendants' website, Juarez moved his website host to Canada.

22. Nuttall has exhausted all avenues to stop Defendants from infringing on his mark, causing confusion and causing damage to Nuttall and his agents and representatives affected by Defendants' actions. When In Rome UK have ignored all pleas to Cease and Desist and have now become aggressive in their use of the name. (See Exhibits E, G – I and J)

23. Juarez has abused and exploited his position as a talent agent by booking a band he knows to be unlawfully using the name, and at the same time, on information and belief, he has used his contacts and influence to ensure that Nuttall's band, WHEN IN ROME do not have an opportunity to operate their business as legitimate trademark holders. Nuttall is the registered trademark owner for the name WHEN IN ROME for live musical performances. The continued use of the name, "When In Rome UK," including marketing and promotion is willful, deliberate and intentional infringement of Nuttall's registered trademark and his common law rights in the Mark. Farrington, Mann and Juarez have engaged in a campaign of harassment and intimidation designed to inflict the maximum damage on Nuttall's ability to peacefully enjoy his rights in the Mark. Defendants' actions have tortiously interfered with Nuttall's contractual relations and prospective economic advantage.

CAUSES OF ACTION

24. ***Trademark Infringement.*** Defendants' actions, as set forth above, constitute trademark infringement pursuant to 15 U.S.C. § 1114 and the common law.

As a result of Defendants' actions, Nuttall is entitled to recover his damages and Defendants' profits, for which he now sues.

25. ***Unfair Competition.*** Defendants' actions, as set forth above, constitute false representations in commerce in violation of 15 U.S.C. § 1125. As a result of Defendants' actions, Nuttall is entitled to recover his damages and Defendants' profits, which he now sues.

26. ***Dilution.*** Defendants' actions, as set forth above, constitute dilution in violation of Tex.Bus. & Com. Code § 16.29 and 15 U.S.C. § 1125. As a result of Defendants' actions, Nuttall is entitled to recover his damages and Defendants' profits, for which he now sues.

27. ***False Representation in Commerce.*** Defendants' actions as set forth above, constitute false representations in commerce in violation of 15 U.S.C. § 1125. As a result of Defendants' actions, Nuttall is entitled to recover his damages and Defendants' profits, for which he now sues.

28. ***Tortious Interference with Contracts.*** Defendants' actions as set forth above, constitute tortious interference with Nuttall's contracts with the following entities and/or individuals:

BK Entertainment Group, Warren Huart, Spectra Records, LLC and Charles Anthony Bernal.

As a result of Defendants' actions, Nuttall is entitled to recover his damages for which he now sues.

29. ***Preliminary and Permanent Injunctive Relief.*** Defendants' continued use of Nuttall's protected mark, "WHEN IN ROME" is causing immediate and irreparable damage to Nuttall, for which Nuttall has no adequate remedy at law. Nuttall's damages in this regard are continuing and incalculable and such actions of Defendants mislead the consuming public into believing that (1) Defendants are the band, "WHEN IN ROME"; and that (2) Nuttall has no

rights to the name of his band, "WHEN IN ROME" and Nuttall is being denied the right to do business using his registered mark that he established over a five-year period as referenced above. Nuttall seeks preliminary and permanent injunctive relief ordering Defendants to (i) cease using the names, "WHEN IN ROME," "WHEN IN ROME UK," "WHEN IN ROME REVISITED" or any name likely to cause confusion and all other references that might imply that Defendants' band is "WHEN IN ROME;" (ii) cease selling or manufacturing any products sold by or on behalf of Defendants bearing the names, "WHEN IN ROME," "WHEN IN ROME UK," "WHEN IN ROME REVISITED" or any name likely to cause confusion and all other references that might imply that Defendants' band is "WHEN IN ROME;" (iii) cancel all bookings, scheduled shows, band appearances, media interviews, and all public appearances of any sort in which Defendants represent themselves as "WHEN IN ROME," "WHEN IN ROME UK," "WHEN IN ROME REVISITED" or any name likely to cause confusion and all other references that might imply that Defendants' band is "WHEN IN ROME;" (iv) remove all website content, key word advertising on the internet referencing WHEN IN ROME," "WHEN IN ROME UK," "WHEN IN ROME REVISITED" or any name likely to cause confusion and all other references that might imply that Defendants' band is "WHEN IN ROME;" (v) cease distribution of that certain cease and desist letter that Defendants' caused to be produced by their attorney, Wilson; and (vi) cease and desist from making disparaging remarks about Nuttall or his band, "WHEN IN ROME."

30. ***Attorney's Fees.*** Nuttall is entitled to recover his reasonable and necessary attorney's fees, pursuant to 15 U.S.C. § 1117, for which he now sues.

31. ***Conditions Precedent.*** Nuttall has performed all conditions precedent to recovery of its damages, attorneys' fees and expenses.

APPLICATION FOR TEMPORARY RESTRAINING ORDER

32. **Legal Standard.** The purpose of a temporary injunction is to preserve the status quo pending trial on the merits. *Butnaru v. Ford Motor Co*, 84 S.W.3d 198, 204 (Tex. 2002). The applicant must show a probable right to the relief sought and a probable, imminent and irreparable injury. *Id.*

33. **Probable Right to Relief Sought.** Juarez, Mann and Farrington infringed and continue to infringe on Nuttall's protected trademark by marketing its band using the name, "WHEN IN ROME" and/or "WHEN IN ROME UK." Registration of the mark, "WHEN IN ROME" is *prima facie* evidence that Nuttall has the exclusive right to its use.

A certificate of registration of a mark upon the principal register provided by this Act shall be *prima facie* evidence of the validity of the registered mark and of the registration of the mark, of the registrant's ownership of the mark, and of the registrant's exclusive right to use the registered mark in commerce on or in connection with the goods or services specified in the certificate, subject to any conditions or limitations stated in the certificate.

15 U.S.C. § 1057(b)

Nuttall's protected mark registrations are attached as Exhibit B and C. The infringing marks are attached as Exhibit E, F, G, H and I. Juarez, Mann and Farrington's infringing activities are ongoing and without justification.

34. **Immediate, Irreparable Injury.** Juarez', Mann's and Farrington's continued representations, promotions, advertising using the name, "WHEN IN ROME" and/or "WHEN IN ROME UK" is causing immediate and irreparable damage to Nuttall for which Nuttall has no adequate remedy at law. Nuttall's damages in this regard are continuing and incalculable and such actions of Juarez, Mann and Farrington are confusing Nuttall's fans or customers when purchasing tickets to see shows for "WHEN IN ROME" and/or "WHEN IN ROME UK." Moreover, Juarez, Mann and Farrington have confused and misrepresented the facts in this

matter to vendors, venues and recording enterprises, such that Nuttall is being deprived from using his registered mark and will not be able to distribute a record due to be released in July 2012.

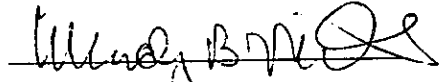
35. **Temporary Restraining Order.** In view of the foregoing, Nuttall seeks a temporary restraining order restraining and prohibiting Juarez d/b/a Boss Booking Agency, Mann and Farrington from (i) using the mark, "WHEN IN ROME" and/or "WHEN IN ROME UK" or any likeness thereto or any derivation thereof and all other material that might suggest that Juarez, Mann and Farrington's band is "WHEN IN ROME;" (ii) cease selling, advertising, promoting and/or marketing the band, concerts and/or associated events featuring Juarez, Mann and/or Farrington using the name, WHEN IN ROME and/or WHEN IN ROME UK or any likeness thereto or any derivation thereof and all other material that might suggest that Juarez, Mann and Farrington's band is "WHEN IN ROME;" and (iii) provide a complete accounting for all tickets sold for concerts and other events or other related sales of products while using the name, WHEN IN ROME and/or WHEN IN ROME UK or any likeness thereto or any derivation thereof and all other material that might suggest that Juarez, Mann and Farrington's band is "WHEN IN ROME."

RELIEF REQUESTED

36. **Prayer.** Nuttall respectfully requests the following relief:
- (a) that Juarez, Mann and Farrington be served with process and be required Answer in the time and manner prescribed by law;
 - (b) that the Court award damages against Juarez, Mann and Farrington as requested above;
 - (c) that the Court grant a temporary restraining order, preliminary and permanent injunction against Juarez, Mann and Farrington as requested above;
 - (d) that Nuttall recover its actual damages, pre and post-judgment interest, reasonable and necessary attorney's fees, and costs of court; and

- (e) that Nuttall have such other and further relief, both general and special at law and at equity, to which he may show himself justly entitled.

Respectfully submitted,

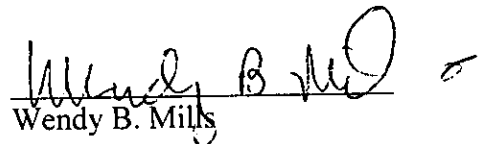


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Dallas, TX 75201
Telephone: (214) 969-5995
Facsimile: (214) 764-7600

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 2.02

Pursuant to Local Rule 2.02 of the Civil Courts of Dallas County, Texas, the undersigned counsel certifies she provided notice by facsimile to the last known counsel representing the opposing parties with a copy of the application and proposed order at least two hours before the application and proposed order are to be presented to the Court for decision. Counsel further certifies that, to the best of her knowledge, the case in which the application is presented is not subject to transfer under Local Rule 1.06, and there has been no previous same or similar litigation between these parties that has taken place and this case will not conflict with any previous Order.




Wendy B. Mills

VERIFICATION

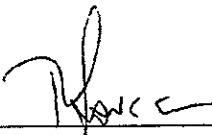
STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned notary public, on this day personally appeared Michael Nuttall, who, being duly sworn on oath, deposed and said that he is Plaintiff in the above-entitled cause, that he has read the above and forgoing instrument and that the statements contained therein in paragraphs 5-22 in support of the injunctive relief requested are within his personal knowledge and are true and correct.



Michael Nuttall

SUBSCRIBED AND SWORN TO BEFORE ME on June 22, 2012 to certify which witness my hand and official seal.



Notary Public in and for the State of Texas



My Commission expires on
 MAY 2 20 15 .



EXHIBIT A

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when in rome interview gary cogill



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About 29,700 results (0.39 seconds)

Web

WFAA TV's Gary Cogill interviews Michael Floreale of When In Rome

Images



www.youtube.com/watch?v=EvSG2E0nkzo
Jun 5, 2010 - 2 min - Uploaded by officialwir
An interview on Good Morning Texas with Michael Floreale of
When In Rome and Jerry Casale of Devo.

Maps

Videos

News

WFAA-TV's Gary Cogill interviews Mariana Tosca - YouTube

Shopping



www.youtube.com/watch?v=gqADRZVYsu8
Aug 16, 2011 - 1 min - Uploaded by rachelgardener
WFAA TV's Gary Cogill interviews Michael Floreale of When In
Romeby officialwir 197 views; Save the ...

More

Grand Prairie,
TX

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More videos for when in rome interview gary cogill »

Download WFAA TV's Gary Cogill interviews Michael Floreale of ...

gosong.net/download/..WFAA_TV's_Gary_Cogill_interviews.html
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song as MP3 and Music Video as MP4 or 3GP for free , Download songs and ...

Gary Cogill - Set GoSong.net as Homepage

gosong.net/Gary_Cogill.html
WFAA TV's Gary Cogill interviews Michael Floreale of When In Rome ... Tags :
When, In, Rome, Download WFAA TV's Gary Cogill interviews Michael Floreale of ...

Descargar WFAA TV's Gary Cogill interviews Michael Floreale of ...

www.oirmusicas.com/utis/introduca.php?id... - Translate this page
Descargar Musica de WFAA TV's Gary Cogill interviews Michael Floreale of When In
Rome, Escucha Musica de WFAA TV's Gary Cogill interviews Michael ...

cogill videos

www.yourepeat.com/g/cogill
WFAA TV's Gary Cogill interviews Michael Floreale of When In Rome. An interview
on Good Morning Texas with Michael Floreale of When In Ro ...

Watching: Wfaa tvs gary cogill interviews michael floreale of when ...

www.wholikesdating.info/ /wfaa-tvs-gary-cogill-interviews-michael...
Watching: Wfaa tvs gary cogill interviews michael floreale of when in rome - By
dating tips Videos.

wfaa tv's gary cogill interviews michael floreale of when in rome - j...

www.juzp.net/EhjFi-TopKcml
an interview on good morning texas with michael floreale of when in rome and jerry
casale of devo.

Listen To WFAA TV's Gary Cogill Interviews Michael Floreale Of ...

www.tubelyrics.org/.../wfaa_tv_s_gary_cogill_interviews_michael_fl...
Tubelyrics.org - An interview on Good Morning Texas with Michael Floreale of When
In ... WFAA TV's Gary Cogill Interviews Michael Floreale of When In Rome ...

Gary Cogill to bid adieu to WFAA on Friday - Worldnews.com

article wn.com/.../Gary_Cogill_to_bid_adieu_to_WFAA_on_Friday/
Oct 6, 2010 - WFAA TV's Gary Cogill interviews Michael Floreale of When In Rome.
Order: Reorder; Duration: 2:25; Published: 05 Jun 2010; Updated: 21 ...

1 2 3 4 5 6 7 8 9 10 Next

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EXHIBIT B

United States of America

United States Patent and Trademark Office

WHEN IN ROME

Reg. No. 3,899,742
Registered Jan. 4, 2011

NUTTALL, MICHAEL (UNITED STATES INDIVIDUAL)
1940 WEST COLORADO BLVD
DALLAS, TX 75208

Int. Cl.: 41

FOR: ENTERTAINMENT SERVICES IN THE NATURE OF LIVE MUSICAL PERFORMANCES,
IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

SERVICE MARK

FIRST USE 5-28-2006; IN COMMERCE 5-28-2006.

PRINCIPAL REGISTER

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

SER. NO. 85-029,966, FILED 5-4-2010.

LANA PHAM, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Winter/nmt

Mailed: November 30, 2010

Opposition No. 91196985

Clive Farrington

v.

Michael Nuttall

On November 2, 2010, applicant filed a motion to dismiss for ineffective service of the notice of opposition. A response from opposer was due no later than November 22, 2010. See Trademark Rules 2.119(c) and 2.127(a). Neither a response nor a motion to extend opposer's time to respond has been submitted. In view of the foregoing, applicant's motion is hereby granted as conceded. See Trademark Rule 2.127(a) and Fed. R. Civ. P. 12(b)(5).

Accordingly, the opposition is dismissed with prejudice.¹

***By the Trademark Trial
and Appeal Board***

¹ While it is true that the law favors judgments on the merits wherever possible, it is also true that the Patent and Trademark Office is justified in enforcing its procedural deadlines. *Hewlett-Packard v. Olympus*, 18 USPQ2d 1710 (Fed. Cir. 1991). Strict compliance with the Trademark Rules of Practice, and where applicable the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.



EXHIBIT C

**TRADE MARKS
REGISTRY**



**REGISTRATION
CERTIFICATE**

Trade Marks Act 1994 of

Great Britain and Northern Ireland

The mark shown below has been registered under No. 2591006 as of the date 12 August 2011.

WHEN IN ROME

The mark has been registered in respect of:

Class 41:
Entertainment in the nature of live performances by a musical band

In the name of Michael Nuttall


Signed this day at my direction

John Ahy



EXHIBIT D

Side - 1

	<p>NOTICE OF ABANDONMENT MAILING DATE: Jan 30, 2012</p>
<p>The trademark application identified below was abandoned in full because a response to the Office Action mailed on Jun 6, 2011 was not received within the 6-month response period.</p> <p>If the delay in filing a response was unintentional, you may file a petition to revive the application with a fee. If the abandonment of this application was due to USPTO error, you may file a request for reinstatement. Please note that a petition to revive or request for reinstatement must be received within two months from the mailing date of this notice.</p> <p>For additional information, go to http://www.uspto.gov/teas/petinfo.htm. If you are unable to get the information you need from the website, call the Trademark Assistance Center at 1-800-786-9199.</p> <p>SERIAL NUMBER: 85254292 MARK: WHEN IN ROME REVISITED OWNER: Juarez, Bobby</p>	

Side - 2

<p>UNITED STATES PATENT AND TRADEMARK OFFICE COMMISSIONER FOR TRADEMARKS P.O. BOX 1451 ALEXANDRIA, VA 22313-1451</p>	<p>FIRST-CLASS MAIL U.S. POSTAGE PAID</p>
<p>JUAREZ, BOBBY 2704 CARNEGIE LN # A REDONDO BEACH , CA 90278-3908</p>	

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-06-25 14:00:42 ET

Serial Number: 85254292 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

WHEN IN ROME REVISITED

(words only): WHEN IN ROME REVISITED

Standard Character claim: Yes

Current Status: Abandoned because the applicant failed to respond or filed a late response to an Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Date of Status: 2012-01-28

Filing Date: 2011-03-01

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 112

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: M3X -TMO Law Office 112 - Examining Attorney Assigned

Date In Location: 2012-01-28

LAST APPLICANT(S)/OWNER(S) OF RECORD

I. Juarez, Bobby

Address:

Juarez, Bobby
2704 Carnegie Lane #A
Redondo Beach, CA 90278
United States

Legal Entity Type: Individual

Country of Citizenship: United States

Phone Number: 310-542-0903

GOODS AND/OR SERVICES

International Class: 041

Class Status: Active

Entertainment in the nature of live performances by musical band

Basis: 1(a)

First Use Date: 2004-01-01

First Use in Commerce Date: 2004-01-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2012-01-30 - Abandonment Notice Mailed - Failure To Respond

2012-01-28 - Abandonment - Failure To Respond Or Late Response

2011-06-06 - Notification Of Non-Final Action E-Mailed

2011-06-06 - Non-final action e-mailed

2011-06-06 - Non-Final Action Written

2011-06-01 - Assigned To Examiner

2011-05-13 - Letter Of Protest Accepted

2011-03-04 - New Application Office Supplied Data Entered In Tram

2011-03-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

JUAREZ, BOBBY

2704 CARNEGIE LN # A

REDONDO BEACH, CA 90278-3908

Phone Number: 310-542-0903



EXHIBIT E



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WHEN IN ROME

Featuring the original vocalists Clive Farrington and Andrew Mann

For Booking Related Questions:

TBBA

(310) 542-0903 Tel.

(310) 542-0904 Fax.

www.tbbsagency.com

booking@thebossbookingagency.com

www.wheninromeofficial.com

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- [A Flock Of Seagulls Feat. Original Members](#)
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- [Anythingbox](#)
- [B-Movie](#)
- [Barry Sobel](#)
- [Bow Wow Wow](#)
- [Boys Don't Cry](#)
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- [Johnny Vatos Tribute To Halloween](#)
- [Josie Cotton](#)
- [kajagoogoo](#)
- [Lost 80's Live](#)

- [Lost 80's Live \(EUROPEAN TOUR\)](#)
- [Men Without Hats](#)
- [Modern English](#)
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- [Peter Godwin](#)
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- [The Romantics](#)
- [The Untouchables](#)
- [The Wonder Stuff](#)
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- [Wang Chung](#)
- [When In Rome UK](#)

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When In Rome UK

Genre: Pop / Rock | Headline Shows: 11 | Date: All

0 | 42

Concert Schedule

Sort by: **Date** | City

Date	City	Venue	Event Info
Thu 08/09/12	Tijuana, Mexico	Tia Juana Tilly's	
Appearing at Lost 80's Live			
Fri 08/10/12	Sacramento, CA	Crest Theatre	
Sat 08/11/12	Visalia, CA	Visalia Fox Theatre	
Thu 08/16/12	Bellflower, CA	Private Function	
Sun 08/19/12	Tijuana, Mexico	Tia Juana Tilly's	

buddy guy concert tickets

Tickets to Buddy Guy & Johnny Lang Cheap Seats at CheapTickets.com/

Appearing at **"80'S Invasion"**

Fri 08/24/12	West Hollywood, CA	House Of Blues	
Sat 08/25/12	Anaheim, CA	House Of Blues	

Appearing with **A Flock Of Seagulls**

Fri 08/31/12	Oahu, HI	Private Function	
Sat 09/01/12	Mauui, HI	Private Function	

Appearing at **"Cajun 80'S Halloween"**

Sat 10/20/12	New Orleans, LA	Corner Of Bourbon And Canal Streets	
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Appearing at **"80'S Winter Wonderland"**

Sat 12/08/12	Palm Beach, FL	80'S Winter Wonderland Festival Grounds	
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Artist Reviews

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WHEN IN ROME UK

Clive Farrington and Andrew Mann of WHEN IN ROME are the Original vocalists of "WHEN IN ROME"
Original vocalist **Clive Farrington** and original vocalist **Andrew Mann**



are the two that appeared on the debut record in 1987, signed to Virgin Records which includes the smash hit "The Promise". Clive and Andrew are also the original vocalists appearing in the music video "The Promise" as shown below.

Read Clive Farrington's Blog update: [Click Here](#)

With Over **1.8 million records sold!** WHEN IN ROME'S "**The Promise**" is known World wide as a Certified Hit. In both top 40 and AC charts around the Globe. Remember the closing scene from Napoleon-Dynamite, the film voted Best Picture at the 2005 MTV movie awards? As Napoleon finds some sort of resolution in his offbeat, own private Idaho, 80s-throwback lifestyle, a haunting synth chord from that electro-decade surges to the soundtrack's



surface and a classic piano phrase takes us into the end credits. The song is **When In Rome's "The Promise"**, the signature tune for the movie and still getting regular airplay across the country 18 years after it hit the Billboard Top Ten. When In Rome The Promise was also number **#1** on the dance chart for 7 weeks, three

more hits that reached the top 100 as well, “Heaven Knows”, “Wide, Wide Sea” and “Childs Play”, all Four hits released on their debut CD on Virgin records 1987-88.

When in Rome was a electro-dance trio from England that had a world wide hit with the single, “The Promise,” in 1988. Composed of Clive Farrington and Andrew Mann on vocals, and Michael Floreal on keyboard, When in Rome released one self-titled album after the success of their debut single, that reached #1 on the Billboard Top 200 chart, before coming apart. The trio had previously been in a band named Leisure, with Corinne Drewery of



Swing Out Sister.

When in Rome Where did they go? When in Rome in fact never left. Like many hunters for perfection, they have carried their craft through to today and, indeed, Andrew and Clive are still writing and searching for the perfect pop song. They nearly achieved this with their hit single ‘The Promise’ which is widely received as one of the best pop songs of the 80s. The song was featured as the end title sequence for the hit movie Napoleon Dynamite in 2004.

There are many artists who are great at song-writing as a production line, churning out hit after hit. When in Rome is not one of them. They refuse to release any material which they themselves are not 100% happy with, hence the long hiatus. When in Rome are back and are about to unleash some of the most enduring songs you will ever hear.

When In Rome has Worked with: Craig Logan (Bros, Kim Appleby – Kim Appleby mixes) – John McGeoch (Magazine, Armoury Show, PiL, Souxie & the Banshees – Pacific Project) – Paul Young (Sad Cafe, Mik



e & the Mechanics – solo project) – John Keeble (Spandau Ballet – Pacific Project) – Glenn Gregory (Heaven 17 – Pacific Project) – Matt Rowe (East 17, Spice Girls, Sophie Ellis Bexter – Keyboards WIR Brazil Tour 1994) – Richard James Burgess (Landscape – pre-production & production, WIR)

In The Now, Clive Farrington and Andrew Mann has come together with Rob Juarez, former member of WHEN IN ROME from the states and new comer Danny Phillips. The band is currently booking a tour of selected cities and states under the name, ” WHEN IN ROME UK“, with the Lost 80’s Live. the band will be performing a handful of headlining shows in the United States and Beyond. outside of the United States, i.e. (Canada, Mexico, South America, Brazil, Asia) the band will be performing under the name “WHEN IN ROME”. 2012 tour dates will be announced soon or Click this: [Link](#)

Watch the Band perform “FATAL” live at the Mandalay Bay’s, “Lost 80’s Live” August 13, 2011 and Watch the Classic video “The Promise”.

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Music

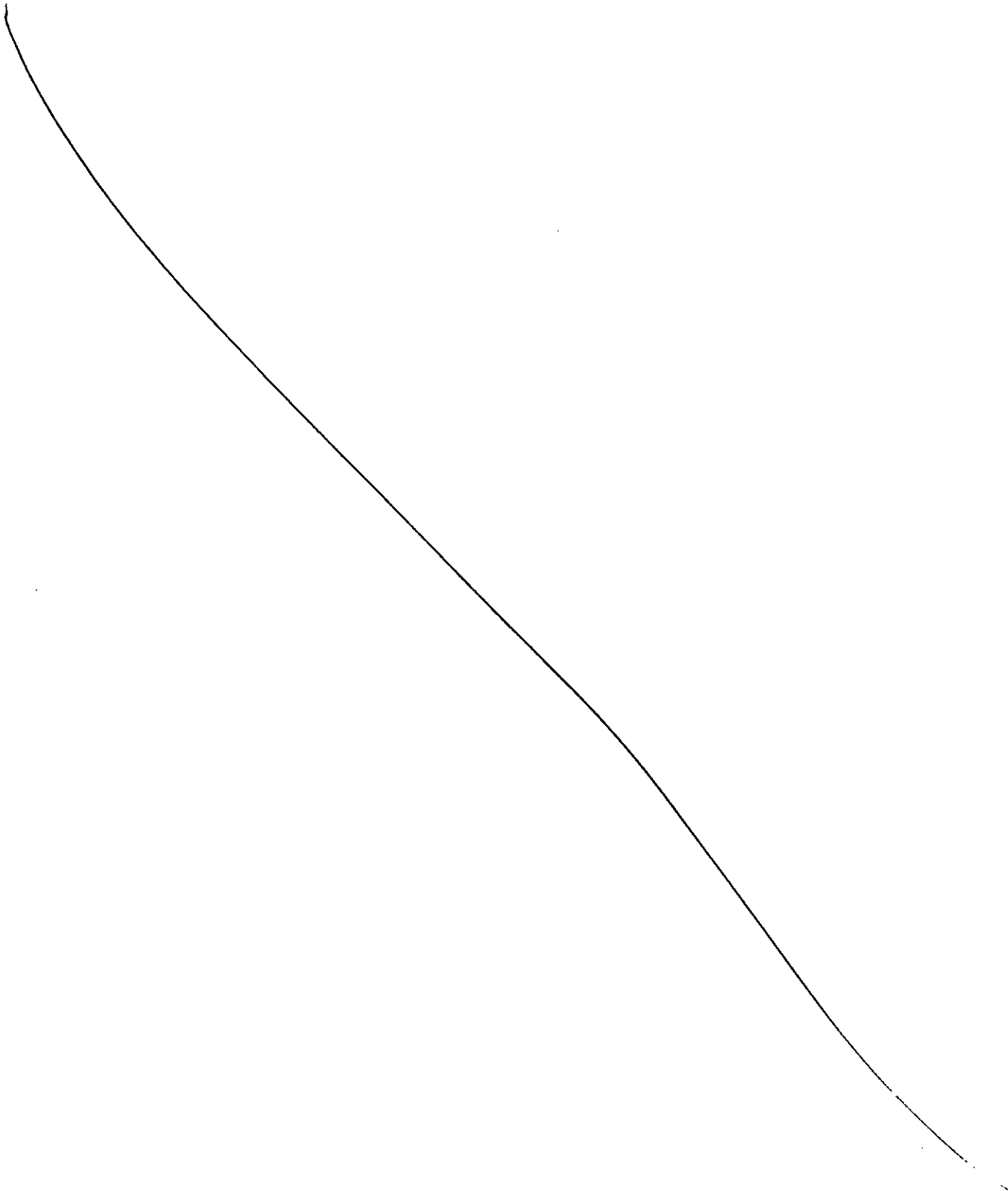
- [Wide, Wide Sea](#)
- [Heaven Knows](#)
- [Sight of Your Tears](#)
- [Childs Play](#)
- [If Only](#)
- [The Promise](#)
- [The Promise \(covenant mix\)](#)
- [The Promise \(coliseum mix\)](#)
- [Fatal \(UK Version\)](#)
- [Fatal \(Radio Edit\)](#)

Websites

- [Official Artist's Web Site »](#)

F

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THE GOOD WHEN SOME WEB PORTAL

3D

Where are the Romans Playing on the forthcoming tour?...

The ... Are Coming Again!

View In 2D...







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things

Rob to you - Feb 7 2011 [More Details](#)

Michael,

I have not heard from you for awhile and there are many things I need to get off my chest. After I have spent five years building us as a band and a profile, I have a lot of mixed emotions and sadness towards you asking me to leave.

I have talked to many of the bands regarding this issue and some have said bands make changes but all have agreed I built WIR back up to a Recognizable name and if not for me you would have done nothing. I'm discredited and unappreciated.

I have been to two meetings with my attorney and have gone through all the law books and evidence. Even though you have trade marked the name, I am an Original member of WHEN IN ROME the Reincarnation. My likeness is everywhere, my name is everywhere, from You Tube to Major Publications in the US / ASIA / SOUTH AMERICA and I have done over 100 shows.

After our last conversation I've come to the conclusion you want me out and that's okay but when you said you would need to ask John if it was okay regarding me doing the 80's shows, that did not sit well with me, that was a mistake on your part. As you know I work and breath the music business. My Cousin from Oingo Boingo has been reproducing the tracks and I'm doing shows as WHEN IN ROME REVISITED with Jayden Frost.

You also know we are the Original Members of WHEN IN ROME the Reincarnation, and I have all the legal proof gathered, Stacks of Articles (web and hard copy) with my name on it, so although you may own the Trade Mark, my attorney has advised me I can do many variations of the name as long as it's just not "WHEN IN ROME" and that's fine with me.

I have contacted all the venues and have clued them ALL in on what is going on and what I will be doing. After a massive email file to all with documented proof, they are happy to have my project WIRr on my various 80's packages that I have created.

You can speak to your attorney, a Real Attorney that handles these matters and you will find I am within my rights and I have the financial means to back it up for a law suit if necessary.

< 128 Results for agency101

things | :

Rob to you - Feb 7 2011 [More Details](#)

I do own 50% of the WIR web site that I had built. I also have a code to shut it down, Completely or lock access out, this was created just in case this situation came up. We can both use it or I will send you the money you paid and keep it for my new project, these are our only options. I have no problem taking this to court and you know when I say this, I mean it.

For the Myspace account I created I may also close it down. I have taken / saved all photos of any importance that live on that page. I attended the pollstar convention and was with my friend who runs the music dept at myspace and he assured me even if you own the name the page is still registered to me and due to the length of time I have had it, they will not touch it, just like I prevented Clive and Andy from shutting it down.

Regarding ALL THE WHEN IN ROME cd's that reside in my office warehouse either send someone to pick them up or I will have them destroyed. I'm not sure you can still sell

them at gigs with my Likeness and Name on them. If so, you would still owe me 20% as agreed to since I had them produced. So, maybe I will just keep a box or two of each and put them on eBay.

If you want to take legal action, your attorney can contact mine and I will provide you with all his info on request, and they can pound out the hours of evidence. I don't want to feel anger towards you and the situation but this IS about my rights and how hard I worked with you. I gave you another chance of playing live and gave opportunity to a singer (JC) who never left the state until I made it happen. For all this I'm disappointed. When I'm angry you will know it, at the moment this is me being very pleasant.

I do apologize it has to come to this and I will miss the road with you, you only, But to do so much with someone at the risk of losing my clients is a slap in the face. Now You and John can go play bars and be a rock band and I will enjoy my new project. I'm also letting Clive and Andy know what I am doing so I guess I will be a WIR tribute band Featuring Original Members of 2006 and me to the present date.

It's quite clear I'm no longer working with you or booking you. I have said all that I have to say. I wish You and John well.



EXHIBIT F

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When In Rome

1 upcoming concert

Track artist

Upcoming concerts

- **Friday 10 August 2012**

•

Flock of Seagulls Bourgeois Tagg, The Motels, and When In Rome

Crest Theatre Sacramento, CA, US

6 people

Buy tickets

I'm going

I might go

See all 1 upcoming concert



[See all media](#)

Past concerts

- **Wednesday 29 February 2012**



[Gene Loves Jezebel When in Rome Hosted By Richard Blade, Totally 80's Leap Year Flashback, and When In Rome](#)

[Whisky A Go Go](#) West Hollywood, CA, US

3 people

I was there

- **Thursday 25 August 2011**



[A Flock of Seagulls, When In Rome, Animation, and Christopher Anton of Information Society](#)

[Stereo Live](#) Houston, TX, US

5 people

I was there

- **Saturday 13 August 2011**



[The Motels and Animation When In Rome, A Flock of Seagulls, Dramarama, Gene Loves Jezebel, The Escape Club, and Real Life](#)

Mandalay Bay Beach Las Vegas, NV, US

I was there

• **Friday 17 June 2011**



Missing Persons and When In Rome Dale Bozio, Warren Cuccurullo, and Gene Loves Jezebel

Red Devil Lounge San Francisco, CA, US

11 people

I was there

• **Saturday 28 May 2011**




The Family Crest Jimmy Gnecco and When In Rome

Club L Hollywood, CA, US

I was there

See all 43 past concerts

Similar artists

-  **Information Society** 2 concerts

Track artist

-  **Tommy Tutone** 1 concert







Track artist

-  **The Fixx** 1 concert

Track artist

-  **Animotion** 3 concerts



Track artist


-  [Corey Hart 1 concert](#)
Track artist
-  [The Romantics 3 concerts](#)
Track artist
-  [Dead or Alive 1 concert](#)
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-  [Howard Jones 14 concerts](#)
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-  [After the Fire 1 concert](#)
Track artist
-  [A Flock of Seagulls 6 concerts](#)
Track artist

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Track **When In Rome** and never miss them live. [Sign up](#)



EXHIBIT G

STATE OF SOUTH CAROLINA §
COUNTY OF CHARLESTON §

AFFIDAVIT OF BOBBY COLLINS


Before me, the undersigned notary on this day personally appeared Bobby Collins, the affiant, a person whose identity is known to me. After I administered an oath to affiant, affiant testified:

"My name is Bobby Collins, I am over 18 years of age and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

1. I am the Chief Executive Officer for Spectra Records, LLC located in Charleston, South Carolina.
2. WHEN IN ROME has been touring and active for many years now.
3. The band WHEN IN ROME has always consisted of Michael Nuttall p/k/a Michael Floreale and Johnny Ceravolo. In 2012, Spectra Records signed WHEN IN ROME to a record deal.
4. The website hosting company for Spectra Records was contacted by Clive Farrington and Bobby Juarez claiming that we were infringing on their copyright by having the name, "WHEN IN ROME" underneath a picture of Michael Nuttall and Johnny Caravolo on our website. We were given an ultimatum to either take down the name or have our website shut down.
5. Clive Farrington's and Bobby Juarez' actions have hindered us as a company from promoting and marketing the WHEN IN ROME band

to coincide with the upcoming National album which was due out later this year. Further, their activities have delayed securing a release date for the album and have taken away from live performances and successful marketing efforts which have cost Spectra Records money.

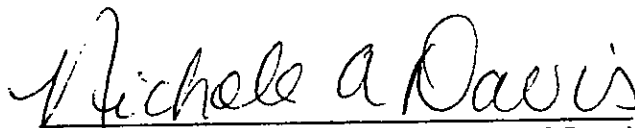
- 6. We have been presented documents certifying that the name of the band, WHEN IN ROME is owned by Michael Nuttall by way of the United States Patent and Trademark Office Registration as well as a UK trademark registration.
- 7. The statements being made by Bobby Juarez and Clive Farrington are false and damaging to Spectra Records as well as the band, "WHEN IN ROME" and if they are not stopped immediately, damages will continue to mount."


 Bobby Collins

JURAT

Sworn to and subscribed before me by Bobby Collins on 6-14-12
2012.




 Notary Public in and for the State of South Carolina

My Commission expires: 9-4-19



EXHIBIT H

**STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

**§
§**

AFFIDAVIT OF BENNETT KAUFMAN

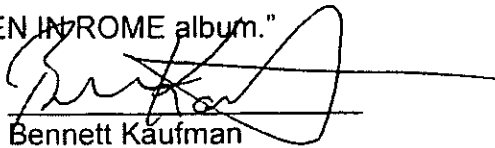
Before me, the undersigned notary on this day personally appeared Bennett Kaufman, the affiant, a person whose identity is known to me. After I administered an oath to affiant, affiant testified:

"My name is Bennett Kaufman, I am over 18 years of age and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

1. I am the President and Manager for The BK Entertainment Group, located at 15300 Ventura Blvd. #203, Sherman Oaks, California 91403.
2. My client, record producer, Warren Huart has played a fundamental part in the creation of platinum winning, Billboard topping albums, such as The Fray's "How to Save a Life," The Fray's sophomore album, "The Fray," Augustana's, "Can't Love Can't Hurt" and Better Than Ezra's "Paper Empire."
3. Warren Huart has over 20 years of experience in the music industry.
4. In May 2011, Warren Huart helped to produce and mix the new album for WHEN IN ROME at his studio in Los Angeles. The band WHEN IN ROME consists of Michael Nuttall p/k/a Michael Floreale and Johnny Ceravolo. The project took over 4 weeks to complete.

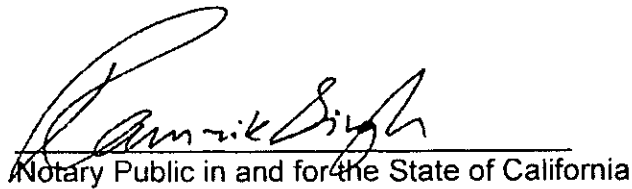
A lot of time and money was invested in the completion of the album and the end result of that hard work was that WHEN IN ROME secured a record deal with Spectra Records.

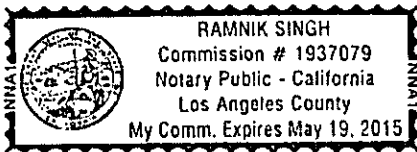
- 5. The album has been scheduled for a July release, but it has come to my attention that due to interference from another party claiming to be WHEN IN ROME, the release of the album will now be indefinitely postponed until the situation with the other party claiming to be WHEN IN ROME can be resolved.
- 6. This situation is causing my client Warren Huart to lose potential income from album sales and other revenue streams derived from the album. Further, it restricts my client's ability to utilize the goodwill and potential further income that would generate as the result of a successful WHEN IN ROME album."


 Bennett Kaufman

JURAT

Sworn to and subscribed before me by Bennett Kaufman on June 13th, 2012
2012.


 Notary Public in and for the State of California



My Commission expires: May 19th, 2015.



EXHIBIT I



Forward Action Delete Spam
Add to: To Do, Calendar

Fwd: [LKLS-33697-196] RE: When in Rome
Tracy McCormick to you, Johnny Geravolo, Chis Willent, Bobby Collins - Apr 24 More Details

FYI

Best,
Tracy
Sent from letting my fingers do the talking

Begin forwarded message:

From: Legal Department <legal@bluehost.com>
Date: April 24, 2012 2:20:59 PM PDT
To: tracymccormick1@gmail.com
Subject: Re: [LKLS-33697-196] RE: When in Rome

Hello,

We received notice of Trademark Violation.

Summary of report below:

Clive Farrington , Andrew Mann When in Rome ,

The precise location of the infringing mark, including electronic mail address etc.: www.wheninromemusic.net - musicmarks@aol.com

A good faith certification, signed under penalty of perjury: I hereby declare that the aforementioned website infringes upon the rights of the original founder members of When in Rome, Andrew Mann and Clive Farrington in the United Kingdom and USA. Lawyers have been instructed to act on our behalf in our claim that the trademark for When in Rome was obtained illegally in order to prevent the original founder members from making a living and Go Daddy and Bluehost may be implicated in the ensuing lawsuit. Please remove all content immediately to avoid further action.

Letter from attorney
(310) 777-3740
dwilson@kmmw.com

We represent the band When in Rome, and its current members, Clive Farrington, Andrew Mann, and Rob G. Juarez, in connection with the trademark for the band name, WHEN IN ROME. When in Rome and its members have consistently used the WHEN IN ROME trademark in commerce in the United States since at least as early as 1987 in connection with entertainment services in the nature of performances by a musical group. As a result of such use, When in Rome possesses common law trademark rights to the name WHEN IN ROME.

As you are aware, When in Rome is currently in the process of scheduling tour dates for shows set to take place in and around the United States in 2012. It has recently come to our attention that you have contacted a number of third parties and promoters with which When in Rome has contracted to perform said shows, threatening to file suit for trademark infringement if the shows are promoted using the name WHEN IN ROME.

Your conduct in contacting such third parties constitutes unlawful interference with When in Rome's contractual relations, which has caused, and will continue to cause, damage to When in Rome. We would like to speak with you immediately about this matter. You can reach me on my direct line at (310) 777-3740. If you are currently represented by counsel, please forward their contact information to me so that I may contact them directly.

Very truly yours,
Dennis L. Wilson
Keais McFarland & Wilson LLP
DLW:cwb

Please let us know if we can be of further assistance

Legal Department
1958 S 950 E
Provo, UT 84606
V: (888) 401-HOST | F: 801-765-1992

Most questions can be answered by articles in our knowledgebase
Knowledgebase: <http://helpdesk.bluehost.com/index.php/kb/>

Reply Forward Action Delete Spam

<44 Results for blue host

Re: [AWJ-41785-731] Use of the trademarked name When In Rome
musicwerks to legal - Apr 3 More Details

Add to: To Do, Calendar

Dear Sir,

I am writing to you concerning another infringement of my trademark under the DMCA. As in this referenced email (below) The Boss Booking Agency was using it's website to advertise the band When In Rome/When In Rome UK, a name that is trademarked and this agency has no rights whatsoever to the name. The trademark is for live musical performances and The Boss Booking Agency books acts for live musical performances, a direct and unequivocal breach of my trademark. In the previous case ref # AWJ-41785-731. The Boss Booking Agency moved it's server from Blue Host to iWeb which is a Canadian based server in order to circumvent my US trademark. As I do not have a Canadian trademark. The Boss Booking Agency continues to infringe my trademark from Canada even though he conducts his business entirely in the US, until I take further legal action.

It has now been brought to my attention that Blue Host is now being used again by The Boss Booking Agency to circumvent my trademark. The website www.wheninromemusic.com is hosted by Blue Host and is being used to directly link to The Boss Booking Agency site in Canada, another clear and unequivocal breach. I request that you remove the offending site under the laws of the DMCA and Lanham Act.

I hold the US and UK trademarks for the name When In Rome and the serial numbers are US - 3,899,742, UK - 259106.

I look forward to your co-operation in this matter and will be happy to supply you with any further information.

Yours,

Michael Nuttall

Trademark holder When In Rome.

musicwerks@aol.com

-----Original Message-----

From: Legal Department <legal@bluehost.com>

To: musicwerks <musicwerks@aol.com>

Sent: Thu, Sep 8, 2011 4:13 pm

Subject: Re: [AWJ-41785-731] Use of the trademarked name When In Rome

Hello,

The website <http://www.thebossbookingagency.com> is no longer hosted with us. It now appears to be hosted through a company called "iWeb Technologies" based on the IP address. As such, we no longer have influence over the content of the site.

Legal Department

Language Professors HATE HIM



Doctor's discovery revealed the secret to speaking any language in just 10 days. Watch this shocking video and discover how you can rapidly learn any language in just 10 days using this sneaky linguistic secret... Free from the computer... Free from memorization... and absolutely guaranteed!

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When In Rome UK

Genre: Pop / Rock | [Headline Shows: 11](#) | [Date: All](#)

[0](#) | [42](#)

CONCERT SCHEDULE

Sort by: [Date](#) | [City](#)

Date	City	Venue	Event Info
Thu 08/09/12	Tijuana, Mexico	Tia Juana Tilly's	
Appearing at Lost 80's Live			
Fri 08/10/12	Sacramento, CA	Crest Theatre	
Sat 08/11/12	Visalia, CA	Visalia Fox Theatre	
Thu 08/16/12	Bellflower, CA	Private Function	
Sun 08/19/12	Tijuana, Mexico	Tia Juana Tilly's	

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Appearing at ["80'S Invasion"](#)

Fri 08/24/12	West Hollywood, CA	House Of Blues	
Sat 08/25/12	Anaheim, CA	House Of Blues	

Appearing with [A Flock Of Seagulls](#)

Fri 08/31/12	Oahu, HI	Private Function	
Sat 09/01/12	Maui, HI	Private Function	

Appearing at ["Cajun 80'S Halloween"](#)

Sat 10/20/12	New Orleans, LA	Corner Of Bourbon And Canal Streets	
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Appearing at ["80'S Winter Wonderland"](#)

Sat 12/08/12	Palm Beach, FL	80'S Winter Wonderland Festival Grounds	
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