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KARISH & BJORGUM, PC
Eric Bjorgum (Bar No. 198392)
119 E. Union St., Suite B
Pasadena, California 91103
Telephone: (213) 785-8070
Facsimile: (213) 995-5010

Attorneys for BUDDY WEBSTER

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

BUDDY WEBSTER p/k/a BUDDY
BLAZE,

Plaintiff,

v.

DEAN GUITARS; ARMADILLO
ENTERPRISES, INC.; ARMADILLO
DISTRIBUTION ENTERPRISES,
INC.; ESTATE OF DIMEBAG
DARRELL ABBOTT, an unknown
entity; and DOES 1 – 10 inclusive.

Defendants.

Case No. 2-cv-17-3027

COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT

JURY TRIAL REQUESTED

1 Plaintiff BUDDY WEBSTER p/k/a BUDDY BLAZE (“WEBSTER” or
2 “Plaintiff”), by and through his counsel Karish & Bjorgum, PC, hereby complains
3 and alleges against DEFENDANTS DEAN GUITARS, ARMADILLO
4 ENTERPRISES, INC., ARMADILLO DISTRIBUTION ENTERPRISES, INC.,
5 THE ESTATE OF DIMEBAG DARRELL ABBOTT, and DOES 1 – 10, inclusive,
6 on personal knowledge as to his own actions and on information and belief as to the
7 actions of others, as follows:

8
9 **JURISDICTION AND VENUE**

10 1. This action arises under the Copyright Act of 1976, 17 U.S.C. § 101, *et*
11 *seq.* This Court has jurisdiction over matters arising under the Copyright Act
12 pursuant to 28 U.S.C. § 1331 (federal question actions) and 28 U.S.C. § 1338
13 (exclusive jurisdiction over copyright actions and concurrent jurisdiction over
14 trademark cases).

15 2. Defendants are subject to the personal jurisdiction of this Court, as they
16 are located in California or have purposefully availed themselves of the privileges of
17 doing business in California with regard to the actions alleged herein, and such
18 jurisdiction is reasonable.

19 3. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) in that,
20 on information and belief, at least one administrator of the ESTATE OF DIMEBAG
21 DARRELL ABBOTT resides in this District. Further Defendants are subject to the
22 Court’s personal jurisdiction because they are subject to the Court’s personal
23 jurisdiction. Venue is further appropriate in this District because this is a copyright
24 action, with venue proper here under 28 U.S.C. § 1400.

25 **PARTIES**

26 4. Plaintiff BUDDY WEBSTER p/k/a BUDDY BLAZE (“WEBSTER”)
27 is an individual residing in Grand Prairie, Texas. WEBSTER was living in the
28 Central District of California when the infringement began. WEBSTER is a well-

1 known guitar designer and luthier who designs custom guitars for many
2 accomplished guitarists.

3 5. On information and belief, Defendant DEAN GUITARS is a business
4 entity of unknown form with its principal place of business in Tampa, Florida. On
5 information and belief, Defendant DEAN GUITARS intentionally copies,
6 distributes and sells infringing products that are sold in this District, either through
7 its authorized dealers or through mail order.

8 6. On information and belief, Defendant ARMADILLO ENTERPRISES,
9 INC. is a corporation with its principal place of business in Tampa, Florida. On
10 information and belief, Defendant ARMADILLO ENTERPRISES, INC. is a parent
11 company of DEAN GUITARS.

12 7. On information and belief, Defendant ARMADILLO DISTRIBUTION
13 ENTERPRISES INC. is a Florida corporation with its principal place of business in
14 Tampa, Florida. On information and belief, Defendant ARMADILLO
15 DISTRIBUTION ENTERPRISES, INC. is a parent company of DEAN GUITARS.

16 8. DEAN GUITARS, ARMADILLO ENTERPRISES, INC. and
17 ARMADILLO DISTRIBUTION ENTERPRISES, INC. shall be referred to
18 collectively herein as the "DEAN ENTITIES." The DEAN ENTITIES derive a
19 substantial amount of income from sales in California and travel to Anaheim,
20 California each year for the NAMM trade show.

21 9. On information and belief, Defendant ESTATE OF DIMEBAG
22 DARRELL ABBOTT (the "ABBOTT ESTATE") is a business entity of unknown
23 form. On information and belief, the ABBOTT ESTATE sells and/or licenses
24 products that display infringing images of Plaintiff's copyrighted guitar design.

25 10. Plaintiff is unaware of the true names and capacities, whether
26 individual, corporate, associate or otherwise, of Defendants DOES 1 through 10
27 inclusive, or any of them, and therefore sues these defendants, and each of them, by
28 fictitious names. Plaintiff will seek leave of this court to amend this complaint

1 when the status and identities of these defendants are ascertained.

2 11. Plaintiff is informed and believes, and on that basis alleges, that at all
3 relevant times mentioned in this Complaint, Defendants were acting in concert and
4 active participation with each other in committing the wrongful acts alleged herein,
5 and were agents of each other and were acting within the scope and authority of that
6 agency and with knowledge, consent and approval of one another.

7 **GENERAL ALLEGATIONS**

8 A. Plaintiff's Work

9 12. Plaintiff WEBSTER p/k/a Buddy Blaze, is a well-known luthier and
10 designer of custom guitars. Guitarists who have used guitars made by Plaintiff
11 include Vivian Campbell (of Def Leppard and formerly of Whitesnake), the entire
12 band of country legend Lee Greenwood, Scott Patton (of Sugarland), Eddie Ojeda
13 (of Twisted Sister), Terry Glaze (of Lord Tracy and formerly of Pantera), L.T.
14 Smooth (Grammy nominated, Hoku Award winning guitarist), Stig Mathisen -
15 Guitar Chair at Musicians Institute (M.I.), Rudy Parris (country recording artist
16 "The Voice"), Mark Kendall (of Great White), Steve Mandile (of Six Wire band
17 and many others), Kinley Wolfe (of Lord Tracy and formerly of The Cult), Barry
18 Dunaway (of 38 Special and formerly of Yngwie Malmsteen band), Kent Wells (of
19 Dolly Parton and Kenny Rogers bands), Dave Watson (of The Oakridge Boys) and
20 many other prominent artists.

21 13. WEBSTER p/k/a Buddy Blaze has been a luthier and designer of
22 guitars since the 1980's. In addition, WEBSTER worked for major guitar brands,
23 including Kramer guitars as Director of Artist Relations.

24 14. In the 1980's, WEBSTER was living in Arlington, Texas and befriended
25 a young local guitarist named Darrell Abbott. Abbott was incredibly talented and
26 was a member of the band "Pantera" which later became nationally and
27 internationally known. One of Darrell Abbott's guitars is a model made by the
28 Dean Guitar company, known as a Dean ML, which he won in local contest.

1 15. Abbott used the guitar but eventually decided to sell it. He offered it to
2 WEBSTER. WEBSTER declined to buy it, explaining to his friend that he should
3 not sell trophies. Abbott eventually sold it to the singer of WEBSTER’S band.

4 16. WEBSTER was unhappy that Abbott had sold the guitar, so WEBSTER
5 secretly bought it back from his band’s singer. WEBSTER then modified the neck
6 of the guitar, changed some of the hardware and stripped the paint. WEBSTER
7 designed a new visual look for the guitar, which featured a unique blue background
8 with lightning emanating from the center of the guitar body. WEBSTER refers to
9 this as the “lightning storm design” (the “Design”).

10 17. WEBSTER gave the guitar to Abbott as a present, and Abbott
11 immediately recognized that the guitar was very easy to play and had the “heavy”
12 but articulated tone that he had been searching for. It became his signature guitar.

13 18. Abbott’s band Pantera, which featured his brother Vincent Paul Abbott
14 playing drums, went on to become one of the most successful heavy metal bands of
15 the 1990’s. Pantera’s songs were driven by Abbott’s distorted guitar riffs, which
16 featured a unique combination of rhythm and melody. Pantera has sold over 9
17 million records.

18 19. Abbott played the guitar from WEBSTER wherever possible. It
19 became known as the “Dean From Hell.” Abbott broke the headstock several times,
20 but he always had it fixed so that he could return to using the Dean From Hell. Here
21 is a photo of Abbott with the original Dean From Hell:

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20. An integral part of the Dean From Hell is the lightning storm graphic on the design. WEBSTER has obtained a copyright registration on the lightning storm design, a true and correct copy of which is attached hereto as Exhibit A.

21. Eventually, Pantera broke up and the Abbott brothers started a new band called Damage Plan. Tragically, in 2004, a mentally troubled fan entered a Damage Plan show with a gun and murdered Abbott on stage. The rock world was stunned.

22. Since Abbott's death, the DEAN ENTITIES have engaged in multiple re-issue campaigns of the Dean From Hell. Indeed, WEBSTER told the DEAN ENTITIES' former CEO Elliott Rubinson (who recently passed away) that the company should enter into an agreement with WEBSTER because it was copying his design. In 2008 and 2009, WEBSTER and DEAN GUITARS collaborated on a guitar that was known and marketed as the Buddy Blaze Signature Model, but it was not the Dean From Hell.

23. On information and belief, the DEAN ENTITIES' association with

1 Abbott is one of its most valuable artist associations. It has issued many guitars
2 using the “Dimebag” name.

3 24. Eventually, WEBSTER became alarmed and disappointed that DEAN
4 GUITARS was continuing to profit from his design without giving him credit or any
5 payment. ABBOTT often spoke highly of WEBSTER and the guitar that became
6 his signature guitar. WEBSTER is certain that ABBOTT would not condone
7 continual reissues of WEBSTER’s design, especially with no recognition or
8 payment to WEBSTER. Attached as Exhibit B are true and correct copies of
9 examples of photos of guitars using the Design, all manufactured and distributed by
10 the DEAN ENTITIES and currently on sale. These guitars are available at dozens
11 of retailers throughout the United States and have been used in extensive advertising
12 campaigns for the DEAN ENTITIES.

13 25. WEBSTER eventually contacted DEAN GUITARS regarding the
14 copying of the Design. DEAN GUITARS forwarded the matter to the attorneys for
15 the ABBOTT ESTATE, which ostensibly licenses the intellectual property
16 surrounding the Dimebag guitars to DEAN. WEBSTER was unable to reach an
17 agreement with either of these parties, thus forcing him to bring this case.

18 26. On information and belief, Defendant ABBOTT ESTATE has issued
19 licenses to the DEAN ENTITIES to use the Design on guitars and to unknown third
20 party manufacturers that make replicas or other music memorabilia.

21 27. On information and belief, Defendants have the right and ability to
22 supervise the conduct of one or all of each other’s infringing activities and have a
23 direct financial interest in one or all of each other’s infringing activities.

24 28. On information and belief, Defendants had knowledge of the infringing
25 conduct of one or all of each other and materially contributed to, induced or caused
26 the infringing activity of one or all of each other.

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FIRST CAUSE OF ACTION

(Copyright Infringement (17 U.S.C. § 501, *et seq.*) Against All Defendants)

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3 29. Plaintiff realleges and reincorporates paragraphs 1- 28 above, as
4 though set forth fully herein.

5 30. Plaintiff is informed and believes and thereon alleges that Defendants,
6 and each of them, had access to the Design.

7 31. Plaintiff is informed and believes and thereon alleges that Defendant,
8 and each of them, copied or distributed copies of the Design and/or licensed the
9 Design.

10 32. Plaintiff is informed and believes and thereon alleges that DOES 1 –
11 10 Plaintiff is informed and believes and thereon alleges that Defendants, and each
12 of them, infringed Plaintiff’s copyright by creating, making and/or developing
13 and/or licensing directly infringing and/or derivative works from Plaintiff’s Design
14 and by producing, distributing and/or selling and/or licensing infringing copies
15 through a network or retail or websites.

16 33. Defendants’ infringement has caused substantial damage to Plaintiff, in
17 an amount to be proven at trial. Plaintiff has suffered general and special damages.
18 Defendants have also obtained profits either directly or indirectly from its infringing
19 activities.

20 34. Plaintiff is informed and believes and thereon alleges that Defendants’
21 infringing activities have continued after Plaintiff demanded that they cease and
22 desist, so that the infringing activities are willful, intentional and malicious.

23 35. Defendants’ infringement irreparably harms Plaintiff and leaves him
24 without an adequate remedy at law, so that he is entitled to an injunction to halt any
25 further infringing activity. On information and belief, Defendants, and each of
26 them, have vicariously or contributorily infringed Plaintiff’s copyright in the
27 Design.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendants as follows:

- a. That the Court order Defendants and their agents to pay monetary damage to Plaintiff in an amount sufficient to compensate him for all damages resulting from the unauthorized copying, distribution, display and sale of his work, including, but not limited to, his lost sales and disgorgement of Defendants' profits;
- b. That Defendants and their agents and servants all be enjoined from licensing, selling, distributing, displaying or manufacturing items which infringe Plaintiff's copyrights on his work and from any unauthorized copying of any of Plaintiff's copyrighted work;
- c. That the Court find Defendants' violation of Plaintiff's rights to be willful so that Plaintiff's award is enhanced;
- d. That Plaintiff be awarded prejudgment interest as allowed by law;
- e. That Plaintiff be awarded fees and costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

DATED: April 21, 2017

KARISH & BJORGUM, PC

By: 
A. Eric Bjorgum
Attorneys for Plaintiff
BUDDY WEBSTER

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REQUEST FOR JURY TRIAL

Pursuant to Fed.R.Civ.P. 38(b), Plaintiff hereby requests a trial by jury of all issues raised by its counterclaims which are properly triable to a jury.

Dated: April 21, 2017

Respectfully submitted,



By: _____

A. Eric Bjorgum
KARISH & BJORGUM PC
Attorneys for Plaintiff BUDDY WEBSTER

Exhibit A



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Karen Leigh Clayett

Acting United States Register of Copyrights and Director

Registration Number

VA 2-021-979

Effective Date of Registration:

June 04, 2016

Title

Title of Work: Lightning Storm Guitar Design"

Completion/Publication

Year of Completion: 1986
Date of 1st Publication: January 20, 2005
Nation of 1st Publication: United States

Author

- **Author:** Buddy Webster
Pseudonym: Buddy Blaze
Author Created: 2-D artwork
Citizen of: United States
Pseudonymous: Yes

Copyright Claimant

Copyright Claimant: Buddy Webster
P.O. Box 535892, Grand Prarie, TX, 75053, United States

Rights and Permissions

Name: Joyce Webster
Email: joyce@buddyblaze.com
Address: P.O. Box 535892
Grand Prarie, TX 75053 United States

Certification

Name: Eric Bjorgum
Date: June 04, 2016
Applicant's Tracking Number: Buddy Blaze

Correspondence: Yes



0000VA00020219790202


Exhibit B

USA DIME ML RUST FROM HELL
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PRICE: **\$3699.00** ✓
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✓ **FREE SHIPPING** (limited time, US only - lower 48)



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Item ID	USA ML DIME RPH	Hardware Color	Black Trem / Nickel Tuners
Top	Mahogany	Bridge	Floyd Rose Original
Body	Mahogany	Pickup (Neck)	USA DMT Dime Time
Neck	Mahogany	Pickup (Bridge)	Bill Lawrence L500XL
Scale Length	24.34"	Binding	None
Neck Type	Set	Finish	Gloss
Neck Profile	V	Color	Air Brushed Rust From Hell
Fingerboard	Rosewood	Case Options	Deluxe Hard Case Included
Inlays	Pearl Dot		
# of Frets	22		
Knobs	DBD Tradition		

Strings: Dimebag Darrell Signature Hi-Voltage strings by DR Strings

Due to Dean's commitment to ongoing research and development, product specifications are subject to change without notice. In some instances, the product pictured here might vary slightly from our products in the marketplace.

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The Dean Dimebag Dean From Hell C-HF Electric Guitar puts Dime's favorite body design behind a stunning graphic. The sleek set mahogany neck with rosewood fretboard is designed for speed, while Bill Lawrence bridge and neck humbuckers deliver all the high-output sonics you'll need. It also features dot inlays, classic V headstock shape, 24-3/4" scale, and Grover tuners. The Floyd Rose Special bridge will keep you in fine dibe bombing form.

Item ID: DFH CPH L NC Year: 0888

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4/18/2017

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