

*Pauley, S*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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JOHN STAGLIANO, INC. d/b/a EVIL ANGEL  
PRODUCTIONS, INC.,

Plaintiff,

vs.

JOHN DOES 1-4,

Defendants.

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Civil Action No. 1:12-cv-02965-WHP

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**PLAINTIFF'S NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE OF  
ALL JOHN DOE DEFENDANTS**

**PLEASE TAKE NOTICE** that Plaintiff hereby voluntary dismisses without prejudice all John Doe Defendants in this case. Plaintiff is dismissing the actions claimed against these Defendants so that it may further evaluate emerging law, e.g., K-Beech, Inc. v. John Does 1-39, 2:11-cv-04776-FSH-PS (D. N.J. Jan. 6, 2012), which holds as follows:

Plaintiff argues that in *Dastar Corp v. Twentieth Century Fox Film Corp.*, the United States Supreme Court determined that the type of action undertaken by the Doe Defendants in this case creates a cause of action under 43(a) of the Lanham Act, 15 U.S.C. § 1125. *Dastar*, 539 U.S. 23, 24 (2003). Specifically, in *Dastar*, the Court stated:

'Respondents' claim that Dastar has made a "false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which ... is likely to cause confusion ... as to the origin ... of [its] goods" in violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), would undoubtedly be sustained if Dastar had bought some of New Line's Crusade videotapes and merely repackaged them as its own.' *Id.*

Because this is exactly what Plaintiff claims Defendants did in the instant action, the Court finds that Plaintiff states a claim for a violation under 43(a) of the Lanham Act.

Id.; compare with John Stagliano v. Does 1-14, 8:12-cv-01208-DKC (D. Md. April 25, 2012) (holding "[a]lthough Plaintiff may have a right of action against the individual or individuals

who created this counterfeit copy for distribution, the Court fails to see how Plaintiff's allegations support a claim for trademark infringement against the putative Defendants.")

Consistent herewith, Plaintiff consents to the Court closing its file on this matter for administrative purposes.

Respectfully submitted,

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**SO ORDERED:**

  
**U.S.D.J.**

*J* 5/2/12