

CONSENT TO USE AND REGISTRATION AGREEMENT

This CONSENT TO USE AND REGISTRATION AGREEMENT (the "Consent Agreement") is made by and between Beata Music LLC, a California limited liability company located at 5328 Alhama Drive, Woodland Hills, California 91364 ("Beata") and Rascal Clothing Ltd, a United Kingdom Company located at Oaklands, Clyde Road, Hoddesdon, Hertfordshire, EN11 0BE, United Kingdom ("Rascal Clothing"). This Agreement is effective as of the last date signed by either Beata or Rascal Clothing (the "Effective Date"). Each of the parties will sometimes be referred to herein individually as "Party" and will sometimes collectively be referred to as the "Parties."

Recitals

A. Rascal Clothing has filed U.S. Application Serial Nos. 88134337 and 88134339 seeking registration of the RASCAL & Design and the RASCAL CLOTHING marks in connection with "tracksuits; t-shirts; shorts; sweatshirts; hooded sweatshirts; jogging pants; caps; hats; clothing; footwear; headgear" in Class 25 and has been using the RASCAL & Design and the RASCAL CLOTHING marks in commerce in United States commerce since at least as early as September 28, 2015 (together, the "Rascal Clothing Marks").

B. Beata has filed U.S. Application Serial No. 87803534 seeking registration of a THE RASCALS mark (the "Beata Mark") claiming an intent to use the mark in connection with "jackets, jerseys, shirts, shorts, sweatshirts, t-shirts and headwear" in Class 25 and "entertainment services in the nature of live performances by a vocal and instrumental group" in Class 41;

C. The USPTO issued a preliminary objection to the registration of Application Serial Nos. 88134337 and 88134339 for the Rascal Clothing Marks citing Beata's prior filed Application Serial No. 87803534 for the Beata Mark as a possible bar to registration;

D. Rascal Clothing has initiated Opposition No. 91249893 against the Beata Mark ("the Rascal Opposition");

E. The Parties have agreed to settle the Rascal Opposition and wish to define their rights in order to avoid public confusion and any controversy between the Parties and to manifest the consent of each Party to the continued use and registration by the Parties of their respective marks;

NOW, THEREFORE, in order to avoid confusion and to indicate the consent of each Party to the continued use and registration of the other Party's mark, the Parties, for good and valuable consideration, the receipt of which is hereby acknowledged, agree as follows:

1. The Parties, being familiar with the marketplace in which their respective marks are used, agree that the use of their respective marks is not likely to cause any confusion, mistake or deception because:

- a.** The respective consumers are very different, with Beata's audience being consumers of classic rock and soul music and Rascal Clothing's consumers being consumers of youth fashion;
- b.** The respective channels of marketing and trade are very different, with Beata's being mainly at the venues of live performance for a musical group;
- c.** The respective marks present different commercial impressions;
- d.** The respective marks are sufficiently different in appearance; and
- e.** To the best of each Party's knowledge, there has been no actual confusion.

2. For the reasons stated above:

- a. Rascal Clothing hereby consents to the use and registration of the Beata Mark by Beata in connection with the goods and services identified in Application Serial No. 87803534;
- b. Rascal Clothing will, within 5 working days of the Effective Date, file a consented motion to withdraw the Rascal Opposition without prejudice; and
- c. Beata hereby consents to the use and registration of the Rascal Clothing Marks by Rascal Clothing in connection with the goods identified in in Application Serial Nos. 88134337 and 88134339.

3. The Parties agree to cooperate and consult with one another in good faith should future conditions or developments create a likelihood of confusion arising from use of their respective marks. The Parties further agree to take reasonable steps to avoid confusion that may arise in the future.

4. The mutual consent provisions of this Agreement shall be contingent upon the USPTO's withdrawal of the objection to the registration of Application Serial Nos. 88134337 and 88134339 based on the prior filed Application Serial No. 87803534 and should the USPTO not withdraw its objection to register Application Serial Nos. 88134337 and 88134339 based on the prior filed Application Serial No. 87803534, the Parties shall work together in good faith to further address and seek the withdrawal of such objection to registration.

5. The geographic scope of this Agreement is the United States only.

6. This Agreement will bind and inure to the benefit of the successors, affiliates, and assigns of the Parties, including without limitation to any assignee of either Parties' mark. The Parties agree that the rights and obligations granted under this Agreement to them may be transferred to a third party without the express consent of the other Party. The Parties each agree to execute and deliver to the other Party any and all reasonably requested consent agreements or other documents that are needed to effectuate the intent of this Agreement.

7. This Agreement may be executed in any number of counterparts or duplicates, each of which shall be deemed an original, but such counterparts or duplicates shall together constitute one and the same Agreement. Signatures hereon may be exchanged and transmitted by facsimile or e-mail, and shall be sufficient and fully binding.

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement on the date last signed below.

Beata Music LLC

(Beata)

Signature: 

Name: Felix Cavaliere

Title: Pres

Date: 10/17/2019

Rascal Clothing Ltd

(Rascal Clothing)

Signature: 

Name: Felix Cavaliere

Title: Pres

Date: 10/17/2019

2. For the reasons stated above:

- a. Rascal Clothing hereby consents to the use and registration of the Beata Mark by Beata in connection with the goods and services identified in Application Serial No. 87803534;
- b. Rascal Clothing will, within 5 working days of the Effective Date, file a consented motion to withdraw the Rascal Opposition without prejudice; and
- c. Beata hereby consents to the use and registration of the Rascal Clothing Marks by Rascal Clothing in connection with the goods identified in in Application Serial Nos. 88134337 and 88134339.

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IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement on the date last signed below.

Beata Music LLC

(Beata)

Signature: _____

Name: _____

Title: _____

Date: _____

Rascal Clothing Ltd

(Rascal Clothing)

Signature:  _____

Name: PETER COWGILL

Title: CHAIRMAN

Date: 12/10/19