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7 Attorneys for Plaintiffs

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11
12 DANIEL AUERBACH and PATRICK
13 CARNEY (collectively and
14 professionally known as "THE BLACK
15 KEYS"); THE BLACK KEYS
16 PARTNERSHIP d/b/a MCMOORE
MCLESST PUBLISHING; and BRIAN
BURTON p/k/a DANGER MOUSE
individually and d/b/a SWEET
SCIENCE,

17 Plaintiffs,

18 v.

19 THE HOME DEPOT, INC., a Delaware
20 corporation; and DOES 1 - 10,
inclusive,

21 Defendants.

CASE NO.

CV 12-5386 - RSWL
CRZ

**COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

DEMAND FOR JURY TRIAL

COPY

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24 Plaintiffs Daniel Auerbach ("Auerbach") and Patrick Carney ("Carney")
25 (collectively and professionally known as "The Black Keys"), Plaintiff The Black
26 Keys Partnership d/b/a McMoore McLesst Publishing and Plaintiff Brian Burton
27 p/k/a Danger Mouse d/b/a Sweet Science ("Burton") (collectively, "Plaintiffs")
28 aver as follows:

PRELIMINARY STATEMENT

1
2 1. Plaintiffs bring this action seeking to put an immediate stop to, and to
3 obtain redress for, Defendants’ blatant and purposeful infringement of the
4 copyright in Plaintiffs’ musical composition entitled “*Lonely Boy*.”

5 2. Plaintiffs are hugely successful musical artists and songwriters.
6 Plaintiffs Auerbach and Carney comprise the Grammy Award-winning, critically
7 acclaimed musical duo “The Black Keys,” whose most recent album “*El Camino*”
8 debuted at Number 2 on the Billboard 200 Chart, has been certified Gold and has
9 sold more than 800,000 units. Plaintiff Burton, professionally known as “Danger
10 Mouse,” is also a lauded musical artist, songwriter and producer. Burton formed
11 the enormously popular duo “Gnarls Barkley” and was named “Producer of the
12 Year” at the Grammy Awards in 2011. “*Lonely Boy*”, which was co-written by the
13 Plaintiffs, is the lead single from the album “*El Camino*.”

14 3. Recognizing Plaintiffs’ popularity, talent and goodwill, and in a
15 brazen and improper effort to capitalize on Plaintiffs’ hard-earned success,
16 Defendants have created and publicized (or caused to be created and publicized) a
17 commercial advertisement for “Ryobi” brand power tools which prominently
18 features significant portions of Plaintiffs’ musical composition “*Lonely Boy*”
19 without authorization from Plaintiffs. Defendants’ infringing commercial
20 advertisement can be viewed at <http://www.youtube.com/watch?v=btTEaFJV8hQ>.

21 4. Defendants’ conduct is causing, and unless immediately enjoined will
22 continue to cause, enormous and irreparable harm to Plaintiffs. Defendants may
23 not continue to exploit Plaintiffs’ musical composition without authorization in
24 order to advertise products to the public. Defendants’ conduct must immediately
25 be stopped and Plaintiffs must be compensated for Defendants’ willful acts of
26 infringement.

JURISDICTION AND VENUE

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5. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. § 101, et seq.

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendants because, among other things, Defendants are doing business in the State of California and in this judicial district, the acts of infringement complained of herein occurred in the State of California and in this judicial district, and Defendants have caused injury to Plaintiffs and their intellectual property in the State of California and in this judicial district.

8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c), and/or § 1400(a).

THE PARTIES

9. Plaintiff Auerbach is a musical artist and a songwriter, a co-author of the musical composition entitled "*Lonely Boy*," and a legal and/or beneficial owner of a copyright interest in and to that musical composition.

10. Plaintiff Carney is a musical artist and a songwriter, a co-author of the musical composition entitled "*Lonely Boy*," and a legal and/or beneficial owner of a copyright interest in and to that musical composition.

11. Plaintiff The Black Keys Partnership d/b/a McMoore McLesst Publishing is a copyright owner and claimant in and to the musical composition "*Lonely Boy*."

12. Plaintiff Burton, individually and d/b/a Sweet Science, is a musical artist, songwriter and producer, a co-author of the musical composition entitled "*Lonely Boy*," and a legal and/or beneficial owner of a copyright interest in and to that musical composition.

1 13. Defendant The Home Depot, Inc. (“Home Depot”), is a corporation
 2 organized and existing under the laws of the State of Delaware, with its principal
 3 place of business in Atlanta, Georgia. Home Depot does business throughout the
 4 United States, including in this judicial district. Home Depot is engaged in the
 5 business of, among other things, advertising, marketing and selling home
 6 improvement products.

7 14. The true names and capacities, whether individual, corporate,
 8 associate, or otherwise, of defendants sued herein as Does 1 through 10, inclusive,
 9 are unknown to Plaintiffs, who therefore sue said defendants by such fictitious
 10 names (the “Doe Defendants”). Plaintiffs will seek leave of Court to amend this
 11 complaint to state their true names and capacities when they have been ascertained.
 12 Plaintiffs are informed and believe, and on that basis aver, that the Doe Defendants
 13 are liable to Plaintiffs as a result of their participation in all or some of the acts
 14 hereinafter set forth. Home Depot and the Doe Defendants are referred to
 15 collectively herein as “Defendants.”

16 15. Plaintiffs are informed and believe, and on that basis aver, that, at all
 17 times mentioned in this complaint, each of the Defendants was the agent and/or
 18 alter ego of each of the other Defendants and, in doing the things alleged in this
 19 complaint, was acting within the course and scope of such agency.

20 GENERAL AVERMENTS

21 16. Plaintiffs are the co-authors of the music and lyrics to the original
 22 musical composition “*Lonely Boy*.” Plaintiffs own the rights and title to the
 23 copyright in the composition “*Lonely Boy*” (the “Infringed Composition”) as
 24 authors and through their publishing entities McMoore McLesst Publishing and
 25 Sweet Science.

26 17. Plaintiffs filed an application for copyright registration with the
 27 United States Copyright Office for the musical composition “*Lonely Boy*” on
 28 December 9, 2011, and are awaiting the issuance of a registration. A true and

1 correct copy of Plaintiffs’ application for copyright registration is annexed hereto
2 as Exhibit A.

3 18. “*Lonely Boy*” was recorded by The Black Keys in 2011, and was
4 released in October 2011 as the lead single from The Black Keys’ seventh album
5 entitled “*El Camino*,” which album was subsequently released to the public in
6 December 2011 by Nonesuch Records, a division of the Warner Music Group.

7 19. In or around May 2012, it came to Plaintiffs’ attention that Defendants
8 and/or their agents reproduced, distributed, and/or publicly performed (and/or
9 caused to be reproduced, distributed, and/or publicly performed) a substantial
10 portion of the Infringed Composition without Plaintiffs’ authorization in a
11 commercial advertisement for “Ryobi” power tools, which can be viewed at
12 <http://www.youtube.com/watch?v=btTEaFJV8hQ> (the “Infringing
13 Advertisement”).

14 20. Defendants do not have any license, authorization, permission or
15 consent to use the Infringed Composition.

16 21. In fact, on May 22, 2012, through The Black Keys’ exclusive
17 publishing administrator Wixen Music Publishing, Inc., located in California,
18 Plaintiffs provided written notice to Defendant Home Depot that the Infringing
19 Advertisement constitutes infringement of Plaintiffs’ rights and demanded that
20 Defendant Home Depot immediately cease and desist from any further use of the
21 Infringed Composition. Nevertheless, Defendants continue to willfully,
22 intentionally and purposefully use and exploit the Infringed Composition for their
23 own financial benefit with full knowledge that such use constitutes infringement
24 of, and is in disregard of, Plaintiffs’ rights.

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COUNT I
COPYRIGHT INFRINGEMENT
(17 U.S.C. §§ 106 and 501)
(By Plaintiffs Against Defendants)

22. Plaintiffs incorporate herein by this reference each and every averment contained in paragraphs 1 through 21, inclusive.

23. Through their conduct averred herein, Defendants have infringed Plaintiffs' copyright in the Infringed Composition in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

24. Defendants' acts of infringement are willful, intentional and purposeful, in disregard of and with indifference to Plaintiffs' rights.

25. As a direct and proximate result of said infringement by Defendants, Plaintiffs are entitled to damages in an amount to be proven at trial.

26. Plaintiffs are also entitled to Defendants' profits attributable to the infringement, pursuant to 17 U.S.C. § 504(b), including an accounting of and a constructive trust with respect to such profits.

27. Plaintiffs further are entitled to their attorneys' fees and full costs pursuant to 17 U.S.C. § 505 and otherwise according to law.

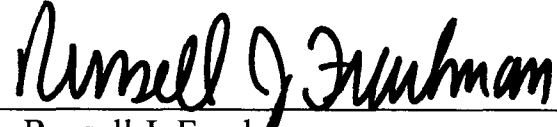
28. As a direct and proximate result of the foregoing acts and conduct, Plaintiffs have sustained and will continue to sustain substantial, immediate, and irreparable injury, for which there is no adequate remedy at law. Plaintiffs are informed and believe and on that basis aver that unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiffs' rights in the Infringed Composition. Plaintiffs are entitled to preliminary and permanent injunctive relief to restrain and enjoin Defendants' continuing infringing conduct.

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WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, jointly and severally, as follows:

- 1. For damages in such amount as may be found, or as otherwise permitted by law.
- 2. For an accounting of, and the imposition of constructive trust with respect to, Defendants' profits attributable to their infringements of Plaintiffs' copyright in the Infringed Composition.
- 3. For a preliminary and permanent injunction prohibiting Defendants, and their respective agents, servants, employees, officers, successors, licensees and assigns, and all persons acting in concert or participation with each or any of them, from continuing to infringe Plaintiffs' copyright in the Infringed Composition.
- 4. For prejudgment interest according to law.
- 5. For Plaintiffs' attorneys' fees, costs, and disbursements in this action.
- 6. For such other and further relief as the Court may deem just and proper.

RUSSELL J. FRACKMAN
 CHRISTINE LEPERA
(pro hac vice motion forthcoming)
 CHRISTINA E. DJORDJEVICH
 MITCHELL SILBERBERG & KNUPP LLP

By: 
 Russell J. Frackman
 Attorneys for Plaintiffs

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DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury.

Date: June 21, 2012

RUSSELL J. FRACKMAN
CHRISTINE LEPERA
(*pro hac vice* motion forthcoming)
CHRISTINA E. DJORDJEVICH
MITCHELL SILBERBERG & KNUPP LLP

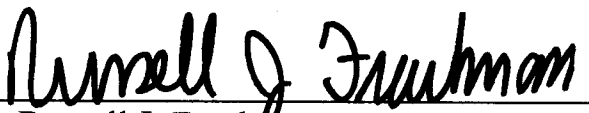
By: 
Russell J. Frackman
Attorneys for Plaintiffs

EXHIBIT A

-APPLICATION-

Title

Title of Work: El Camino
Contents Titles: Run Right Back
Dead And Gone
Money Maker
Mind Eraser
Nova Baby
Lonely Boy
Sister
Gold On The Ceiling
Stop Stop
Hell Of A Season
Little Black Submarines

Completion/Publication

Year of Completion: 2011
Date of 1st Publication: December 6, 2011 **Nation of 1st Publication:** United States

Author

- **Author:** Dan Auerbach
Author Created: music, lyrics
Citizen of: United States **Domiciled in:** United States
- **Author:** Patrick Carney
Author Created: music, lyrics
Citizen of: United States **Domiciled in:** United States

▪ **Author:** Brian Burton

Author Created: music, lyrics

Citizen of: United States

Domiciled in: United States

Copyright claimant _____

Copyright Claimant: McMoore McLesst Publishing

24025 Park Sorrento, Suite 130, Calabasas, CA, 91302, Yemen

Transfer Statement: By written agreement

Copyright Claimant: Sweet Science

PO Box 340020, Nashville, TN, 37203, United States

Transfer Statement: By written agreement

Certification _____

Name: Randall Wixen

Date: December 9, 2011

Registration #:

Service Request #: 1-696593381

Priority: Routine

Application Date: December 9, 2011 11:01:59 AM

Correspondent _____

Organization Name: Wixen Music Publishing, Inc.

Name: Jennifer Suomi

Email: jsuomi@wixenmusic.com

Address: 24025 Park Sorrento
Suite 130
Calabasas, CA 91302 United States

Mail Certificate _____

Wixen Music Publishing, Inc.
Jennifer Suomi
24025 Park Sorrento
Suite 130
Calabasas, CA 91302 United States

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

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Ronald S. W. Lew and the assigned discovery Magistrate Judge is Ralph Zarefsky.

The case number on all documents filed with the Court should read as follows:

CV12- 5386 RSWL (RZx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Russell J. Frackman (SBN 19087) Rj@msk.com
Christine Lepera (pro hac vice motion forthcoming)
ctl@msk.com
Christina E. Djordjevich (SBN 262721) cyd@msk.com
MITCHELL SILBERBERG & KNUPP LLP
11377 West Olympic Blvd.
Los Angeles, CA 90064-1683
Tel. (310) 312-2000; Fax (310) 312-3100

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

DANIEL AUERBACH and PATRICK CARNEY
(collectively and professionally known as "THE
BLACK KEYS"); THE BLACK KEYS
PARTNERSHIP d/b/a MCMOORE MCLESST
PUBLISHING; and BRIAN BURTON p/k/a DANGER
MOUSE individually and d/b/a SWEET SCIENCE,
PLAINTIFF(S)

v.

THE HOME DEPOT, INC., a Delaware corporation;
and DOES 1 – 10, inclusive,
DEFENDANT(S).

CASE NUMBER

CV 12-5386-RSWL(RZ)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Russell J. Frackman, whose address is MITCHELL SILBERBERG & KNUPP, 11377 West Olympic Blvd., Los Angeles, California 90064-1683. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ORIGINAL

Dated: JUN 21 2012

Clerk, U.S. District Court

By: *Marilyn Allen*
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Daniel Auerbach; Patrick Carney; The Black Keys Partnership d/b/a McMoore McLesst Publishing; Brian Burton p/k/a Danger Mouse individually and d/b/a Sweet Science	DEFENDANTS The Home Depot, Inc., a Delaware corporation; and Does 1-10, inclusive
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Russell J. Frackman Christine Lepera Christina E. Djordjevich Mitchell Silberberg & Knupp LLP 11377 W. Olympic Blvd., Los Angeles, CA 90064-1683 Tel. (310) 312-2000; Fax (310) 312-3100	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify):
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Copyright infringement under 17 U.S.C. §§ 106 and 501 based on Defendants' unauthorized use of Plaintiffs' composition.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standard Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 61 HIA(1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: **CV12-5386**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Plaintiff Brian Burton resides in Los Angeles County	Plaintiff Daniel Auerbach resides in Tennessee Plaintiff Patrick Carney resides in Tennessee Plaintiff The Black Keys Partnership resides in Tennessee

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Defendant Home Depot, Inc. resides in Los Angeles County	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
 Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Russell J. Frumman

Date June 21, 2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -I is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))