

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FELD ENTERTAINMENT, INC. and
RINGLING BROS.-BARNUM & BAILEY
COMBINED SHOWS, INC.,

Plaintiffs,

v.

Case No: 8:17-cv-3075-MSS-TBM

ROBERT JAMES RITCHIE and LIVE
NATION ENTERTAINMENT, INC.,

Defendants.

_____ /

ORDER

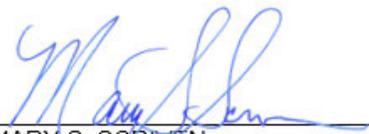
THIS CAUSE comes before the Court for consideration of Plaintiffs' Motion for Preliminary Injunction (Dkt. 8), Defendants' response in opposition thereto (Dkt. 21), and Plaintiffs' Reply. (Dkt. 41) It is well established that a preliminary injunction is an "extraordinary and drastic" equitable remedy that will only be granted if the moving party clearly shows that "(1) it has a substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest." ACLU of Fla., Inc. v. Miami-Dade County Sch. Bd., 557 F. 3d 1177, 1198 (11th Cir. 2009).

On January 16, 2018, the Court held a hearing on Plaintiffs' Motion for Preliminary Injunction. The Court finds that a preliminary injunction should not be granted at this time for the reasons set forth on the record at the hearing, including but not limited to the following:

1. The statistical data submitted on the evidentiary record is insufficient for the Court to find that Plaintiffs have met their burden of establishing likelihood of success on the merits of their dilution by blurring/tarnishment claims.
2. Plaintiffs failed to address at all the impact of Twentieth Century Fox Television a division of Twentieth Century Fox Film Corp. v. Empire Distribution, Inc., 875 F.3d 1192 (9th Cir. 2017), on the countervailing interest of Defendant's right to free expression in the marketing and promotion of his expressive work, which bears the same name as the Plaintiffs' claimed trademark; and
3. Plaintiffs have provided no allegation in their pleading to establish that Feld Entertainment, Inc. has standing to enforce any rights associated with Ringling Bros.-Barnum & Bailey Combined Shows, Inc.'s trademark.

Accordingly, it is hereby **ORDERED** that Plaintiffs' Motion for Preliminary Injunction (Dkt. 8) is **DENIED without prejudice**. Plaintiffs may refile their motion for preliminary injunction consistent with the Court's directives at the hearing, if appropriate.

DONE and **ORDERED** in Tampa, Florida, this 18th day of January, 2018.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Person