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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91160913
Party	Plaintiff Tiffany (NJ) Inc. ,
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Submission	Motion to Suspend for Civil Action
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Date	10/25/2005
Attachments	Opposer's Motion to Suspend Opposition.pdf (28 pages)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TIFFANY (NJ) INC.,	X	
	:	
Opposer,	:	
	:	
-against-	:	Opp. No. 91160913
	:	
ANTHONY SIRAGUSA and	:	
MICHAEL ROMANELLI,	:	
	:	
Applicants.	:	
	X	

OPPOSER’S MOTION TO SUSPEND OPPOSITION

Opposer Tiffany (NJ) Inc. (“Opposer”), pursuant to 37 C.F.R. § 2.117(a) and TMEP § 510.02(a), hereby moves to suspend the present opposition pending the final determination of a civil suit filed in the U.S. District Court for the District of New Jersey.

On October 24, 2005, Opposer Tiffany (NJ) Inc., along with its related company Tiffany and Company, filed a trademark infringement, dilution, and unfair competition/false designation of origin action against Applicants Michael Romanelli and Anthony Siragusa, as well as against defendants Dominic Romanelli, Jr., Bruno D’uva, Lisa Barna, Tiffany Franchise Systems, LLC, and John Does 1-10, based on Opposer’s and Tiffany and Company’s rights in their TIFFANY and TIFFANY & CO. marks, which are the subject of this opposition. That action, entitled *Tiffany and Company v. Romanelli*, Case No. 05-5074 (DMC) (D.N.J., filed Oct. 24, 2005) (the “Action”), currently is pending in the U.S. District Court for the District of New Jersey. A copy of the complaint in the Action is attached hereto as Exhibit 1.

The District Court will be deciding the same issues in the Action necessary for determination of this opposition. Suspending this proceeding will therefore save both Opposer and Applicant time and expense, and will reduce the burden on the resources of the U.S Patent &

Trademark Office. The Board routinely grants motions to suspend pending the outcome of a pending civil action which may be dispositive of an *inter partes* proceeding before the Board. 37 C.F.R. 2.117(a); TBMP § 510.02(a); *see also, e.g., General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 U.S.P.Q.2d 1933, 1936-37 (T.T.A.B. 1992) (suspending cancellation proceeding); *Other Telephone Co. v. Connecticut National Telephone Co.*, 181 U.S.P.Q. 125, 126-27 (T.T.A.B. 1974) (suspending opposition proceeding).

Therefore, Opposer respectfully requests that its motion to suspend be granted.

Dated: New York, New York
October 25, 2005

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: 

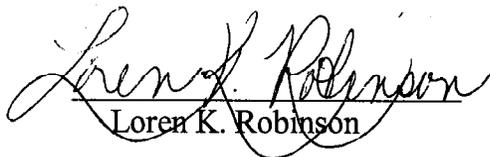
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Attorneys for Opposer Tiffany (NJ) Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the attached Opposer's Motion to Suspend Opposition was served by prepaid first-class U.S. Mail on October 25, 2005, on Scott E. Charney, Esq., Lerner, David, Littenberg, Krumholz & Mentlik, LLP, 600 South Avenue West, Westfield, New Jersey 07090, counsel for Applicants Anthony Siragusa and Michael Romanelli.


Loren K. Robinson

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EXHIBIT 1

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Attorneys for Plaintiffs
TIFFANY AND COMPANY AND TIFFANY (NJ) INC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

TIFFANY AND COMPANY and
TIFFANY (NJ) INC.,

Plaintiffs,

v.

MICHAEL ROMANELLI, ANTHONY
SIRAGUSA, DOMINIC ROMANELLI,
JR., BRUNO D'UVA, LISA BARNA,
TIFFANY FRANCHISE SYSTEMS,
LLC, and JOHN DOES 1-10,

Defendants.

Case No.:

05-5074 CDMC

**COMPLAINT FOR PERMANENT
INJUNCTION AND DAMAGES FOR:**

- (1) **FEDERAL TRADEMARK INFRINGEMENT [15 U.S.C. § 1114];**
- (2) **FEDERAL TRADEMARK DILUTION [15 U.S.C. § 1125(c)];**
- (3) **FEDERAL UNFAIR COMPETITION [15 U.S.C. § 1125(a);**
- (4) **STATE FALSE DESIGNATION OF ORIGIN [N.J. Stat. § 56:4-1];**
- (5) **STATE DILUTION [N.J. Stat. § 56:3-13.20];**
- (6) **COMMON LAW TRADEMARK INFRINGEMENT.**

Plaintiffs Tiffany and Company and Tiffany (NJ) Inc. (collectively, "Plaintiffs"), by their attorneys Fross Zelnick Lehrman & Zissu, P.C. and Robinson & Livelli, for their complaint against

Defendants Michael Romanelli, Anthony Siragusa, Dominic Romanelli, Jr., Bruno D'uva, Lisa Barna, Tiffany Franchise Systems, LLC, and John Does 1-10 (collectively, "Defendants"), allege as follows:

SUBSTANCE OF THE ACTION

1. This action arises out of Defendants' attempt to create a restaurant empire under the TIFFANY trademark, a mark used by Plaintiffs and their predecessors for over 150 years, and a mark that is one of the most famous trademarks in the world. Defendants' conduct only came to light recently, when it was discovered that Defendant Michael Romanelli had gone from owning one restaurant called "Tiffany's Casual Dining and Bar" with his brother Defendant Domenic Romanelli Jr. in Union, New Jersey to owning or franchising at least four restaurants under the names "Tiffany's Casual Dining and Bar" or "Tiffany's Restaurants" with several partners or franchisees. This sudden expansion of Defendants' use of the TIFFANY mark was accompanied by the filing of an application to register the mark TIFFANY'S RESTAURANTS with the U.S. Patent & Trademark Office, by the establishment of Defendant Tiffany Franchise Systems, LLC, by the franchising of the TIFFANY mark to third parties, and by the selling of various products under TIFFANY marks or confusingly similar marks. From a single restaurant, Defendants now are creating an industry that trades on the TIFFANY mark and threatens the value and reputation of Plaintiffs' own world-famous TIFFANY marks. All of Defendants' actions are without Plaintiffs' permission. All of Defendants' actions have been conducted after Plaintiffs' marks became famous. And, upon information and belief, all of Defendants' actions have been conducted with knowledge of the fame of Plaintiffs' TIFFANY trademarks.

2. Plaintiffs assert claims against all Defendants for trademark infringement under §32(1) of the United States Trademark Act of 1946, as amended (the "Lanham Act"); false designation of origin and unfair competition under §43(a) of the Lanham Act, 15 U.S.C. §1125(a); dilution under §43(c) of the Lanham Act, 15 U.S.C. §1125(c); and substantial and related claims under New Jersey law. Plaintiffs seek injunctive relief; an accounting and award of Defendants' profits derived from their unlawful activities and/or Plaintiffs' damages, which

amount should be trebled; prejudgment interest; attorneys' fees; costs; and any other relief the Court deems just and proper.

PARTIES

3. Plaintiff Tiffany and Company is a corporation organized under the laws of the State of New York, with a principal place of business at 727 Fifth Avenue, New York NY 10022.

4. Plaintiff Tiffany (NJ) Inc., an affiliate of Tiffany and Company that owns certain of that company's intellectual property, is a corporation organized and existing under the laws of the State of New Jersey with a principal place of business at 15 Sylvan Way, Parsippany NJ 07054.

5. Upon information and belief, Defendant Michael Romanelli is a New Jersey resident with a principal place of business at 73 Route 46 West, Pine Brook, NJ 07058. Mr. Romanelli is the owner or co-owner and operator of three restaurants in Union, Morris Plains, and Pine Brook, New Jersey presently operating under the names TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS. Mr. Romanelli also is the co-owner of Defendant Tiffany Franchise Systems, LLC ("TFS").

6. Upon information and belief, Defendant Anthony Siragusa is a New Jersey resident with a principal place of business at 73 Route 46 West, Pine Brook, NJ 07058. Mr. Siragusa, a former professional football player for the Super Bowl-winning Baltimore Ravens, and currently a sports commentator and actor, is the co-owner of a restaurant in Pine Brook, New Jersey presently operating under the names TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS. Mr. Siragusa also is the co-owner of Defendant TFS.

7. Upon information and belief, Defendant Domenic Romanelli Jr. is a New Jersey resident with a principal place of business at 1637 Vauxhall Road, Union, NJ 07083. Mr. Romanelli is the co-owner and operator of a restaurant in Union, New Jersey presently operating under the names TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS.

8. Upon information and belief, Defendant Bruno D'Uva is a New Jersey resident with a

principal place of business at 270 Route 37 West, Toms River, NJ 08753. Mr. D'Uva is the co-owner and operator of a restaurant in Toms River, New Jersey presently operating under the name TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS that was franchised by TFS.

9. Upon information and belief, Defendant Lisa Barna is a New Jersey resident with a principal place of business at 270 Route 37 West, Toms River, NJ 08753. Ms. Barna is the co-owner and operator of a restaurant in Toms River, New Jersey presently operating under the name TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS that was franchised by TFS.

10. Upon information and belief, Defendant Tiffany Franchise Systems, LLC is a New Jersey limited liability company with its principal place of business at 73 Old Bloomfield Avenue, Pine Brook, NJ 07058. Upon information and belief TFS franchised the TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS names and marks to third parties, including Defendants D'Uva and Barna, or to a business associated with those two Defendants. Upon information and belief, Defendants Michael Romanelli and Anthony Siragusa are the sole owners and/or officers of TFS.

11. Upon information and belief, the John Doe Defendants are individuals or entities residing or continuously and systematically conducting and transacting business in this district, including the unlawful offering for sale and sale of goods and services under the TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS marks. Upon learning of the specific identity of said Defendants, which shall include any additional entities who have franchised the TIFFANY'S CASUAL DINING AND BAR or TIFFANY'S RESTAURANTS marks, Plaintiffs shall move to substitute the named parties or to otherwise amend the complaint.

JURISDICTION AND VENUE

12. This Court has jurisdiction over the subject matter of this action pursuant to Sections 1331, 1338(a) and 1338(b) of the Judicial Code, 28 U.S.C. §§ 1331, 1338(a)-(b). The Court has supplemental jurisdiction over the state law claims under Section 1367(a) of the Judicial Code,

28 U.S.C. §§ 1367(a).

13. Upon information and belief, this Court has personal jurisdiction over Defendants because they reside in this district or continuously and systematically conduct and transact business in this district, including the ongoing unlawful conduct complained of herein.

14. Upon information and belief, venue is proper in this district pursuant to Section 1391(b) of the Judicial Code, 28 U.S.C. § 1391(b), because Defendants reside in or have regular and established places of business in this district, a substantial part of the events at issue and Defendants' acts of infringement have occurred in this district, Defendants may be found in this district, and Plaintiffs are suffering harm in this district.

**FACTS COMMON TO
ALL CLAIMS FOR RELIEF**

A. Plaintiffs' Business and Use of the TIFFANY Marks

15. Plaintiff Tiffany and Company is a specialty retailer whose business consists of the design, manufacture, and sale of a variety of high-quality consumer products for personal and household use and adornment. Among the products it offers for sale are jewelry; china, crystal, glassware, dinnerware and tabletop accessories such as candlesticks, bowls and serving items; flatware; tea and coffee services; trays; bar and smoking accessories; vases; watches and clocks; stationery and desk accessories; leather goods; and sporting accessories. Tiffany and Company also offers various services, including retail store, catalog, Internet and personal shopping services, repair services, custom design services, business-to-business gift services, and wedding registry services. Tiffany and Company's products, designed to appeal to everyone who appreciates beauty and style, range in price from about \$25 for items such as crystal beer mugs to hundreds of thousands of dollars for one-of-a-kind jewelry creations. As a result, an extremely broad cross-section of the public recognizes and is familiar with Tiffany and Company, its goods and services, and its TIFFANY marks.

16. Tiffany and Company was founded in 1837, when Charles Lewis Tiffany opened his first fancy goods and stationery store in New York City. In addition to the enormous fame and

prestige Tiffany and Company soon acquired for its jewelry and related goods and services, its first Design Director, Lewis Comfort Tiffany, soon became world-renowned for the innovative and stylish Art Noveau designs he created for Tiffany and Company, including his richly-colored, iridescent stained glass windows and lamps. Over the course of its more than 150-year history Tiffany and Company has sold jewelry to First Ladies from Mary Todd Lincoln to Jacqueline Kennedy, bought and sold the French Crown Jewels, engraved the invitation for the opening of the Statue of Liberty, and designed creations ranging from the modern Great Seal of the United States to the Vince Lombardi Super Bowl Trophy.

17. Tiffany and Company has grown to encompass more than 150 retail locations in 17 countries throughout the world, as well as a successful catalog business and an active Internet site at tiffany.com. In the U.S. alone, Tiffany and Company has over 55 retail locations and has distributed millions of catalogs to customers and potential customers over the last few decades. In fiscal 2004 (which ended January 31, 2005, the last period for which Tiffany and Company's parent company, a publicly traded company listed on the New York Stock Exchange, reported annual sales), it had U.S. net sales of over \$1 billion and worldwide net sales of over \$2.2 billion.

18. As noted in a 1940 *Harper's Bazaar* article, "Tiffany has long ceased to be merely a name. It has taken a place in our vernacular. No dictionary, but a cavalcade of associations, arises to define it." Indeed, Tiffany and Company repeatedly has been celebrated in film, song, and popular culture over the decades, from the classic 1961 Audrey Hepburn film "Breakfast at Tiffany's" to the 2002 film "Sweet Home Alabama" and beyond. In 2004, *Trademark World* identified TIFFANY as the second most famous or well-known brand as recognized by courts worldwide. In that same year *Business Week* and *Women's Wear Daily* found TIFFANY to be one of the top 100 best-known and valuable brands in the world.

19. In a continuing effort to associate the long-standing reputation and fame of the TIFFANY name and mark with its goods and services, Tiffany and Company marks all of the products it makes and sells with the trademarks TIFFANY, TIFFANY & CO., or T & CO., and uses one or more of these marks in connection with all of its services. Even pieces that are

made by third-party manufacturers for Tiffany and Company usually bear a legend such as "Made exclusively for Tiffany & Co., New York." All of Tiffany and Company's products also are packaged in its distinctive robin's-egg blue box and related packaging, which bear the mark TIFFANY & CO.

20. Plaintiffs own dozens of federal trademark registrations for the TIFFANY and TIFFANY & CO. trademarks (collectively, the "Tiffany Marks"), some of which are based on more than a century of use. Among the various registrations Plaintiffs own for these marks are:

MARK	REG. NO.	REGISTRATION DATE	GOODS
TIFFANY	133,063	7/6/1920	Jewelry for Personal Wear, Not Including Watches; Precious Stones, and Flat and Hollow Ware Made of or Plated with Precious Metal
TIFFANY	135,827	10/19/20	Chinaware, Bric-A-Brac, Earthenware, and Porcelain.
TIFFANY & CO.	137,723	11/30/20	Chinaware, Bric-A-Brac, Earthenware, and Porcelain.
TIFFANY	134,448	8/31/20	Table-Glassware
TIFFANY & CO.	134,449	8/31/20	Table-Glassware.
TIFFANY & CO.	1,292,942	9/4/84	Glasses, Bowls, Vases, Jars, Boxes, Buckets, Baskets, Cups, Decanters, Carafes, Candleholders, Pitchers, and Sugar Bowl and Creamer Sets All Made of Crystal.
TIFFANY & CO.	2,013,335	11/5/96	Electric lamps; hurricane candle lamps.
TIFFANY	2,710,099	11/9/00	Stainless steel serving utensils for serving food; stainless steel serving forks; stainless steel serving spoons.
TIFFANY & CO.	2,569,969	5/14/02	Stainless steel flatware and stainless steel cutlery.

All of the registrations listed are valid, subsisting, and in full force and effect.

21. The products Plaintiffs sell in connection with the Tiffany Marks are and have

been extensively advertised for more than a century in media including television, radio, print publications, and point of sale. Presently, Plaintiffs spend more than \$100 million per year on advertising and promoting their goods and services, and all of their packaging, advertisements, and promotions prominently features the Tiffany Marks. In addition to Plaintiffs' own advertising, products branded with the Tiffany Marks frequently are the subject of unsolicited coverage in a wide variety of media. This coverage reaches hundreds of millions of consumers worldwide.

22. Products bearing the Tiffany Marks are among the most desired and sought-after products in the world. Products sold by Plaintiffs under these marks are well-known across all social and demographic groups and are in extremely high demand.

23. As a result of their extensive use, advertising, and public acclaim throughout the world for more than 150 years, the TIFFANY and TIFFANY & CO. marks have become uniquely associated with Plaintiffs and their products and services.

B. Defendants' Conduct

24. In 1980, without Plaintiffs' knowledge or consent, Defendant Michael Romanelli and his brother Defendant Domenic Romanelli Jr. founded a restaurant in Union, New Jersey named TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS. Upon information and belief, Michael and Domenic Romanelli continue to own and operate this restaurant under the TIFFANY mark to the present day.

25. Eighteen years after opening the Union restaurant, in 1998, without Plaintiffs' knowledge or consent, Defendant Michael Romanelli opened a second restaurant named TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS in Morris Plains, New Jersey. Upon information and belief, he continues to own and operate this restaurant under the TIFFANY mark to the present day. The opening of this restaurant eighteen years after the founding of his initial New Jersey restaurant was the beginning of Defendants' concerted effort to expand their use of the TIFFANY mark, and marked a sea change in the

nature of Defendants' conduct. This new and wholly objectionable change in the use of the TIFFANY mark in connection with Defendants' business includes but is not limited to the activities detailed in the following paragraphs.

26. First, in 1999, without Plaintiffs' knowledge or consent, Defendant Michael Romanelli expanded his use of the TIFFANY mark by opening, together with a new partner from outside his family, former professional football player and Defendant Anthony Siragusa, a third restaurant named TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS in Pine Brook, New Jersey. Upon information and belief, Michael Romanelli and Anthony Siragusa continue to own and operate this restaurant under the TIFFANY mark to the present day.

27. Second, without Plaintiffs' knowledge or consent, Defendant Siragusa, who serves as a sports commentator on radio and television, began to promote the Union, Morris Plains, and Pine Brook restaurants on his shows, and began to broadcast his radio show from the Pine Brook restaurant.

28. Third, without Plaintiffs' knowledge or consent, Defendants Michael Romanelli and Siragusa decided to increase their unauthorized use of the TIFFANY trademark, which does not belong to them, by franchising that mark. Towards this end, they founded Defendant TFS to franchise the restaurant trade name and mark and concept to third parties.

29. Fourth, without Plaintiffs' knowledge or consent, Defendants began promoting the Union, Morris Plains, and Pine Brook restaurants on a website at <tiffanysrestaurant.com>.

30. Fifth, without Plaintiffs' knowledge or consent, Defendants, recognizing the association between the TIFFANY'S CASUAL DINING AND BAR and TIFFANY'S RESTAURANTS names and Plaintiffs' Tiffany Marks, began giving away gift certificates to Tiffany and Company's stores to customers at the Union, Morris Plains, and Pine Brook restaurants as promotional items.

31. Sixth, without Plaintiffs' knowledge or consent, Defendants Romanelli and Siragusa applied to register TIFFANY'S RESTAURANTS with the U.S. Patent and Trademark Office

("PTO") as a trademark for "food restaurant services." After the February 24, 2004 publication of this application, U.S. App. Serial No. 76/520,262, Tiffany (NJ) Inc. opposed the application on the ground that it would cause confusion with and dilute Plaintiffs' own TIFFANY marks. This opposition remains pending before the Trademark Trial and Appeal Board of the PTO.

32. Seventh, without Plaintiffs' knowledge or consent, Defendants began to distribute and sell a beer at their restaurants that they named TIFFANY'S AMERICAN ALE.

33. Eighth, without Plaintiffs' knowledge or consent, Defendant TFS franchised its first restaurant under the name TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS to Defendants Bruno D'Uva and Lisa Barna, or to a company associated with those Defendants. Upon information and belief, this new restaurant opened in Toms River, New Jersey in 2005 and operates under the TIFFANY mark to the present day.

34. In connection with all of this conduct, Defendants are selling food and beverages to the general public in connection with or under the TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS marks, and/or other marks including TIFFANY or TIFFANY'S.

35. Further, upon information and belief, all of the restaurants owned, operated, and franchised by Defendants also sell merchandise, including hats, t-shirts, and beer glasses, branded with the TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS marks, and/or other marks including TIFFANY or TIFFANY'S.

36. Upon information and belief, all of the restaurants owned, operated, and franchised by Defendants advertise and promote their goods and services in various media, including print, radio, and the Internet, using the marks TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS, and/or other marks including TIFFANY or TIFFANY'S.

37. None of Defendants have ever been authorized or permitted by Plaintiffs to use, apply to register, or register the names TIFFANY'S CASUAL DINING AND BAR or TIFFANY'S RESTAURANTS, or any other marks including TIFFANY or TIFFANY'S, for or in connection with their restaurants or any other goods or services.

38. As a matter of law, Defendants were on constructive notice of the Tiffany Marks by virtue of Plaintiffs' registrations when they each first used and/or authorized third parties to use the names TIFFANY'S CASUAL DINING AND BAR and/or TIFFANY'S RESTAURANTS, and/or any other marks including TIFFANY or TIFFANY'S, in connection with their goods and services. As a matter of fact, given the overwhelming fame of the Tiffany Marks, and given Defendants' distribution of Tiffany and Company gift certificates to their customers, Defendants clearly also were on actual notice of the Tiffany Marks as well.

39. Upon information and belief, Defendants have been and are using marks confusingly similar to the Tiffany Marks in connection with their goods and services without Plaintiffs' consent in order to benefit from the recognition and goodwill of the Tiffany Marks, and in order to benefit from the desirability and recognition among Defendants' consumers of products bearing these marks. Defendants' conduct is calculated to commercially benefit from Plaintiffs' fame and goodwill.

40. Upon information and belief, Defendants' adoption, use, and franchising of marks that incorporate the world-famous TIFFANY trademarks has been and is with the knowledge of Plaintiffs' exclusive rights to these marks, with knowledge of the tremendous fame and reputation of the marks, and with knowledge that the Tiffany Marks are associated with Plaintiffs' products and services.

41. Upon information and belief, Defendants' use of marks confusingly similar to the Tiffany Marks has been and is with the deliberate intent to ride on the fame and goodwill of the Tiffany Marks. The goodwill that Plaintiffs have built up in their marks through years of substantial investment and effort is put at risk by virtue of Defendants' imitation of their trademarks. Defendants' conduct has been and is transparently designed to and is likely to create confusion in the marketplace as consumers will assume that Defendants' products or services are authorized by, endorsed by, licensed by, or otherwise are associated with Plaintiffs.

42. Upon information and belief, Defendants' use of marks confusingly similar to Plaintiffs' Tiffany Marks, which began long after the Tiffany Marks became distinctive and

famous, also has been and is with the deliberate intent to dilute the distinctive quality of the Tiffany Marks.

43. These acts are likely to injure Plaintiffs' goodwill and reputation and dilute the distinctiveness of the Tiffany Marks. The use by Defendants of marks confusingly similar to the Tiffany Marks unfairly and unlawfully wrests from Plaintiffs control over their trademarks and reputation. Plaintiffs have no control over the quality of Defendants' products or services which are being sold under marks confusingly similar to those of Plaintiffs. Defendants' conduct also has diluted, will dilute, and/or is likely to dilute the distinctive quality of the Tiffany Marks by lessening their capacity to identify and distinguish Plaintiffs exclusively as the source of goods and services bearing or provided under the Tiffany Marks. If Defendants' conduct is not enjoined, it will greatly injure the value of the Tiffany Marks and the ability of those marks to indicate goods and services emanating from a single source, namely Plaintiffs.

44. Defendants' unauthorized acts as described herein have caused and will continue to cause irreparable damage to Plaintiffs' business and goodwill unless permanently restrained by this Court. Plaintiffs have no adequate remedy at law.

**FIRST CLAIM FOR RELIEF AGAINST ALL DEFENDANTS:
TRADEMARK INFRINGEMENT OF THE TIFFANY MARKS (15 U.S.C. § 1114(1))**

45. Plaintiffs repeat and reallege paragraphs 1 through 44 above as if fully set forth herein.

46. Defendants' unauthorized use, including franchising, of marks identical or confusingly similar to the Tiffany Marks for or in connection with their restaurants, the advertising and promotion thereof, and other goods and services is likely to cause confusion, or to cause mistake, or to deceive consumers or potential consumers and the public as to the source or sponsorship of their goods and services. Consumers are likely to be misled into believing that Defendants are associated or affiliated with Plaintiffs, or that Defendants' products and services were licensed by, sponsored by, or otherwise approved by Plaintiffs.

47. Upon information and belief, Defendants were on actual and constructive notice of Plaintiffs' exclusive rights in the registered Tiffany Marks. Defendants' use of marks identical or confusingly similar to the Tiffany Marks is willful and in bad faith, and was done with knowledge of the goodwill and reputation associated with the Tiffany Marks, and with knowledge that Defendants have no right, license, or authority to use or franchise the Tiffany Marks or any other mark confusingly similar thereto.

48. Defendants' acts are intended to reap the benefit of the goodwill that Plaintiffs have created in their marks and constitute a violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

49. Defendants' conduct has caused and is causing immediate and irreparable injury to Plaintiffs and will continue to both damage Plaintiffs and deceive the public unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

**SECOND CLAIM FOR RELIEF AGAINST ALL DEFENDANTS:
FEDERAL DILUTION OF THE TIFFANY MARKS (15 U.S.C. §1125(c)(1))**

50. Plaintiffs repeat and reallege paragraphs 1 through 44 above as if fully set forth herein.

51. The Tiffany Marks are inherently distinctive and extraordinarily famous and well-known throughout the United States. By reason of Plaintiffs extensive advertising and use of the Tiffany Marks for well over a century, the Tiffany Marks have become highly distinctive of Plaintiffs' goods and services and are uniquely associated with Plaintiffs.

52. Defendants' unauthorized use, including franchising, of marks identical or substantially similar to the Tiffany Marks for their restaurants and other goods and services commenced long after the Tiffany Marks were federally registered and had become famous and distinctive.

53. Defendants unauthorized use, including franchising, of marks identical or substantially similar to the Tiffany Marks for their restaurants and other goods and services has

diluted, will dilute, and/or is likely to dilute the distinctive quality of Plaintiffs' famous Tiffany Marks by lessening their capacity to identify and distinguish Plaintiffs exclusively as the source of goods and services bearing or provided under the Tiffany Marks, in violation of 15 U.S.C. §1125(c).

54. Defendants' intentional use, including franchising, of marks identical or substantially similar to the Tiffany Marks for their own commercial business purposes is intended to and has the effect of trading on Tiffany and Company's reputation and causing dilution of Plaintiffs' famous Tiffany Marks.

55. Defendants' conduct has caused and is causing immediate and irreparable injury to Plaintiffs and will continue to damage Plaintiffs unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

**THIRD CLAIM FOR RELIEF AGAINST ALL DEFENDANTS:
FALSE DESIGNATION OF ORIGIN/
UNFAIR COMPETITION (15 U.S.C. § 1125(a)(1)(A))**

56. Plaintiffs repeat and reallege paragraphs 1 through 44 above as if fully set forth herein.

57. The Tiffany Marks are identified and associated in the public's mind exclusively with Plaintiffs. The Tiffany Marks are famous, highly distinctive of Plaintiffs, and are entitled to the broadest scope of protection.

58. Defendants' entire course of conduct in their unauthorized use of the TIFFANY name and mark for their restaurants and in connection with the sale of products at their restaurants is likely to cause confusion, or to cause mistake, or to deceive consumers or potential consumers and the public as to the source or sponsorship of Defendants' goods and services. Given the fame of the Tiffany Marks and the broad scope of products provided by Plaintiffs under the Tiffany Marks, consumers are likely to be misled into believing that Defendants are associated or affiliated with Plaintiffs, and that Defendants' products or services provided under marks whose prominent and sole source-identifying feature is TIFFANY were licensed by, sponsored by, or

otherwise approved by Plaintiffs.

59. Upon information and belief, Defendants were on actual and constructive notice of Plaintiffs' exclusive rights in the Tiffany Marks. Defendants' use of such marks is willful and in bad faith, and was done with full knowledge of the goodwill and reputation associated with the Tiffany Marks, and with full knowledge that Defendants have no right, license or authority to use the Tiffany Marks, or any other marks or trade dress confusingly similar thereto.

60. Defendants' acts are intended to reap the benefit of the goodwill that Plaintiffs have created in their marks, and constitute false designation of origin and unfair competition under Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. §1125(a)(1)(A).

61. Defendants' conduct has caused and is causing immediate and irreparable injury to Plaintiffs and will continue to both damage Plaintiffs and deceive the public unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

**FOURTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS:
UNFAIR COMPETITION
UNDER NEW JERSEY STATE LAW (N.J. Stat. § 56:4-1)**

62. Plaintiffs repeat and re-allege Paragraphs 1 through 44 above as if fully set forth herein.

63. Defendants are using marks identical or confusingly similar to Plaintiffs' prior used and registered Tiffany Marks on goods and services related to certain of Plaintiffs' goods and services, and that are marketed to the same consumer base as certain of Plaintiffs' goods and services. As a result, consumers are likely to believe that Defendants' goods and services are sponsored by, associated with, authorized by, endorsed by or otherwise connected with Plaintiffs.

64. By the actions alleged herein, Defendants have caused and will continue to cause consumers to be confused as to the source, sponsorship, or approval of the goods offered under their marks in violation of N.J. Stat. § 56:4-1.

65. Defendants' conduct has caused and is causing immediate and irreparable injury to Plaintiffs and will continue to both damage Plaintiffs and deceive the public unless enjoined by

this Court. Plaintiffs have no adequate remedy at law.

**FIFTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS:
DILUTION UNDER NEW JERSEY LAW (N.J. Stat. § 56:3-13.20)**

66. Plaintiffs repeat and reallege paragraphs 1 through 44 above as if fully set forth herein.

67. The Tiffany Marks are inherently distinctive and extraordinarily famous and well-known in the state of New Jersey and throughout the U.S. By reason of Plaintiffs' extensive advertising and use of the Tiffany Marks for well over a century, the Tiffany Marks have become highly distinctive of Plaintiffs' goods and services and are uniquely associated with Plaintiffs.

68. Defendants' unauthorized use, including franchising, of marks identical or substantially similar to the Tiffany Marks for their restaurants and other goods and services commenced long after the Tiffany Marks were federally registered and had become famous and distinctive.

69. Defendants unauthorized use, including franchising, of marks identical or substantially similar to the Tiffany Marks for their restaurants and other goods and services has diluted, will dilute, and/or is likely to dilute the distinctive quality of Plaintiffs' famous Tiffany Marks by lessening their capacity to identify and distinguish Plaintiffs exclusively as the source of goods and services bearing or provided under the Tiffany Marks, in violation of N.J. Stat. § 56:3-13.20.

70. Defendants' intentional use, including franchising, of marks identical or substantially similar to the Tiffany Marks for their own commercial business purposes is intended to and has the effect of trading on Tiffany's reputation and causing dilution of Plaintiffs' famous Tiffany Marks under New Jersey state law.

71. Defendants' conduct has caused and is causing immediate and irreparable injury to Plaintiffs and will continue to damage Plaintiffs unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

SIXTH CLAIM FOR RELIEF
COMMON LAW TRADEMARK INFRINGEMENT

72. Plaintiffs repeat and re-allege Paragraphs 1 through 44 above as if fully set forth herein.

73. Defendants have appropriated and are using marks identical or confusingly similar to Plaintiffs' Tiffany Marks with full knowledge of Plaintiffs' prior use of, and the fame and success of, the Tiffany Marks. Defendants' use of marks identical or confusingly similar to Plaintiffs' Tiffany Marks for their own goods and services misappropriates and trades on Plaintiffs' goodwill and business reputation. By using marks that include TIFFANY for goods and services which are related to those offered by Plaintiffs under the Tiffany Marks, Defendants are likely to cause confusion and mistake among the public and the trade, and are likely to deceive the public and the trade as to the nature and origin of their goods and services.

74. The actions set forth above constitute common law unfair competition with Plaintiffs, and constitute passing off of Defendants' goods and services as authorized or endorsed by Plaintiffs, as well as a false representation that Defendants' goods and services are affiliated with or sponsored by Plaintiffs, when in fact they are not.

75. Defendants' conduct has caused and is causing immediate and irreparable injury to Plaintiffs and will continue to both damage Plaintiffs and deceive the public unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs respectfully demand judgment as follows:

1) That a permanent injunction be issued enjoining Defendants, and each and every agent, privy, licensee, attorney, servant, employee, affiliate, successor and assign of each of the Defendants, and all those persons in concert or participation with any of them, and any entity owned or controlled in whole or in part by any of the Defendants, from:

(a) imitating, copying, or making any unauthorized use of any of the Tiffany Marks, or any marks confusingly similar to the Tiffany Marks, including without limitation by opening, operating, or franchising any restaurant that uses or includes the term TIFFANY, TIFFANY'S, any

phonetic equivalent or misspelling thereof, or any term confusingly similar to TIFFANY as any portion of its business name;

(b) doing business under any name that uses or includes the term TIFFANY, TIFFANY'S, any phonetic equivalent or misspelling thereof, or any term confusingly similar to TIFFANY;

(c) importing, manufacturing, producing, using, distributing, circulating, advertising, selling, offering for sale, promoting, displaying, or providing any product or service bearing or sold under or in connection with any term that includes the term TIFFANY, TIFFANY'S, any phonetic equivalent or misspelling thereof, or any term confusingly similar to TIFFANY;

(d) registering or applying to register any trademark or service mark that includes the term TIFFANY, TIFFANY'S, any phonetic equivalent or misspelling thereof, or any term confusingly similar to TIFFANY for any goods or services;

(e) using any false designation of origin or false description (including, without limitation, any letters or symbols), or performing any act which can or is likely to lead members of the trade or public to believe that Defendants are associated with Plaintiffs, or that any product or service imported, manufactured, distributed, advertised, displayed, promoted, offered for sale, or sold by Defendants is in any manner associated or connected with Plaintiffs, or is authorized, licensed, sponsored or otherwise approved by Plaintiffs;

(f) transferring, consigning, selling, shipping, or otherwise moving any goods, packaging or other materials in Defendants' possession, custody or control bearing the term TIFFANY, TIFFANY'S, any phonetic equivalent or misspelling thereof, or any term confusingly similar to TIFFANY;

(g) disposing, destroying, altering, moving, removing, concealing, tampering with, or in any manner secreting any business records (including computer records) of any kind including invoices, correspondence, books of account, receipts, or other documentation relating or referring in any manner to the manufacture, advertising, receiving, acquisition, importation, promotion, display, purchase, sale, offer for sale or distribution of any products or services bearing or provided in connection with the term TIFFANY, TIFFANY'S, any phonetic equivalent

or misspelling thereof, or any term confusingly similar to TIFFANY;

(h) engaging in any other activity constituting unfair competition with Plaintiffs, or constituting an infringement of the Tiffany Marks;

(i) diluting or tarnishing the Tiffany Marks;

(j) instructing, assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (h) above.

2) Directing that Defendants deliver up to Plaintiffs' attorney for destruction all products, labels, tags, signs, stationery, prints, packages, wrappers, promotional and marketing materials, advertisements, and other materials currently in their possession or under their control incorporating, featuring or bearing the term TIFFANY, TIFFANY'S, any phonetic equivalent or misspelling thereof, or any term confusingly similar to TIFFANY, and permitting Plaintiffs to destroy such materials without compensation to Defendants.

3) Directing that Defendants Michael Romanelli and Anthony Siragusa abandon with prejudice their U.S. Application Serial No. 76/520,262 for TIFFANY'S RESTAURANTS;

4) Directing that Defendants make available to Plaintiffs for review, inspection and copying, all books, records (including all hard drives on computers used for business purposes, including servers, as well as all computer discs and backup discs) and other documents concerning the business, including sales, of all of their "Tiffany's Restaurants" or "Tiffany's Casual Dining and Bar" restaurants.

5) Directing such other relief as the Court may deem appropriate to prevent the public from deriving the erroneous impression that any product or service manufactured, sold or otherwise provided by Defendants within the United States is authorized by Plaintiffs or related in any way to Tiffany, or that Defendants are otherwise affiliated with Plaintiffs.

6) Directing that Defendants file with the Court and serve upon Plaintiffs' counsel within thirty (30) days after entry of judgment a report in writing under oath, setting forth in detail the manner and form in which they have complied with the above.

7) Awarding Plaintiffs their damages and Defendants' profits arising out of Defendants' trademark infringement, unfair competition and false designation of origin, and dilution, and trebling such damages pursuant to 15 U.S.C. §§ 1117(a)-(b) and N.J. Stat. § 56:4-2.

8) Awarding to Plaintiffs their costs and disbursements incurred in this action, including reasonable attorneys' fees pursuant to 15 U.S.C. §1117(a).

9) Awarding to Plaintiffs interest, including pre-judgment interest on the foregoing sums pursuant to 15 U.S.C. §1117(a).

10) Awarding to Plaintiffs such other and further relief as the Court may deem just and proper.

Dated: Newark, New Jersey
October 24, 2005

Respectfully submitted,

ROBINSON & LIVELLI

By: Donald A. Robinson

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RECEIVED
10-24-05
ATTORNEY
VICTOR J. PETERSON, CLERK

Attorneys for Plaintiffs
TIFFANY AND COMPANY AND TIFFANY (NJ) INC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

TIFFANY AND COMPANY and
TIFFANY (NJ) INC.,

Plaintiffs,

v.

MICHAEL ROMANELLI, ANTHONY
SIRAGUSA, DOMINIC ROMANELLI,
JR., BRUNO D'UVA, LISA BARNA,
TIFFANY FRANCHISE SYSTEMS,
LLC, and JOHN DOES 1-10,

Defendants.

Case No.:

05-5074C DMC)

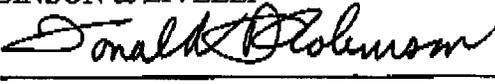
**CERTIFICATION PURSUANT TO
LOCAL CIVIL RULE 201.1**

Plaintiffs, Tiffany and Company and Tiffany (NJ) Inc., through its undersigned counsel,
hereby certifies that the damages recoverable in this action exceed \$150,000, exclusive of
interest, costs and any claim for punitive damages.

Dated: Newark, New Jersey
October 24, 2005

Respectfully submitted,

ROBINSON & LIVELLI

By: 

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Robinson & Livelli
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Attorneys for Plaintiffs
TIFFANY AND COMPANY AND TIFFANY (NJ) INC.

FILED
10-24-05
AT 1:30
WILLIAM P. ...

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

TIFFANY AND COMPANY and
TIFFANY (NJ) INC.,

Plaintiffs,

v.

MICHAEL ROMANELLI, ANTHONY
SIRAGUSA, DOMINIC ROMANELLI,
JR., BRUNO D'UVA, LISA BARNA,
TIFFANY FRANCHISE SYSTEMS,
LLC, and JOHN DOES 1-10,

Defendants.

Case No.:

RULE 7.1 STATEMENT

Pursuant to Federal Rule of Civil Procedure 7.1, and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for Plaintiffs Tiffany and Company and Tiffany (NJ) Inc. (private non-governmental parties) certify that the following are the parent corporations and publicly-held corporations that own 10% or more of the stock of the Plaintiffs:

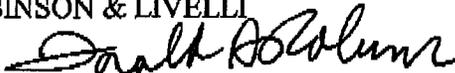
For Tiffany and Company: Tiffany & Co., a publicly-held corporation.

For Tiffany (NJ) Inc.: Tiffany and Company.

Dated: Newark, New Jersey
October 24, 2005

Respectfully submitted,

ROBINSON & LIVELLI

By: 

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Attorneys for Plaintiffs
Tiffany and Company. and Tiffany (NJ) Inc.