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

Proceeding	91196237
Party	Plaintiff Mario Tricoci Hair Salons & Day Spas, Inc.
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Submission	Motion to Suspend for Civil Action
Filer's Name	Thomas G. Pasternak
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Signature	/Thomas G. Pasternak/
Date	09/13/2010
Attachments	Tricoci Suspension FINAL.Supp.pdf (3 pages)(10203 bytes) Tricoci Complaint.pdf (16 pages)(46885 bytes) Tricoci Exhibit.pdf (6 pages)(159918 bytes)

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

MARIO TRICOCI HAIR SALONS AND)	
DAY SPAS, INC.,)	
)	Opposition No.: 91196237
Opposer,)	
)	
v.)	Serial No. 77/933,627
)	Filed: February 11, 2010
FRANCO TRICOCI ENTERPRISES, LLC,)	
)	EXHIBIT A TO MOTION TO
Applicant.)	SUSPEND

Opposer, Mario Tricoci Hair Salons & Spas, Inc. (“Mario Tricoci”), hereby submits Exhibit A to its motion to suspend -- a copy of the Complaint in Civil Action No. 1:10-CV-02268 which is currently pending between Opposer and Applicant in the United States District Court for the Northern District of Illinois.

Because the civil action encompasses the issues involved in this proceeding, the district court’s determination of the civil action will have a direct bearing on this opposition proceeding. For this reason and pursuant to Trademark Rule 2.117(a), 37 C.F.R. § 2.117(a), Mario Tricoci respectfully requests suspension of this proceeding pending disposition of the civil action.

Dated: September 13, 2010

Respectfully submitted,

By: /s/ Thomas G. Pasternak

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*Attorneys for Mario Tricoci Hair Salons and
Day Spas, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2010, I served a true and correct copy of the foregoing EXHIBIT A TO MOTION TO SUSPEND on counsel for Applicant by U.S. Mail at the following address:

Mitchell J. Edlund
Meckler Bulger Tilson Marick & Pearson LLP
123 North Wacker Drive
Suite 1800
Chicago, IL 60606

/s/ Thomas G. Pasternak
One of the Attorneys for Opposer
Mario Tricoci Hair Salons & Day Spas, Inc.

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

MARIO TRICOCI HAIR SALONS AND)
DAY SPAS, INC., an Arizona corporation,)

Case No. 1:10-CV-02268

Plaintiff,)

Hon. James B. Zagel

vs.)

FRANCO TRICOCI SALON AND SPA)
SCHAUMBURG, LLC, an Illinois limited)
liability company; FRANCO TRICOCI)
AND SPA MOKENA, LLC, an Illinois)
limited liability company; and FRANCO)
TRICOCI ENTERPRISES, LLC, an Illinois)
limited liability company,)

Defendants.)

TRICOCI’S FIRST AMENDED COMPLAINT

Plaintiff, Mario Tricoci Hair Salons and Day Spas, Inc., (“Tricoci”) for its claims against Defendants, Franco Tricoci Salon and Spa Schaumburg, LLC (“Franco Schaumburg”); Franco Tricoci and Spa Mokena, LLC (“Franco Mokena”); and Franco Tricoci Enterprises, LLC (“Franco”) (“Defendants”), alleges as follows:

INTRODUCTION

1. This is a civil action for trademark infringement and unfair competition under Sections 32(i) and 43(a) of the Lanham Act, 15 U.S.C. §§ 1114(i) and 1125(a); for trademark dilution under the Illinois Trademark Registration and Protection Act, 765 ILCS 1036/65; for Tortious Interference with Prospective Business Expectations; for Unjust Enrichment; for Unfair Competition; and for Deceptive Trade Practice (815 ILCS 51/12).

2. In an attempt to exploit and trade upon the goodwill and reputation possessed by Tricoci’s prestigious MARIO TRICOCI brand of hair salons, day spas and products, and to

divert Tricoci's customers, Defendants recently began operating hair salons under the confusingly similar name FRANCO TRICOCI.

3. Defendants' actions have prompted Tricoci to file this lawsuit to protect the public from the confusion created by Defendants' trademark infringement, unfair competition and deceptive commercial practices, and to prevent Tricoci's distinctive MARIO TRICOCI trademarks from being further diluted through Defendants' unlawful conduct.

4. Mr. Mario Tricoci, who is still affiliated with and a minority owner of Tricoci, is an internationally renowned hair stylist and innovator in the salon world. Mr. Tricoci has devoted over 30 years to building the MARIO TRICOCI brand into a name synonymous with outstanding quality, style and service. Over ten years ago Tricoci recognized the value of the MARIO TRICOCI brand and acquired the business and the four federally registered trademarks protecting the brand.

5. Tricoci has expended millions of dollars to advertise and enhance the quality of its services and products symbolized by Tricoci's trademarks. As a result of the efforts over more than three decades of Tricoci and its predecessor(s) in interest, the MARIO TRICOCI trademarks are not only well recognized, but also highly regarded and indeed famous in this state. Tricoci is acclaimed as the leading salon and spa in the Chicago area and as one of the leading salons in the county.

6. Notwithstanding Tricoci's trademark rights, Defendants have set up new hair salons and spas under the confusingly similar mark FRANCO TRICOCI. Defendants' conduct in promoting these new salons under their FRANCO TRICOCI mark reveals that Defendants' intentions are to exploit and take advantage of the tremendous goodwill associated with the famous MARIO TRICOCI brand.

7. Defendants' efforts to promote their competing FRANCO TRICOCI brand reveal that their strategy is to create and exploit customer confusion, poach customers and to trade on and take unfair advantage of the goodwill, reputation, and high-profile of MARIO TRICOCI.

8. Defendants' use of FRANCO TRICOCI has already caused substantial consumer confusion in the hair salon and spa market, and threatens to dilute in this state the distinctiveness of the famous MARIO TRICOCI brand. To prevent Defendants from further confusing the public about the source, sponsorships and affiliation of the parties' services, to protect Tricoci's substantial investment and goodwill in the famous MARIO TRICOCI trademarks, Tricoci seeks monetary damages and preliminary and permanent injunctive relief, as alleged below.

THE PARTIES, JURISDICTION AND VENUE

9. Tricoci is an Arizona corporation that owns and operates the Mario Tricoci Hair Salons and Day Spas. Tricoci is authorized to do and is doing business in the State of Illinois.

10. Mario Tricoci through its predecessor(s) in interest began conducting business in Illinois in 1979, and currently operates a renowned and prestigious chain of eighteen hair salons and spas in and around the Chicago metropolitan area, as well as in Kansas. Through these salons and spas, Tricoci provides its customers with a wide range of services, including hair styling and treatments, facials, nail treatments, massage therapy and make-up application. These services are very personal, and customers often select MARIO TRICOCI for its outstanding reputation.

11. Defendant Franco Schaumburg is an Illinois limited liability company having an address at 1026 West Devon Avenue, Elk Grove Village, Illinois 60007. On information and belief, this Defendant operates a salon and day spa at 530 East Golf Road, Schaumburg, Illinois.

12. Defendant Franco Mokena is an Illinois limited liability company also having an address at 1026 West Devon Avenue, Elk Gove Village, Illinois 60007. On information and belief, this Defendant operates a salon and day spa at 19836 La Grand Road, Mokena, Illinois.

13. Defendant Franco is an Illinois limited liability company having an address at 162 East Chicago Street, Elgin, Illinois 60120. On information and belief, this Defendant owns Defendants Franco Schaumburg and Franco Mokena, and all Defendants have acted in concert or as agents of one another with regard to the activities and conduct alleged below.

14. Pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338, this Court has original jurisdiction over this action. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over the state law claims alleged in this Complaint because these claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

15. Pursuant to 28 U.S.C. §§ 1391(b) and (c), venue is proper in this Court because the infringing acts, unfair competition, trademark dilution, and other torts alleged in this Complaint occurred and are occurring in this District, the claims arose here, and Defendants are located here.

GENERAL ALLEGATIONS

Tricoci's Trademarks

16. Tricoci owns the following federal registrations for the MARIO TRICOCI marks:

Mark	Registration No.	Registration Date	Goods
MARIO TRICOCI	2,882,038	September 7, 2004	Hair and skin care preparations and services
MARIO TRICOCI TOO	2,882,037	September 7, 2004	Hair and skin care preparations and services
MARIO TRICOCI HAIR SALONS AND DAY SPAS	2,911,345	December 14, 2004	Hair and skin care preparations and services
MARIO TRICOCI HAIR SALONS AND DAY SPAS	2,911,575	December 14, 2004	Hair and skin care preparations and services
MT	2,919,223	January 18, 2005	Hair and skin care preparations and services

These registrations are valid, subsisting, and in full force and effect. Copies of the registration certificates for the marks are attached as Exhibit A. (The marks identified in Paragraph 16 are collectively the "MARIO TRICOCI Marks.")

17. Tricoci also owns and maintains a website using the domain name of “tricoci.com.”

18. Tricoci has expended millions of dollars to advertise and maintain the quality of its services and products. As a result of Tricoci’s thus investment and significant trademark use over more than three decades, the MARIO TRICOCI Marks have achieved widespread public recognition and association with Tricoci’s services and products. MARIO TRICOCI is recognized as the leading salon and spa in the Chicago area and as one of the leading salons in the country.

19. As a result of Tricoci’s extensive use and promotion of the MARIO TRICOCI Marks, the Marks have become famous in Illinois and beyond.

20. Tricoci has established extensive goodwill in the MARIO TRICOCI Marks as the exclusive identifier of the products and services provided by Tricoci.

Tricoci’s Business

21. Tricoci maintains lasting relationships with many of its customers. The nature of the services Tricoci provides is very personal and customers often select Tricoci for its reputation and brand or by referrals from existing customers.

22. The loss of a customer is irreparable. It is difficult to get back the business of a customer after the customer leaves. Each customer is a source of referral business for Tricoci. As such, the loss of one customer is also the loss of referral business.

23. In addition to the customer’s name, physical address and telephone number, and occasionally an e-mail address, Tricoci maintains, on a password-protected database, notes regarding services provided to its customers.

24. Once a customer comes to Tricoci for any service, Tricoci endeavors to maintain the relationship.

25. Tricoci goes to great lengths to train its technicians and develop their skills.

26. Tricoci has a significant guest service infrastructure that is used to support technicians and customers alike.

Franco Tricoci

27. As a brand name and trademark, FRANCO TRICOCI is confusingly similar to MARIO TRICOCI. “Franco Tricoci Salon and Spa” is likewise confusingly similar in name to “Mario Tricoci Salons and Day Spas.” Defendants offer substantially similar services in the same or overlapping markets as those offered by Tricoci.

28. Defendant Franco was organized on October 27, 2008, and, on information and belief, Defendant Franco Mokena opened its first salon in Mokena in or around February 2009, which is currently marketing and providing hair salon and related services under its FRANCO TRICOCI mark.

29. On or about March 20, 2010, Defendant Franco Schaumburg publicly announced the “Grand Opening” of a new salon in Schaumburg. On information and belief, in promoting this new Schaumburg salon (which is believed to have opened in January 2010), Defendants conducted a beauty event that was confusingly similar in type, and even conducted at the same location, as a previous MARIO TRICOCI event. Defendants’ advertising and promotion of its beauty event confused a number of Tricoci’s customers, who thought that Defendants’ new salon may have been affiliated with MARIO TRICOCI.

30. Defendants’ new Schaumburg salon and spa is located within five miles of Tricoci’s salon and spa in Schaumburg. Moreover, Defendants’ advertisements use a style with a confusingly similar look and feel to Tricoci’s distinctive advertisements. Defendants’ advertising and marketing reflect Defendants’ strategy and willful intent to increase and exploit consumer confusion, thereby taking unfair advantage of the millions of dollars and tremendous efforts invested over 30 years to build and promote the famed MARIO TRICOCI Marks.

31. Tricoci uses the mark “MT” in its marketing and elsewhere as a mark recognized among customers and in the market as standing for MARIO TRICOCI. In addition to using the confusingly similar FRANCO TRICOCI, Defendant Franco Tricoci Enterprises, LLC has applied to register “FT” as a federal trademark. Defendants are using or planning to use “FT” as

a means of further increasing the degree of confusing similarity between the two competing businesses.

32. Members of the public have expressed confusion concerning whether FRANCO TRICOCI is associated with Tricoci or otherwise sponsored by or affiliated with Tricoci. Tricoci's customers have in fact been confused by the opening of the FRANCO TRICOCI Schaumburg salon and its use of the name "Tricoci," and have called Tricoci's Schaumburg salon to inquire whether Defendants' salon is affiliated with Tricoci.

33. Defendants' actions have caused and are likely to continue to cause confusion, mistake and deception as to the affiliation, connection, or association of Defendants with Tricoci and as to the origin, sponsorship or approval of Defendants' services.

34. By causing such confusion, mistake and deception, Defendants are threatening to dilute the distinctiveness of, and are inflicting irreparable harm to the goodwill symbolized by, the MARIO TRICOCI Marks, for which Tricoci has no adequate remedy at law.

Franco hires Tricoci Employees

35. Tara Allen was hired by Tricoci on or about March 28, 1994, as a colorist in its salon and day spa located at 675 Mall Drive, Schaumburg, Illinois 60173 ("the Schaumburg Salon").

36. Throughout her employment, one of Allen's primary responsibilities was to develop and foster Tricoci's customer relationships and goodwill. As such, Allen had significant contact with Tricoci's customers.

37. On or about December 31, 2009, Allen notified Tricoci that she was voluntarily resigning her employment with Tricoci, effective immediately.

38. Franco Schaumburg hired Allen.

39. In light of the similarity between the FRANCO TRICOCI and MARIO TRICOCI Marks, there is a reasonable likelihood that when Tricoci's customers see Allen at Defendants' Schaumburg salon, they will believe that she has simply changed locations and not employers, confusing Franco Schaumburg and its services with Tricoci's salon and services.

40. In doing so, Defendants acted to increase and exploit the likelihood of confusion among Tricoci's customers and the public. The violation of Allen's non-compete obligation and related claims were the subject of separate action, *Tara Allen v. Mario Tricoci Hair Salons and Day Spas, Inc.*, Circuit Court of Cook County, Chancery Division, Case No. 10CH02204 (filed January 19, 2010), which has been resolved as to the claims between Allen and Tricoci, but not as to the claims between Tricoci and Defendants.

41. This problem is exacerbated by the fact that Franco hired other Tricoci employees.

42. Upon information and belief, Franco continues to actively solicit many other Tricoci employees to leave Tricoci and join Franco.

COUNT I

(Federal Trademark Infringement – 15 U.S.C. § 1114(i))

43. Tricoci realleges all prior allegations as though fully set forth here.

44. Defendants' use of their FRANCO TRICOCI marks in connection with providing hair salon and spa services is likely to cause confusion, deception and mistake by creating the false and misleading impression that Defendants' salons are associated or connected with Tricoci, or have the sponsorship, endorsement or approval of Tricoci.

45. Defendants have used a mark that creates a likelihood of confusion with Tricoci's MARIO TRICOCI trademarks in violation of 15 U.S.C. § 1114(i).

46. Defendants have intentionally and willfully used a mark that they know creates a likelihood of confusion with the MARIO TRICOCI Marks. Defendants have done so to trade upon the goodwill associated with the MARIO TRICOCI Marks, and are doing so to Tricoci's irreparable harm.

47. Defendants' activities have caused and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception of members of the public. Unless enjoined, Defendants' activities will continue to cause injury to Tricoci's goodwill and

reputation, as symbolized by the federally registered MARIO TRICOCI trademarks. Tricoci has no adequate remedy at law for this injury.

48. Defendants have caused and are likely to continue causing substantial injury to the public and Tricoci, and Tricoci is entitled to injunctive relief and to recover Defendants' profits, Tricoci's actual damages, reasonable attorneys' fees, and costs under 15 U.S.C. §§ 1114, 1116 and 1117. In light of Defendants' willfulness and the exceptional nature of this case, Tricoci also should be awarded treble damages under 15 U.S.C. § 1117(a).

COUNT II

(Federal Unfair Competition – 15 U.S.C. § 1125(A))

49. Tricoci realleges all prior allegations as though fully set forth here.

50. Defendants are, without permission or license from Tricoci, marketing and selling services in interstate commerce under a mark that creates a likelihood of confusion with the MARIO TRICOCI Marks.

51. Defendants' unauthorized activities, including their advertisements, promotions, and website, and use of a mark that creates a likelihood of confusion with the MARIO TRICOCI Marks, misrepresent the nature, characteristics or qualities of Defendants' services. Defendants' activities constitute a false designation of origin, or a false or misleading description or representation of fact, which is likely to cause confusion or mistake, or to deceive as to the affiliation, connection, sponsorship, approval or association of Defendants by or with Tricoci.

52. Defendants have intentionally and willfully used a mark that creates a likelihood of confusion with the MARIO TRICOCI Marks in disregard of Tricoci's rights under federal law.

53. Tricoci is being irreparably harmed by Defendants' use of marks, and related promotion activities, that create a likelihood of confusion with the MARIO TRICOCI Marks and will continue to be damaged unless Defendants are restrained.

54. Defendants have caused and are likely to continue causing substantial injury to the public and Tricoci. Tricoci is entitled to injunctive relief and to recover damages, Defendants' profits, reasonable attorneys' fees and costs under 15 U.S.C. §§ 1125(a), 1116 and 1117. In light of Defendants' willfulness and the exceptional nature of this case, Tricoci also should be awarded treble damages under 15 U.S.C. § 1117(a).

COUNT III

(Dilution under the Illinois Trademark Registration and Protection Act, 765 ILCS 1036/1 et seq.)

55. Tricoci realleges all prior allegations as though fully set forth here.

56. By virtue of Tricoci's extensive use, promotion, publicity, and reputation-building for over three decades in Illinois, Tricoci's MARIO TRICOCI brand and federally registered marks are well-recognized by the public, and are distinctive and famous in this State.

57. The geography and channels of trade for Tricoci's MARIO TRICOCI services and products are coextensive with Defendants' services and products under their unauthorized FRANCO TRICOCI marks. Defendants are using their FRANCO TRICOCI marks for commercial purposes.

58. On information and belief, Defendants willfully intended to use and are using their FRANCO TRICOCI marks to trade on Tricoci's reputation or to dilute Tricoci's famous MARIO TRICOCI Marks. Defendants knowingly began their use of the FRANCO TRICOCI marks after the MARIO TRICOCI Marks became famous.

59. Unless enjoined, Defendants' continued use of their FRANCO TRICOCI marks threatens to dilute and is diluting the distinctiveness of the MARIO TRICOCI Marks. Defendants' continued use of their FRANCO TRICOCI mark threatens to cause the MARIO TRICOCI Marks to lose their significance as trademarks.

60. Defendants have caused and are likely to continue causing substantial injury to the public and Tricoci, and Tricoci is entitled to injunctive relief under 765 ILCS 1036/65. In light of Defendants' knowing and willful efforts to trade on Tricoci's goodwill and reputation,

symbolized by the famous MARIO TRICOCI Marks, Tricoci should be awarded Defendants' profits, Tricoci's actual damages, reasonable attorneys' fees, and costs under the Illinois Trademark Registration and Protection Act, 765 ILCS 1036/1 *et seq.* and other applicable law. In light of Defendants' bad faith and willfulness, Tricoci also should be awarded treble damages under 765 ILCS 1036/70.

COUNT IV

(Tortious Interference with Prospective Business Expectancies)

61. Tricoci realleges and incorporates by reference the paragraphs set forth above.
62. Tricoci has a reasonable expectation of entering into business relations with its customers.
63. Tricoci has a reasonable expectation that its relationships with its customers will continue.
64. At all times mentioned herein, Defendants were aware that Tricoci had relationships with its customers and were aware of Tricoci's expectation that those relationships would continue.
65. Despite Defendants' awareness of these relationships, they intentionally and maliciously interfered with those relationships.
66. As a proximate result of Defendants' conduct, Tricoci has sustained and will continue to sustain substantial damages in an amount to be proven at trial.
67. The acts by Defendants' as described above were willful, malicious and done with an evil intent. As such, Tricoci is entitled to an award of exemplary and punitive damages.

COUNT V

(Unjust Enrichment)

68. Tricoci realleges and incorporates by reference the paragraphs set forth above.
69. By their conduct described above, Defendants have been unjustly enriched.

70. It would be unfair to allow Defendants to retain the enrichment they have unjustly retained.

71. As a proximate result of Defendants' conduct, Tricoci has sustained and will continue to sustain substantial damages in an amount to be proven at trial.

72. The acts by Defendants as described above were willful, malicious and done with an evil intent. As such, Tricoci is entitled to an award of exemplary and punitive damages.

COUNT VI

(Unfair Competition)

73. Tricoci realleges and incorporates by reference the paragraphs set forth above.

74. By its conduct described above, Defendants have created a likelihood of customer confusion between Defendants services and Tricoci's services.

75. Defendants are offering substantially similar services to those offered by Tricoci, under a similar trade name to Tricoci, which creates a likelihood of confusion with the Tricoci trade name.

76. Tricoci's customers and prospective employees have in fact been confused by the opening of the Franco Salon and the use of the name "Tricoci" and have called Plaintiff to verify whether the Franco Salon is affiliated with Tricoci.

77. As a proximate result of Defendants' conduct, Tricoci has sustained and will continue to sustain substantial damages in an amount to be proven at trial.

COUNT VII

(Deceptive Trade Practices (815 ILCS 510/2))

78. Tricoci realleges and incorporates by reference the paragraphs set forth above.

79. By their conduct described above, Defendants have engaged in deceptive trade practices pursuant to 815 ILCS 510/2.

80. Defendants have engaged in deceptive trade practices by using a trade name that is substantially similar to Tricoci, by using advertising, decorative and promotional materials

similar to Tricoci, by employing a number of former employees of Plaintiff, by opening the Franco Salon within five miles from Tricoci's Schaumburg Salon, by offering similar services as those offered by Tricoci, and by claiming that the name "Franco Tricoci" has stood for excellence in the beauty profession for over 50 years when Franco and/or Franco Schaumburg have only operated such salons for the past year.

81. These practices are meant to cause the likelihood of confusion or a misunderstanding as to the source, sponsorship, approval or certification of their services and are meant to cause the likelihood of confusion or a misunderstanding as to their affiliation, connection, or association with Tricoci.

82. Tricoci's customers have in fact been confused by the opening of the Franco Salon and the use of the name "Tricoci" and have called the Schaumburg Salon to verify whether the Franco Salon is affiliated with Tricoci.

83. Upon information and belief, Defendants have willfully engaged in deceptive trade practices to Tricoci's harm.

84. Tricoci is being damaged by Defendants' deceptive trade practices and will continue to be damaged unless Defendants are restrained from such practices.

85. As a proximate result of Defendants' deceptive trade practices, Tricoci is entitled a preliminary and permanent injunction pursuant to 815 ILCS 510/3, as well as costs and attorneys' fees.

JURY DEMAND

Tricoci demands trial by jury.

REQUESTED RELIEF

Based on these allegations, Tricoci respectfully requests that relief be ordered and judgment be entered against Defendants, jointly and severally, as follows:

A. Defendants and their parents, subsidiaries, affiliates, successors, agents, principals, officers, directors, owners, managers, employees, partners, joint venturers, servants and all persons acting in concert or participation with any of them, shall be preliminarily and

permanently enjoined from using any mark containing “TRICOCCI” or “FT” or any other mark that creates a likelihood of confusion with, or threatens to dilute the distinctiveness of, the MARIO TRICOCCI trademarks, and from engaging in any additional acts of unfair competition against Tricoci.

B. Defendants shall be ordered to withdraw or cancel their pending federal trademark registration application for “FT,” and shall withdraw or cancel any other applications to register, either before the United States Patent and Trademark Office or any state office, any confusingly similar mark including “TRICOCCI” or “FT.” In the event that any such registration may have issued, it shall be cancelled. Further, Defendants and their parents, subsidiaries, affiliates, successors, agents, principals, officers, directors, owners, managers, employees, partners, joint venturers, servants and all persons acting in concert or participation with any of them, shall be enjoined from filing any registration application for such confusingly similar marks.

C. An Order shall be entered temporarily and permanently enjoining and retraining Defendants and their employers, agents, employees, affiliates, and all those acting in concert with them or on their behalf or by their direction from contacting, soliciting, approaching, or in any other way interfering with Tricoci’s current employees.

D. A determination shall be made that this case is exceptional under 35 U.S.C. § 1117(a), 765 ILCS 1036/70, or other applicable law, that Defendants’ violations of Tricoci’s rights were knowing, willful and in bad faith, and Tricoci shall be awarded its reasonable attorneys’ fees and costs under that provision or other applicable law.

E. Tricoci shall be awarded actual damages in an amount to be determined.

F. Tricoci shall be awarded treble damages and reasonable attorneys’ fees under 15 U.S.C. §1117(a), 765 ILCS 1036/70, or other applicable law.

G. Defendants shall be compelled to account to Tricoci for all profits derived by their unlawful actions as alleged in this Complaint.

H. Tricoci shall be awarded pre-judgment interest on Tricoci's damages at the highest rate allowed by law through the date of judgment.

I. Tricoci shall be awarded all such other and further relief as the Court deems just and equitable.

Date: August 9, 2010

By: /s/ Thomas G. Pasternak

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*Attorneys for Plaintiff Mario Tricoci Hair
Salons and Day Spas, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of August 2010, a true copy of the foregoing TRICOCI'S FIRST AMENDED COMPLAINT was filed with the Clerk of the Court using the CM/ECF system and delivered by hand via courier to the below Defendants' counsel:

/s/ Thomas G. Pasternak

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Meckler Bulger Tilson Marick & Pearson LLP
123 N. Wacker Drive, Suite 1800
Chicago, IL 60606

Attorney for Defendants

EXHIBIT A

Int. Cls.: 3 and 42

Prior U.S. Cls.: 1, 4, 6, 50, 51, 52, 100, and 101

Reg. No. 2,882,038

United States Patent and Trademark Office

Registered Sep. 7, 2004

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

MARIO TRICOCI

MARIO TRICOCI HAIR SALON AND DAY SPAS,
INC. (DELAWARE CORPORATION)
C/O ELIZABETH ARDEN SALON HOLDINGS, INC.
3842 EAST UNIVERSITY AVENUE - SUITE 5
PHOENIX, AZ 85034

FOR: HAIR CARE STYLING PREPARATIONS,
NAMELY, HAIR GEL, HAIR MOUSSE AND HAIR
LOTION; COLORING PRODUCTS, NAMELY, HAIR
DYES, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 0-0-1987; IN COMMERCE 0-0-1987.

FOR: PERSONAL CARE SERVICES IN THE NAT-
URE OF HAIR STYLING, CUTTING, CONDITION-
ING AND COLORING; SKIN CARE SALONS,
MASSAGE THERAPIES, NAIL MANICURING SER-
VICES, FOOT TREATMENTS, NAMELY, PEDI-

CURES, AND BODY, HAND AND FOOT
TREATMENTS, NAMELY, BODY, HAND AND
FOOT WAXING; HEALTH SPA SERVICES INCLUD-
ING AROMATHERAPY, BODY WRAPS, SKIN
PEELS, INCLUDING FACIAL PEELS, AND MILK
THERAPY IN THE NATURE OF MILK BATHS, IN
CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-1987; IN COMMERCE 0-0-1987.

"MARIO TRICOCI" IS A LIVING INDIVIDUAL
WHOSE CONSENT IS OF RECORD.

SN 76-047,453, FILED 5-12-2000.

ZHALEH DELANEY, EXAMINING ATTORNEY

Int. Cls.: 3 and 42

Prior U.S. Cls.: 1, 4, 6, 50, 51, 52, 100, and 101

Reg. No. 2,882,037

United States Patent and Trademark Office

Registered Sep. 7, 2004

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

MARIO TRICOCI TOO

MARIO TRICOCI HAIR SALON AND DAY SPAS,
INC. (DELAWARE CORPORATION)
C/O ELIZABETH ARDEN SALON HOLDINGS, INC.
3842 EAST UNIVERSITY AVENUE - SUITE 5
PHOENIX, AZ 85034

FOR: HAIR CARE STYLING PREPARATIONS,
NAMELY, HAIR GEL, HAIR MOUSSE AND HAIR
LOTION; COLORING PRODUCTS, NAMELY, HAIR
DYES, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 0-0-1995; IN COMMERCE 0-0-1995.

FOR: PERSONAL CARE SERVICES IN THE NAT-
URE OF HAIR STYLING, CUTTING, CONDITION-
ING AND COLORING; SKIN CARE SALONS,
MASSAGE THERAPIES, NAIL MANICURING SER-
VICES, FOOT TREATMENTS, NAMELY, PEDI-

CURES, AND BODY, HAND AND FOOT
TREATMENTS, NAMELY, BODY, HAND AND
FOOT WAXING; HEALTH SPA SERVICES INCLUD-
ING AROMATHERAPY, BODY WRAPS, SKIN
PEELS, INCLUDING FACIAL PEELS, AND MILK
THERAPY IN THE NATURE OF MILK BATHS, IN
CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-1995; IN COMMERCE 0-0-1995.

THE NAME SHOWN IN THE MARK "MARIO
TRICOCI", REPRESENTS A LIVING INDIVIDUAL
WHOSE CONSENT IS OF RECORD.

SN 76-047,452, FILED 5-12-2000.

ZHALEH DELANEY, EXAMINING ATTORNEY

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52

Reg. No. 2,911,345

United States Patent and Trademark Office

Registered Dec. 14, 2004

**TRADEMARK
PRINCIPAL REGISTER**

MARIO TRICOCI HAIR SALONS AND DAY SPAS

MARIO TRICOCI HAIR SALON AND DAY SPAS,
INC. (DELAWARE CORPORATION)
C/O ELIZABETH ARDEN SALON HOLDINGS, INC
3842 EAST UNIVERSITY AVENUE - SUITE 5
PHOENIX, AZ 85034

FOR: HAIR CARE STYLING PREPARATIONS,
NAMELY, HAIR GEL, HAIR MOUSSE AND HAIR
LOTION; COLORING PRODUCTS, NAMELY, HAIR
DYES, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 0-0-1987; IN COMMERCE 0-0-1987.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "HAIR SALONS AND DAY SPAS",
APART FROM THE MARK AS SHOWN.

THE NAME "MARIO TRICOCI" DOES NOT IDENTIFY
A LIVING INDIVIDUAL.

SN 76-047,644, FILED 5-12-2000.

ZHALEH DELANEY, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,911,575

United States Patent and Trademark Office

Registered Dec. 14, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

MARIO TRICOCI HAIR SALONS AND DAY SPAS

MARIO TRICOCI HAIR SALON AND DAY SPAS,
INC. (DELAWARE CORPORATION)
C/O ELIZABETH ARDEN SALON HOLDINGS, INC.
3842 EAST UNIVERSITY AVENUE - SUITE 5
PHOENIX, AZ 85034

FOR: PERSONAL CARE SERVICES IN THE NATURE OF HAIR STYLING, CUTTING, CONDITIONING AND COLORING; SKIN CARE SALONS, MASSAGE THERAPIES, NAIL MANICURING SERVICES, FOOT TREATMENTS, NAMELY, PEDICURES, AND BODY, HAND AND FOOT TREATMENTS, NAMELY, BODY, HAND AND FOOT WAXING; HEALTH SPA SERVICES INCLUDING AROMATHERAPY, BODY WRAPS, SKIN PEELS, INCLUDING FACIAL PEELS, AND MILK

THERAPY IN THE NATURE OF MILK BATHS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-1987; IN COMMERCE 0-0-1987.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HAIR SALONS AND DAY SPAS", APART FROM THE MARK AS SHOWN.

THE NAME "MARIO TRICOCI" DOES NOT IDENTIFY A LIVING INDIVIDUAL.

SN 76-976,645, FILED 5-12-2000.

ZHALEH DELANEY, EXAMINING ATTORNEY

Int. Cls.: 3 and 42

Prior U.S. Cls.: 1, 4, 6, 50, 51, 52, 100, and 101

Reg. No. 2,919,223

United States Patent and Trademark Office

Registered Jan. 18, 2005

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**



MARIO TRICOCI HAIR SALON AND DAY SPAS,
INC. (DELAWARE CORPORATION)
C/O ELIZABETH ARDEN SALON HOLDINGS, INC.
3842 EAST UNIVERSITY AVENUE - SUITE 5
PHOENIX, AZ 85034

FOR: HAIR CARE STYLING PREPARATIONS,
NAMELY, HAIR GEL, HAIR MOUSSE AND HAIR
LOTIONS; COLORING PRODUCTS, NAMELY,
HAIR DYES, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51
AND 52).

FIRST USE 0-0-1987; IN COMMERCE 0-0-1987.

FOR: PERSONAL CARE SERVICES IN THE NAT-
URE OF HAIR STYLING, CUTTING, CONDITION-
ING AND COLORING; SKIN CARE SALONS,

MASSAGE THERAPIES, NAIL MANICURING SER-
VICES, FOOT TREATMENTS, NAMELY, PEDI-
CURES, AND BODY, HAND FOOT TREATMENTS,
NAMELY, BODY, HAND AND FOOT WAXING;
HEALTH SPA SERVICES INCLUDING AROMA-
THERAPY, BODY WRAPS, SKIN PEELS, INCLUD-
ING FACIAL PEELS, AND MILK THERAPY IN THE
NATURE OF MILK BATHS, IN CLASS 42 (U.S. CLS.
100 AND 101).

FIRST USE 0-0-1987; IN COMMERCE 0-0-1987.

SN 76-047,451, FILED 5-12-2000.

ZHALEH DELANEY, EXAMINING ATTORNEY