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

Proceeding	91206781
Party	Plaintiff PRL USA Holdings, Inc.
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Date	08/31/2012
Attachments	FreshSide Motion to Suspend.pdf (20 pages)(777244 bytes)

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

In re: U.S. Application Serial No. 85311850



Mark:

Published: May 1, 2012

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PRL USA HOLDINGS, INC.,

Opposition No. 91206781

Opposer,

-against-

FRESHSIDE LIMITED

Applicant.
-----x

MOTION TO SUSPEND FOR CIVIL ACTION

Opposer hereby moves pursuant to 37 C.F.R. § 2.117(a) to suspend this proceeding pending the outcome of a Civil Action filed on July 26, 2012 in the United States District Court for the Southern District of New York, Civil Action No. 12-CV-5750, captioned PRL USA Holdings, Inc. v. Freshside Limited d/b/a Chunk (the “Civil Action”). A copy of the Complaint as filed in the Civil Action is submitted herewith.

The Board’s power to stay proceedings may be exercised where “a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case” 37 C.F.R. § 2.117(a); *See also General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 U.S.P.Q.2d 1933, 1936-37 (T.T.A.B. 1992); *Tamarkin Co. v. Seaway Food Town Inc.*, 34 U.S.P.Q.2d 1587, 1592 (T.T.A.B. 1995).

In the Civil Action, Opposer is the Plaintiff and Applicant is the Defendant. The Civil Action includes causes of action for, *inter alia*, trademark infringement and dilution based on the use by Applicant of the same mark at issue in this proceeding. Thus, the respective rights of the

parties with respect to the same mark are at issue in the Civil Action, which therefore will clearly have a bearing on the issues in this proceeding.

Accordingly, Opposer respectfully requests that the Board suspend this proceeding pending the outcome of the Civil Action.

Respectfully submitted,

Dated: New York, NY
August 31, 2012

GREENBERG TRAUERIG, LLP

By: /Seth E. Kertzer/
Daniel I. Schloss
Seth E. Kertzer
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CERTIFICATE OF SERVICE

I hereby certify on this 31st day of August, 2012, that a true copy of the foregoing Motion to Suspend for Civil Action is being served upon Applicant via first class mail to the following address:

Fresh Side Limited
Directors/Legal Department Unit 1 Hanover Trading Est, 1-3
North Rd
London N79HD
United Kingdom

/Seth E. Kertzer/
Seth E. Kertzer

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JUDGE CEDARBAUM

PRL USA HOLDINGS, INC., a Delaware Corporation,

Plaintiff,

v.

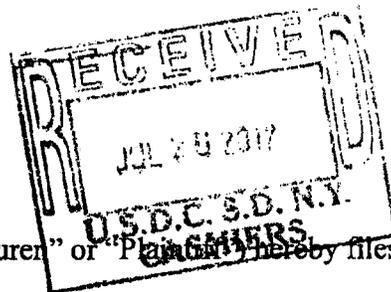
FRESHSIDE LIMITED d/b/a CHUNK, a United Kingdom Company,

Defendant.

Civil Action No.

12 CV 5750

COMPLAINT



Plaintiff, PRL USA Holdings, Inc. ("Polo Ralph Lauren" or "PRL") hereby files this Complaint against FreshSide Limited d/b/a Chunk ("Defendant"), and alleges on personal knowledge as to itself and its actions, and upon information and belief as to the actions of others, as follows:

NATURE OF THE ACTION

1. This is an action for trademark infringement, false designation of origin, unfair competition, and trademark dilution under federal and state law arising out of the offering for

sale and selling by Defendant of apparel and accessories using the trademarks



and "CHUNK BIKE POLO" (collectively, "Defendant's Marks").

THE PARTIES

2. Plaintiff is a corporation, organized under the laws of the State of Delaware, having a principal place of business at 550 Seventh Avenue, New York, NY 10018.

3. On information and belief, Defendant is a Limited Liability Company organized under the laws of the United Kingdom, having a place of business at Unit 1, Hanover Trading Estate, 1-3 North Road, London, England.

JURISDICTION AND VENUE

4. This is an action for trademark infringement, unfair competition, false designation of origin, false advertising and related claims under the United States Trademark (Lanham) Act of 1946, 15 U.S.C. §§ 1051 et seq. (as amended), and New York statutory and common law.

5. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332 and 1338(a) and (b); and 15 U.S.C. §§ 1121. The amount in controversy is in excess of \$75,000, exclusive of interest and costs.

6. This Court has supplemental jurisdiction over Plaintiff's claims under the laws of the State of New York pursuant to 28 U.S.C. § 1367.

7. This Court has personal jurisdiction over Defendant pursuant to N.Y. Civ. Prac. L. & R. §§ 301 & 302(a). Upon information and belief, Defendant has regularly solicited and transacted business in the State of New York and in this District, and has wrongfully caused injury to Plaintiff in the State of New York and in this District, such injury being reasonably foreseeable, and derives substantial revenue from interstate commerce. Alternatively, personal jurisdiction over Defendant is conferred by Fed. R. Civ. P. 4(k)(2).

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because Plaintiff maintains a principal place of business in, and is therefore deemed to reside in this district under 28 U. S.C. § 1391(c).

PLAINTIFF’S TRADEMARKS AND BUSINESS

9. Polo Ralph Lauren (which, with its corporate parent and predecessors-in-interest, collectively are “Polo Ralph Lauren”) has extensively used the following fanciful representation



of a polo player mounted on a horse engaged in playing the sport of polo: (the “Polo Player Mark”) to identify and distinguish its goods and services in the marketplace.

10. Polo Ralph Lauren first began using the Polo Player Mark since at least as early as 1972 in connection with apparel goods, including, but not limited to, shirts. Today, the Polo Player Mark is being used on or in connection with a wide variety goods, including, but not limited to, apparel, footwear, fragrances, personal care products, jewelry, and home furnishings.

11. Polo Ralph Lauren is the owner of the following valid and subsisting United States Trademark Registrations for variations on the Polo Player Mark, as well as trademarks containing the word POLO on the Principal Register:

TRADEMARK	APP/ REG. DATE	APP/ REG. NO.	GOODS/SERVICES
	January 16, 2007	3199839	Wearing apparel, namely, jackets, sweatshirts, sweat pants, hats, scarves, jerseys, jeans, turtlenecks and bikinis

TRADEMARK	APP/ REG. DATE	APP/ REG. NO.	GOODS/SERVICES
	April 4, 2006	3076806	Shower gel, body moisturizer, personal soap and 2 in 1 shampoo and conditioner.
	July 21, 1987	1448580	Towels, sheets, pillow cases, pillow shams, bed skirts, comforters, blankets, comforter and blanket covers, shower curtains, tablecloths, napkins, textile placemats and fabrics for housewares.
	July 6, 2010	3812741	A full line of clothing.
	March 16, 2004	2823094	Tote bags
	April 15, 1997	2052315	Clutches, shoulder bags, cosmetic bags sold empty, tote bags, saddle bags, backpacks, gym bags, duffle bags, travel bags, roll bags, sling bags, grooming kits sold empty, suit bags, tie cases, satchels, pole bags, garment bags for travel, coin purses, drawstring pouches, overnight bags, wallets and key cases

TRADEMARK	APP/ REG. DATE	APP/ REG. NO.	GOODS/SERVICES
	November 5, 1996	2013947	Infants and childrens clothing, namely, layettes, cloth bibs, slippers, sleepwear, underwear, rompers, shorts, shirts, coveralls, pants, socks, booties.
	August 5, 1997	2085471	Providing information in the field of fashion, fragrance, lifestyle and other topics of general interest by means of a global computer network.
	April 19, 1988	1485359	Mens', womens', childrens' and athletic shoes
	February 1, 2011	3914529	Clothing, namely, women's shirts, t-shirts, tank tops, pants, hooded sweatshirts, shorts, dresses, leggings and sweatshirts; men's knit shirts; girl's t-shirts, girl's knit shirts and hooded sweatshirts; caps.
	October 12, 1982	1212060	Cologne, aftershave, aftershave balm, antiperspirant, toilet soap, toilet water

TRADEMARK	APP/ REG. DATE	APP/ REG. NO.	GOODS/SERVICES
	July 22, 2008	3470318	Knit shirts, rugby shirts not specifically adapted to be worn while playing rugby, jackets.
	January 11, 2011	3904897	Knit shirts; Sweaters.
 POLO Ralph Lauren	June 29, 2010	3810821	eau de toilette and after shave.
 POLO RALPH LAUREN	October 9, 2007	3306101	Clothing, namely, knit shirts, polo shirts, sweaters, shirts, t-shirts, hats, swimwear, pants, jackets, belts, ties, footwear, socks; outerwear, namely, coats, sport coats, raincoats.
 POLO RALPH LAUREN	July 8, 1997	2077082	Grooming kits sold empty, tie cases, coin purses, drawstring pouches, wallets and key cases.
POLO	October 1, 1985	1363459	Clothing-Namely, Suits, Slacks, Trousers, Shorts, Wind Resistant Jackets, Jackets, Blazers, Dress Shirts, Sweatshirts, Sweaters, Hats, Belts, Socks, Blouses, Skirts, Coats, and Dresses.
POLO	July 29, 1997	2083276	Providing information in the field of fashion, fragrance, lifestyle and other topics of general interest by means of a global computer network.
POLO	December 8, 1987	1468420	Men's, Women's, Children's and Athletic Shoes.

TRADEMARK	APP/ REG. DATE	APP/ REG. NO.	GOODS/SERVICES
	February 5, 1974	978166	Men's suits, Slacks, Ties, Sweaters, Shoes, Shirts, Hats, Belts, Socks; and Ladies' blouses, Skirts, Suits and Dresses.

12. All of the registrations set forth above are valid, subsisting, unrevoked and uncanceled. Additionally, the majority of these registrations are incontestable. Polo Ralph Lauren also owns common law rights in the above and other marks for use in connection with apparel, related accessories and retail stores, including on-line retail stores. Polo Ralph Lauren's registered trademarks listed above and common law trademarks are collectively referred to as "Plaintiff's Marks" or the "Polo Trademarks."

13. Polo Ralph Lauren has, itself and through licensees, sold high-quality apparel, handbags, accessories, and other products (collectively, the "Polo Products") using the Polo Trademarks for more than 40 years.

14. Polo Ralph Lauren was founded in 1967 by the now iconic designer, Ralph Lauren, and has since become a leader in the design, marketing, and distribution of premium lifestyle products in apparel, home, accessories and fragrances.

15. The continuous and broad use of the Polo Trademarks during this time has enabled Polo Products to achieve world-wide fame under the Polo Trademarks in its various markets. The public, customers, and the fashion industry have come to recognize that Polo Products bearing the Polo Trademarks originate with Polo Ralph Lauren exclusively.

16. Polo Ralph Lauren has promoted the sale of Polo Products in a wide variety of media, and is the official sponsor of Wimbledon and the U.S. Open, as well as the 2008, 2010, and 2012 Olympic Games.

17. Polo Ralph Lauren displays its Polo Trademarks and Polo Products in its advertising and promotional materials. To date, Polo Ralph Lauren has spent hundreds of millions of dollars in advertising and promoting the Polo Trademarks and Polo Products, and Polo Ralph Lauren, its predecessors-in-interest and its affiliated companies have enjoyed billions of dollars in sales.

18. Polo Ralph Lauren maintains quality control standards for all of the Polo Products, as well as any other goods or services sold under the Polo Trademarks. All genuine Polo Products are inspected and approved by or on behalf of Polo Ralph Lauren prior to distribution and sale. All genuine Polo Products are distributed through Polo Ralph Lauren's worldwide network of authorized dealers.

DEFENDANT'S UNLAWFUL ACTS

19. Defendant has been offering for sale and selling apparel, bags, and other goods

bearing the trademark  ("Defendant's Mark #1") in commerce in the United States since at least as early as December 1, 2009.

20. Defendant has been offering for sale and selling apparel, bags, and other goods

bearing the trademark  ("Defendant's Mark #2") in commerce in the United States since at least as early as December 1, 2009.

21. Defendant has been offering for sale and selling apparel, bags, and other goods



bearing the trademark "CHUNK BIKE POLO" ("Defendant's Mark #3") in commerce in the United States since at least as early as December 22, 2010.

22. Defendant currently is offering for sale and selling apparel, bags, and other goods bearing Defendant's Mark #1, Defendant's Mark #2, and Defendant's Mark #3 in United States and international commerce (the "Infringing Products").

23. Examples of Defendant's use of Defendant's Marks and Defendant's Infringing Products can be seen at Defendant's website <www.ChunkClothing.com>, print-outs of which are attached hereto as **Exhibit A**.

24. Defendant is using Defendant's Marks on apparel and other goods closely resembling Polo Products, and the Infringing Products closely follow the styles of Polo Products.

25. Defendant's design and use of Defendant's Marks, and their close resemblance to the Polo Trademarks, is without the authorization of Plaintiff.

26. The striking similarity between Defendant's Marks and the Polo Trademarks strongly suggests a connection between Polo Ralph Lauren and Defendant.

COUNT ONE
(Federal Trademark Infringement under 15 U.S.C. § 1114)

27. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

28. Plaintiff's Polo Trademarks and the goodwill of the business associated with them in the United States and around the world are of great and significant value, are highly distinctive

and arbitrary, and have become universally associated in the public mind with the products and services of the very highest quality and reputation finding their source in Plaintiff.

29. Without Plaintiff's authorization or consent, and having knowledge of Plaintiff's well-known and prior rights in the registered Polo Trademarks, Defendant has been advertising, offering for sale, and selling identical and/or similar products bearing the Polo Trademarks and confusingly similar variations thereof.

30. Defendant's use of Defendant's Marks for its apparel, bags, and other goods is likely to cause and is causing confusion, mistake and deception among the general purchasing public as to the origin of Defendant's Infringing Products.

31. Such unauthorized use of the Polo Trademarks and confusingly similar variations thereof by Defendant is likely to deceive and is currently deceiving the public into believing that the Infringing Products originate from, are associated with, or are otherwise authorized by Plaintiff, all to the damage and detriment of Plaintiff's reputation and goodwill.

32. Defendant's use of the Polo Trademarks and confusingly similar variations thereof on and in connection with the Infringing Products has been and continues to be done with full knowledge that such use has not been authorized or licensed by Plaintiff. Defendant's actions constitute willful infringement of Plaintiff's exclusive rights in the Polo Trademarks in violation of 15 U.S.C. § 1114.

33. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered damage to its valuable Polo Trademarks.

34. By reason of the foregoing, Plaintiff is entitled, after trial, to injunctive relief against Defendant, restraining Defendant from any further acts of trademark infringement, and to recovery of damages proven to have been caused by Defendant's acts described above.

COUNT TWO

(Unfair Competition and False Designation of Origin under 15 U.S.C. § 1125(a))

35. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

36. Defendant advertises, markets, promotes, and sells the Infringing Products in a manner that is likely to cause confusion, mistake, and deception of the general purchasing public as to the origin, sponsorship, or approval of the Infringing Products.

37. Defendant uses Plaintiff's Polo Trademarks and confusingly similar variations thereof in commerce in connection with the Infringing Products in a manner likely to cause confusion, confusion, mistake, and deception as to the affiliation, connection, or association between Defendant and Plaintiff.

38. Defendant's unlawful, unauthorized advertising, offering for sale and sale of its Infringing Products using Plaintiff's Trademarks and confusingly similar variations thereof creates express and implied misrepresentations that its Infringing Products were authorized or approved by Plaintiff, all to Defendant's profit and benefit, and Plaintiff's damage and injury.

39. Defendant's aforesaid acts are in violation of 15 U.S.C. §1125(a), in that Defendant's use in interstate commerce of the Polo Trademarks and confusingly similar variations thereof for its Infringing Products constitutes false designation of origin and unfair competition.

40. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered damage to its valuable Polo Trademarks.

41. By reason of the foregoing, Plaintiff is entitled, after trial, to injunctive relief against Defendant, restraining Defendant from any further acts of unfair competition and false

designation of origin, and to recovery of damages proven to have been caused by Defendant's acts described above.

COUNT THREE
(Federal Trademark Dilution under 15 U.S.C. § 1125(c))

42. Plaintiff hereby realleges and incorporates by reference the preceding allegations of this Complaint as if fully set forth herein.

43. Plaintiff's Polo Trademarks are "famous marks" within the meaning of § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and have been famous marks since long prior to Defendant's conduct as alleged herein.

44. Defendant's advertisement, manufacture, distribution, offer for sale, and sale of the Infringing Products bearing identical and/or confusingly similar marks dilutes and impairs the distinctive quality of Plaintiff's Polo Trademarks.

45. Defendant's aforesaid acts are in knowing and willful violation of Plaintiff's rights under section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and were performed with the willful intent to improperly trade on Plaintiff's reputation.

46. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered damage to its valuable Polo Trademarks.

47. By reason of the foregoing, Plaintiff is entitled, after trial, to injunctive relief against Defendant, restraining Defendant from any further acts of trademark dilution, and to recovery of damages proven to have been caused by Defendant's acts described above.

COUNT FOUR
(Common Law Trademark Infringement)

48. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

49. As a result of Plaintiff's reputation for its products and services under the Polo Trademarks, Plaintiff has built up valuable good will in its marks. As such, Plaintiff's Polo Trademarks have become inextricably associated with Plaintiff's products and services, and have come to symbolize the reputation for quality and excellence of such products and services.

50. With full knowledge of Plaintiff's property rights in the Polo Trademarks, and without Plaintiff's consent, authorization, or knowledge, Defendant has advertised, promoted, marketed, offered for sale, and sold its Infringing Products under the identical and confusingly similar Defendant's Marks.

51. Defendant deliberately and willfully copied Plaintiff's Polo Trademarks for use in commerce without any authorization or commercial necessity, legitimate reason or satisfactory explanation, and has derived unlawful gains, profits, and advantages from its infringement.

52. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered damage to its business and valuable Polo Trademarks.

53. By reason of the foregoing, Plaintiff is entitled, after trial, to injunctive relief against Defendant, restraining Defendant from any further acts of trademark infringement, and to recovery of damages proven to have been caused by Defendant's acts described above.

COUNT FIVE
(Common Law Unfair Competition)

54. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

55. As a result of the quality of Plaintiff's products, Plaintiff has built up valuable good will in the Polo Trademarks, which have become closely associated with Plaintiff's products, and have come to symbolize Plaintiff's reputation for the quality and excellence of its products.

56. Defendant's wrongful use of the identical and confusingly similar Defendant's Marks is likely to deceive the public into believing falsely that Defendant's Infringing Products are associated with Plaintiff's Polo Trademarks, or originate from Plaintiff, or are sold, sponsored, licensed, or approved by Plaintiff, or that there is otherwise a connection between Plaintiff and the Infringing Products. Defendant has thus unfairly competed with Plaintiff in violation of New York common law.

57. On information and belief, such actions were taken by Defendant in a deliberate attempt to misappropriate and trade off of the goodwill and valuable worldwide reputation of the Polo Trademarks. Such action constitutes a willful attempt by Defendant to usurp the goodwill in the Polo Trademarks, and constitutes unfair competition in violation of New York common law.

58. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered damage to its business and valuable Polo Trademarks.

59. By reason of the foregoing, Plaintiff is entitled, after trial, to injunctive relief against Defendant, restraining Defendant from any further acts of unfair competition, and to recovery of damages proven to have been caused by Defendant's acts described above.

COUNT SIX
(New York General Business Law § 360-L)

60. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

61. Defendant's illegal acts as set forth above have caused damage to Plaintiff by diluting and blurring the distinctiveness of Plaintiff's Polo Trademarks in violation of New York General Business Law § 360-L.

62. By reason of the foregoing, Plaintiff is entitled, after trial, to injunctive relief against Defendant, restraining Defendant from any further damage to Plaintiff's reputation and trademarks, and to recovery of damages proven to have been caused by Defendant's acts described above.

COUNT SEVEN
(New York General Business Law § 349)

63. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

64. Defendant, without Plaintiff's authorization or consent, and having knowledge of Plaintiff's prior rights in the Polo Trademarks, has used, advertised, offered for sale, and sold to the consuming public the Infringing Products under the identical and confusingly similar Defendant's Marks in violation of New York General Business Law § 349.

65. Defendant's use of the Polo Trademarks and confusingly similar variations thereof is likely to cause and is causing confusion, mistake and deception among the general purchasing public as to the origin of the Infringing Products, and is likely to deceive the public into believing that the Infringing Products offered by Defendant originate from, are associated with or are otherwise authorized by Plaintiff, all to the damage and detriment of Plaintiff's reputation, goodwill and sales.

66. Defendant's deceptive acts and practices involve public sales activities of a recurring nature.

67. By reason of the foregoing, Plaintiff is entitled, after trial, to injunctive relief against Defendant, restraining Defendant from any further damage from such fraudulent business practices, and to recovery of damages proven to have been caused by Defendant's acts described above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. A permanent injunction enjoining and restraining Defendant, its officers, directors, agents, servants, employees, subsidiaries, affiliates and representatives and all other persons, firms or corporations in active concert or participation with it from directly or indirectly:
 - a) using in any manner Plaintiff's Polo Trademarks, as well as any confusingly similar trademarks, including but not limited to Defendant's Marks, as to be likely to cause confusion, deception, or mistake on or in connection with the advertising, offering for sale, or sale of any products or services that are not Plaintiff's, or not authorized by Plaintiff, or that otherwise infringe on the rights of Plaintiff;
 - b) committing any acts that falsely or misleadingly suggest or convey to purchasers that Defendant's Infringing Products are affiliated or connected with Plaintiff; sponsored, approved, licensed or guaranteed by Plaintiff; or produced under the control and supervision of Plaintiff;
 - c) doing any other act or thing calculated or likely to cause confusion or mistake in the minds of members of the public of Plaintiff's goods or services, as to the source of the goods or services marketed or offered for sale by Defendant;
 - d) applying for registration of any and all trademarks confusingly similar to Plaintiff's Polo Trademarks, including but not limited to Defendant's Marks, with the U.S.P.T.O.;
 - e) further infringing Plaintiff's Polo Trademarks and damaging Plaintiff's goodwill; or

f) otherwise competing unfairly with Plaintiff;

2. That Defendant and those acting in concert or participation with Defendant take affirmative steps to immediately dispel such false impressions that heretofore have been created by Defendant's use of the Polo Trademarks in conjunction with the Infringing Products, including but not limited to, recalling from any and all channels of distribution any and all Infringing Products and associated promotional materials;

3. That Defendant, within thirty (30) days after service of judgment with notice of entry thereof upon it, be required to file with the Court and serve upon Plaintiff a written report under oath, pursuant to 15 U.S.C. § 1116, setting forth in reasonable detail the manner and form in which Defendant has complied with any injunction and/or Order that the Court may enter in this action;

4. That the U.S.P.T.O. be ordered to cancel the U.S. Trademark Reg. No. 3824816 for Defendant's Mark #1;

5. That the U.S.P.T.O. be ordered to cancel the U.S. Trademark Reg. No. 3824814 for Defendant's Mark #2;

6. That the U.S.P.T.O. be ordered to refuse registration to the U.S. Trademark Application No. 85311850 for Defendant's Mark #3;

7. That Defendant account to Plaintiff for Defendant's profits and any damages sustained by Plaintiff, to the extent calculable, arising from the foregoing acts of trademark infringement, trademark dilution, false designation of origin, unfair competition, and deceptive acts and practices;

8. That in accordance with such accounting, Plaintiff be awarded judgment for three times such profits or damages, whichever is greater, pursuant to 15 U.S.C. Section 1117, New York General Business Law § 349(c) and analogous state laws;

9. That Plaintiff be awarded punitive damages pursuant to the laws of the State of New York in view of Defendant's willful trademark infringement, trademark dilution, false designation of origin, unfair competition, and deceptive acts and practices;

10. The Defendant deliver up for destruction all Infringing Products in Defendant's possession or control;

11. That Plaintiff be awarded reasonable attorneys' fees and costs; and

12. Such other and further relief as the Court deems just and proper.

Dated: July 26, 2012

Respectfully submitted,

GREENBERG TRAUERIG, LLP



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