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

Proceeding	91218362
Party	Defendant Dajuan Song
Correspondence Address	ROBERT H BLACK LAW OFFICES OF BLACK & OLDER SUITE 1900 1500 JOHN F KENNEDY BLVD PHILADELPHIA, PA 19102 UNITED STATES rblack@blackandolder.com
Submission	Answer
Filer's Name	Robert H. Black
Filer's e-mail	rblack@blackandolder.com
Signature	/Robert H. Black/
Date	01/07/2015
Attachments	Answer to Notice of Opposition - Serial No. 86112788.pdf(435831 bytes) EXHIBIT A.pdf(895064 bytes) EXHIBIT B.pdf(1699505 bytes) EXHIBIT C.pdf(588141 bytes) EXHIBIT D.pdf(65698 bytes)

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

SHANGHAI DIM SUM GARDEN, INC., d/b/a	:	
DIM SUM GARDEN, and	:	
RU FANG WANG,	:	
	:	
Opposers,	:	Opposition No. 91218362
	:	
vs.	:	Serial No. 86112788
	:	
DUJUAN SONG,	:	
	:	
	:	
Applicant.	:	

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant Dujuan Song rejects the allegation that Opposers will be damaged by the registration on the Principal Register of the mark DIM SUM GARDEN as applied for in Application Serial No. 86112788 filed November 7, 2013 under Section 1(a) of the Lanham Act for “restaurant services”, in International Class 43. In short, the Opposers have no right or standing to make such an opposition as they are 25% shareholders of Shanghai Dim Sum Garden, Inc. and the remaining 75% of the shareholders are in support of Sujuan Song’s application, and in fact, executed Intellectual Property Assignments in favor of the Applicant.

The parties to this proceeding are parties in another Civil Action involving the issues at hand in the United States District Court for the Eastern District of Pennsylvania, captioned as Shanghai Dim Sum Garden, Inc. a/k/a Dim Sum Garden, Inc. d/b/a Dim Sum Garden and Ru Fang Wang v. Song Enterprise, LLC., Dajuan “Sally” Song, Shizhou Da, and Atom Ren, under No. 14-1940. The Opposers in the present Notice of Opposition are the Plaintiffs/Counter Defendants in the aforementioned Civil Action and the Applicant in the present action is one of the

Defendants/Counter Plaintiffs in the aforementioned Civil Action. The Plaintiffs/Counter Defendants' Complaint in that Civil Action is attached hereto as Exhibit "A" and the Defendants/Counter Plaintiffs' Answer to Complaint with Affirmative Defenses and Counterclaim is attached hereto as Exhibit "B". The aforementioned pending civil proceeding in the Eastern District of Pennsylvania pertains to the issues herein and will directly affect whether Applicant's mark can be registered. See 37 C.F.R. §2.67; TMEP §§716.02(a), (c)-(d). Furthermore, Applicant's other trademark application, Serial No. 86114969, as well as Opposer's application, Serial No. 86310792, have already been suspended pending this civil proceeding in the Eastern District of Pennsylvania.

As grounds for her Answer to the present Notice of Opposition, Applicant, by her attorneys, replies as follows:

1. Admitted
2. Admitted
3. Admitted in Part; Denied in Part. Shanghai Dim Sum Garden, Inc. was incorporated on October 27, 2008 and improperly claimed a date of first use of September, 2007. The corporation is currently owned by three individuals: Ru Fang Wang, Atom Ren, and Shizhou Da. Atom Ren owns 25% of the corporation and Shizhou Da owns 50%. Cumulatively as 75% owners of Shanghai Dim Sum Garden, Inc., these shareholders have given their consent to Dujuan Song's application, however they have not given their consent to Opposer to make an application on June 16, 2014, which will be addressed upon publication of Opposers' June 16, 2014 application.
4. Admitted
5. Admitted
6. Admitted

7. Admitted in Part; Denied in Part. Opposer Shanghai Dim Sum Garden, Inc. became incorporated on October, 27, 2008 and did not begin using the mark in question until that date. While the opposing corporation has been using the mark prior to Applicant's filing date, 75% of the owners of Shanghai Dim Sum Garden have assigned their intellectual property rights and ownership over to Applicant and her solely owned LLC. Further, the individual who sold Ru Fang Wang her 25% stake, Zheng Chang Zhu, has also assigned her intellectual property rights and ownership over to Applicant and her solely owned LLC. Accordingly, Ru Fang Wang has a 0% stake ownership of such intellectual property and Applicant and her solely owned LLC were entitled to pursue the trademark at issue. The Intellectual Property Assignments are attached hereto as Exhibit "C".

8. Admitted in Part; Denied in Part. It is Admitted that the restaurant services offered by the Applicant are recognized to be of the highest quality and it is Denied that the Opposers even have a legal right to operate a restaurant without the consent of the majority shareholders.

9. Admitted in Part; Denied in Part. As 75% owners of Opposer Shanghai Dim Sum Garden, Inc., Atom Ren and Shizhou Da have assigned any and all intellectual property rights and ownership of DIM SUM GARDEN to Dujuan Song prior to Opposers' recent Application. Further, the individual who sold Ru Fang Wang her 25% stake, Zheng Chang Zhu, has also assigned her intellectual property rights and ownership over to Applicant and her solely owned LLC. Accordingly, Ru Fang Wang has a 0% stake ownership of such intellectual property and Applicant and her solely owned LLC were entitled to pursue the trademark at issue. See Exhibit "C". It is therefore Denied that Opposers have any right and certainly never had an exclusive right to the mark, and it is Admitted that the Applicant properly filed the Trademark Application on November 7, 2013.

10. Denied. The phrase “dim sum garden,” put simply, means dumpling garden in English. The usage of this phrase does not cause confusion, mistake, or deception. Moreover, Opposers have no permission nor right to use this mark, and Opposers continuous use creates the deception, if any. Attached hereto as Exhibit “D” is the Cease and Desist letter sent by Applicant to Opposers on December 31, 2013.

11. Admitted in Part; Denied in Part. The services provided by both Opposer and Applicant are similar insofar as they both are Chinese restaurants that serve dumplings. Further, Opposers’ restaurant is located across the train station on Market Street in Philadelphia while Applicant’s restaurant is located in the heart of Chinatown in Philadelphia.

12. Denied. To the contrary, Opposers continued use of the mark without consent of the majority shareholders is the cause of any confusion to the public.

13. Denied. To the contrary, Opposers continued use of the mark without consent of the majority shareholders is the cause of any confusion to the public.

14. Denied. As 75% owners of Opposer Shanghai Dim Sum Garden, Inc., Atom Ren and Shizhou Da have assigned any and all intellectual property rights and ownership of DIM SUM GARDEN to Dujuan Song. Further, the individual who sold Ru Fang Wang her 25% stake, Zheng Chang Zhu, has also assigned her intellectual property rights and ownership over to Applicant and her solely owned LLC. Accordingly, Ru Fang Wang has a 0% stake ownership of such intellectual property and Applicant and her solely owned LLC were entitled to pursue the trademark at issue. See Exhibit “C”. To the contrary, Opposers’ application to register the mark Dim Sum Garden under Application Serial No. 86310792 was done so without consent; therefore, Opposers are not and will not ever be entitled to the trademark application to which they seek.

15. Admitted in Part; Denied in Part. Dim Sum Garden was initially opened by Dim Sum Garden, Inc. Opposer Shanghai Dim Sum Garden, Inc. did not assume management of the restaurant until October 27, 2008, and specifically the 25% shareholder, Ru Fang Wang has never assumed any management of the restaurant on Market or Race Street at any time relevant hereto.

16. Admitted, however, it is important to note that at this time, Atom Ren and Shizhou Da owned, respectively, 25% and 50% of Shanghai Dim Sum Garden, Inc. Further, Zheng Chang Zhu, who sold her 25% stake to Ru Fang Wang, has assigned any and all rights and ownership to the intellectual property at issue unto Applicant and her solely owned LLC, and specifically the 25% shareholder, Ru Fang Wang has never assumed any management of the restaurant on Market or Race Street at any time relevant hereto.

17. Admitted in Part; Denied in Part. Dim Sum Garden was initially opened by Dim Sum Garden, Inc. Opposer Shanghai Dim Sum Garden, Inc. did not assume management of the restaurant until October 27, 2008. Further, the short period in which the restaurant was closed due to a failed health inspection. In order to prevent entry to the premises, Ru Fang Wang, the 25% shareholder of Shanghai Dim Sum Garden, Inc., whose sole role was acting as the landlord/sub-leasor of 59 North 11th Street, locked the doors to Atom Ren and Shizhou Da and changed the keys. Due to the aforementioned, Atom Ren and Shizhou Da were unable to rectify the failed inspection and the restaurant underwent a hostile takeover by the 25% shareholder, Ru Fang Wang.

18. Admitted in Part; Denied in Part. Ru Fang Wang, along with Dai Zhang and Mei Ying Gao, created the sham corporation Philly Dim Sum Garden, Inc. on November 15, 2013 in order to complete a hostile takeover of the restaurant at 59 N. 11th Street, leaving the 75% shareholders out in the cold without any compensation or return of their investment. This new

corporation is an inverse copy of Applicant's restaurant name, Dim Sum Garden Philly, which was registered as a fictitious name on June 10, 2013.

19. Admitted in Part; Denied in Part. Opposers are now unlawfully operating the restaurant located at 59 N. 11th Street under the sham corporation Philly Dim Sum Garden, Inc. and are infringing upon Applicant's mark, as well as the legal right of the majority shareholders, thus causing the dispute at issue in the aforementioned Civil Action.

20. Admitted in part. Denied in part. As 75% owners of Opposer Shanghai Dim Sum Garden, Inc., Atom Ren and Shizhou Da have assigned any and all intellectual property rights and ownership of DIM SUM GARDEN to Dujuan Song. Further, the individual who sold Ru Fang Wang her 25% stake, Zheng Chang Zhu, has also assigned her intellectual property rights and ownership over to Applicant and her solely owned LLC. Accordingly, Ru Fang Wang has a 0% stake ownership of such intellectual property and Applicant and her solely owned LLC were entitled to pursue the trademark at issue. See Exhibit "C". To the contrary, at no time did the instant Opposers legally have the right to use the mark or even have the right to utilize the name Shanghai Dim Sum Garden in any legal proceeding, including but not limited to this instant Opposition.

21. Admitted in part. Denied in part. Opposer is operating a Chinese restaurant across from the train station at Market Street while Applicant is legally operating a Chinese restaurant in the heart of Chinatown with the consent of the 75% shareholders of the Market Street restaurant.

22. Denied, to the contrary, the exactly opposite is the allegation that applies to this matter. Moreover, the Applicant has been operating the Race Street property in excess of one year, and any confusion caused by any party herein has long past.

23. Denied, to the contrary, the exact opposite is the allegation that applies to this matter. Moreover, Opposers have created the conversion, Opposers have reaped financial profit,

and Opposers have not shared one dime of this financial profit to the 75% shareholders of Shanghai Dim Sum Garden, Inc.

24. Admitted that the Applicant should be granted the registration requested and the exclusive right to own the mark. It is Denied that this result would cause any damage or injury to the Opposers who have received the benefit of unjust enrichment for the past year to the detriment of Applicant.

WHEREFORE, Applicant pray that Opposers' Notice of Opposition be dismissed; or in the alternative, be suspended pending a determination of the civil proceeding in the Eastern District of Pennsylvania.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Opposers failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Opposers' claims are in violation of the Statute of Frauds.

THIRD AFFIRMATIVE DEFENSE

Opposers lack Standing to raise the claims alleged in its Notice of Opposition.

FOURTH AFFIRMATIVE DEFENSE

Opposers' claims are barred, in whole or in part, by the doctrines of waiver, estoppel and unclean hands.

FIFTH AFFIRMATIVE DEFENSE

Opposers have failed, in whole or in part, to mitigate its alleged damages.

SIXTH AFFIRMATIVE DEFENSE

The Notice of Opposition should be dismissed for lack of personal jurisdiction.

SEVENTH AFFIRMATIVE DEFENSE

The Notice of Opposition should be dismissed for lack of subject matter jurisdiction.

EIGHTH AFFIRMATIVE DEFENSE

Opposers' prior breaches of and/or misrepresentations made in connection with any alleged or underlying agreements with Applicant excused any conduct by Applicant and/or bars any recovery or relief to which Opposers may have been entitled (if any), in whole or in part.

NINTH AFFIRMATIVE DEFENSE

Applicant is justified to act or not act as chosen.

TENTH AFFIRMATIVE DEFENSE

Applicant has acted properly, with due care and good faith, and in accordance with her obligations under an applicable Agreement(s), as concerns the matters at issue in this action.

ELEVENTH AFFIRMATIVE DEFENSE

If Opposers have suffered any loss, it is a result, in whole or in part, of their own culpable conduct.

TWELFTH AFFIRMATIVE DEFENSE

If Opposers have suffered any loss, they must bear that proportion of the total loss as was caused by their own culpable conduct.

THIRTEENTH AFFIRMATIVE DEFENSE

Applicant's alleged conduct was not the proximate cause or a substantial factor in Opposers' alleged damages.

FOURTEENTH AFFIRMATIVE DEFENSE

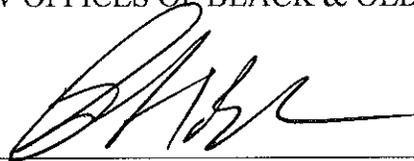
Opposers' relief pursuant to the Notice of Opposition, and each purported cause of action alleged therein, is barred in whole or in part, because Opposers have engaged in fraud.

Respectfully submitted,

LAW OFFICES OF BLACK & OLDER

Dated: July 8, 2014

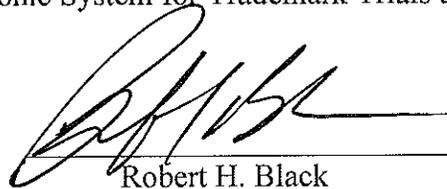
By



Robert H. Black
1500 JFK Blvd.
Two Penn Center, Suite 1900
Philadelphia, PA 19102
Attorneys for Applicant

CERTIFICATE OF ELECTRONIC MAILING

The undersigned hereby certifies that the within ANSWER TO NOTICE OF OPPOSITION regarding Application Serial No. 86114969 is being filed electronically with the Trademark Trial and Appeal Board, via the Electronic System for Trademark Trials and Appeals (ESTTA) on June 17, 2014.

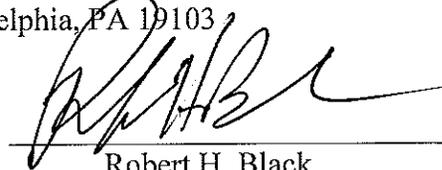


Robert H. Black

CERTIFICATE OF SERVICE

The undersigned certifies that, pursuant to 37 C.F.R. §§ 2.101(b) and 2.119, a copy of the within ANSWER TO NOTICE OF OPPOSITION regarding Application Serial No. 86114969 is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail on July 8, 2014 in an envelope addressed to Opposers' counsel:

Manny Pokotilow
1635 Market Street
Seven Penn Center – 12th Floor
Philadelphia, PA 19103



Robert H. Black

THE PARTIES

4. Shanghai Dim Sum Garden, Inc., is a Pennsylvania Corporation doing business as Dim Sum Garden located at 59 North 11th Street, Philadelphia, PA 19107.
5. Ru Fang Wang is an adult individual with a primary place of business of 59 North 11th Street, Philadelphia, PA 19107.
6. Song Enterprise, LLC., is a Pennsylvania Limited Liability Company doing business as Dim Sum Garden located at 1020 Race Street, Philadelphia, PA 19107.
7. Sally Song is an adult individual with a place of business at 1020 Race Street, Philadelphia, PA 19107.
8. Shizhou Da is an adult individual with a place of business at 1020 Race Street, Philadelphia, PA 19107.
9. Atom Ren is an adult individual with a place of business at 1020 Race Street, Philadelphia, PA 19107.

THE FACTS

10. In 2007 Tom Gao and Jack Chen formed Shanghai Dim Sum Garden, Inc., for the purpose of operating a Chinese restaurant called Dim Sum Garden located at 59 North 11th Street, Philadelphia, PA 19107.
11. Dim Sum Garden opened for business in September of 2007 to great success largely as a result of the popularity of Tom Gao's cuisine.
12. On September 22, 2009, Plaintiff Ru Fang Wang purchased 250 Shares or twenty-five percent (25%) of Shanghai Dim Sum Garden, Inc., from Zheng Chang Zhu who had previously obtained them from the original owners.

13. On September 22, 2009, Defendant Atom Ren purchased 250 Shares or twenty-five percent (25%) of Shanghai Dim Sum Garden, Inc., from Zheng Chang Zhu who had previously obtained them from the original owners.
14. On September 3, 2009, Defendant Shizhou Da purchased 500 shares or fifty percent (50%) of Shanghai Dim Sum Garden, Inc., from Dai Zhang who had previously purchased them from the original owners.
15. At no time did Defendant Sally Song have any ownership interest in Shanghai Dim Sum Garden, Inc., or the Dim Sum Garden Restaurant.
16. Throughout her ownership, Plaintiff Ru Fang Wang received regular financial distributions as compensation for her ownership interest.
17. The commercial lease at 59 North 11th Street was obtained as a result of good will towards Plaintiff Ru Fang Wang.
18. Defendant Shizhou Da, upon the purchasing of her interest, served as the operator of the Dim Sum Garden Restaurant.
19. As a result of their ownership interests, defendant Shizhou Da and Atom Ren had a fiduciary duty to Shanghai Dim Sum Garden, Inc.
20. The Dim Sum Garden Restaurant operated at 59 North 11th Street until October 11, 2013 upon which time the operation went dark.
21. Unbeknownst to the Plaintiffs, Shizhou Da and or Atom Ren did cause the City of Philadelphia to file a complaint alleging various health code violations to include presenting "a serious hazard to the safety, health, and welfare of the patrons of the food establishment and to the public in general and constitutes a public nuisance."
22. The aforementioned complaint is captioned The City of Philadelphia v. Ren, Case I.D. No. 130603460.

23. On December 19, 2013, a Praceipe to Settle, Discontinue and End the aforementioned case was filed.
24. Defendants Shizhou Da and or Atom Ren purposefully abandoned the 59 North 11th Street establishment in order to avoid remedying the deficiencies identified in the aforementioned suit.
25. Defendants Shizhou Da and or Atom Ren used the aforementioned suit as a pretext to freeze out Ru Fang Wang and attempt to relocate the restaurant without her knowledge.
26. In September of 2013, defendant Song Enterprise, LLC. and or Sally Song with her partners Shizhou Da and or Atom Ren, opened a restaurant named "Dim Sum Garden" located at 1020 Race Street, Philadelphia, PA, which first purported itself to be a second location and later as the successor to the 59 North 11th Street restaurant.
27. Defendant Song Enterprise, LLC., has or had no right to operate an establishment with the same name as the establishment as that of the Plaintiffs as well as to purport itself as the successor of said establishment
28. The defendants failed to inform Plaintiff, Ru Fang Wang of either the suit by the city, the opening of the Race Street location or the closing of the Dim Sum Garden restaurant located at 59 North 11th Street.
29. The defendants failed to give the landlord, Parametric Garage Associates, L.P., any notice of their vacating the premises or going dark.
30. Upon closing the restaurant located at 59 North 11th Street, the defendants removed the fixtures and equipment.
31. Upon closing the restaurant located at 59 North 11th Street, the defendants relocated the staff to the Race Street location.

32. After completing remedial repairs and cleaning mandated by the City, the Plaintiffs reopened the Dim Sum Garden Restaurant at 59 North 11th Street on December 26, 2013.
33. In November of 2013, defendant Sally Song applied for a federal trademark of the restaurant name "Dim Sum Garden," US Serial No. 86114969, which is still pending.
34. In an article posed at "philly.com" on September 26, 2013, defendant Sally Song is quoted as the source that the Race Street and 11th Street restaurants are affiliated. A retraction of this statement was later printed on the site.
35. In an article posted on "Philly.com" on January 24, 2014, defendant Sally Song was quoted making remarks detrimental to the 11th Street Dim Sum Garden restaurant, specifically stating that the 11th Street restaurant was "theirs" referring to her and her mother, implying that someone was "trafficking on her good name" and other remarks detrimental to the business of the Plaintiffs.
36. At some point subsequent to the opening of the Race Street location, defendant Sally Song and or Song Enterprise, LLC., redirected restaurant web directory entries, to include Yelp, Zagat and Menupages, for the Dim Sum Garden restaurant located at 59 North 11th Street, to direct customers to the restaurant located at 1020 Race Street.
37. Throughout the months preceding the filing of this complaint, Defendants Sally Song, Song Enterprise, LLC., and or their agents, have undertaken a relentless campaign, both in print and public opinion, to destroy the business of the Plaintiffs.
38. The defendants have operated the restaurant located at 1020 Race Street for profit beginning in September, 2012.
39. The profits of the 1020 Race Street restaurant are not shared with Ru Fang Wang.

40. The restaurant Dim Sum Garden is located at 59 North 11th Street, Philadelphia, PA, and is presently being operated by Shanghai Dim Sum Garden, Inc. and or Ru Fang Wang rightfully.

THE ALLEGATIONS

COUNT 1 - VIOLATION OF 15 U.S.C. 1125

41. Plaintiff repeats the allegations in the foregoing paragraphs as if fully set forth herein.

42. 15 U.S.C. 1125 states in pertinent part:

(a) Civil action

(1) Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which

(A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or

(B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities,

shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.

15 U.S.C. 1125 (West 2012).

43. Through its actions the defendants have used the name "Dim Sum Garden" in a false and misleading manner.

44. Through its actions the defendants have made false and or misleading representations of fact to include the filing of a federal trademark application for the restaurant name Dim Sum Garden.

45. Through its actions the defendants have made false and or misleading representations of fact to include representing to the public at large that the Dim Sum Garden restaurant located at 59 North 11th Street was in some way illegitimate and otherwise lacked a right to operate.
46. Through its actions the defendants have made false and or misleading representations of fact to include the location of a sign at the restaurant located at 1020 Race Street advertising "Dim Sum Garden."
47. The defendants have, in a commercial advertising or promotion, specifically the internet restaurant directories Yelp, Zagat and Menupages, misrepresent the nature, characteristics, qualities, or geographic origin of the restaurant Dim Sum Garden.
48. The defendants have, in a commercial advertising or promotion, specifically the website www.phillydimsumgarden.com, misrepresent the nature, characteristics, qualities, or geographic origin of the restaurant Dim Sum Garden.
49. As a result of their actions the defendants have violated 15 U.S.C. 1125.
50. As a direct result of the aforementioned actions of the defendants, the Plaintiffs is, or is likely to be, damaged.

COUNT 2 – UNFAIR COMPETITION AND TRADE PRACTICES

51. Plaintiff repeats the allegations in the foregoing paragraphs as if fully set forth herein.
52. The foregoing averments constitute unfair competition under the common law.
53. The foregoing averments are in violation of 73 Pa. C.S.A. 201-1 et seq., the Pennsylvania Unfair Trade Practices and Consumer Protection Law.

54. The defendants intended to harm the business of the Plaintiffs as a result of their unfair trade practices and violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law to include:

- a. Passing off goods or services as those of another, specifically by marketing their product as being the successor of the 11th Street location of the Dim Sum Garden restaurant.
- b. Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services, specifically by informing the press, internet directories and the public that the 11th Street Dim Sum Garden location was either closed and or illegitimate.
- c. Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another, specifically by claiming to be the successor of the 11th Street location of the Dim Sum Garden restaurant.
- d. Using deceptive representations or designations of geographic origin in connection with goods or services, specifically by modifying internet restaurant directories and informing members of the press to direct patrons searching for Dim Sum Garden to the Race Street location.
- e. Disparaging the goods, services or business of another by false or misleading representation of fact, specifically by making disparaging remarks in the press, in public and in the comments sections of various websites.
- f. Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

55. The plaintiffs were harmed and continue to be harmed as a result of the defendants' unfair trade practices to include lost profits, damage to their reputation, loss of good will and other damages both realized and unrealized.
56. The fraudulent, willful and malicious acts of the defendants entitle the plaintiffs to punitive damages and attorney's fees as allowed by statute.

COUNT 3 – UNJUST ENRICHMENT AND CONSTRUCTIVE TRUST

57. Plaintiff repeats the allegations in the foregoing paragraphs as if fully set forth herein.
58. As a direct, proximate, and intended result of the defendants' breaches of its common law duties to the plaintiffs, the defendants have received, or will receive, monies to which they are not entitled and for which it should be held accountable.
59. Such monies received by the defendants are monies the defendants cannot equitably keep, and the defendants should be held to be constructive trustees of such monies. As a constructive trustee, the defendants should be required to disgorge all monies that it has received as the fruits of its wrongful acts. The full amount of such monies is not presently capable of being precisely ascertained.

COUNT 4 – TORTIOUS INTERFERENCE

60. Plaintiff repeats the allegations in the foregoing paragraphs as if fully set forth herein.
61. The foregoing acts of the defendants constitute tortious interference with existing and prospective business relations under the common law.

COUNT 5 – DEFAMATION

(As to defendant Sally Song only)

62. Plaintiff repeats the allegations in the foregoing paragraphs as if fully set forth herein.
63. The statements referenced in the previous paragraphs by defendant Sally Song were defamatory in nature.
64. These statements were published in various news outlets and websites, most notably “Philly.com.”
65. The referenced statements on their face were overtly directed at the Plaintiffs’ establishment, Dim Sum Garden, located at 59 North 11th Street, Philadelphia, PA and understood by the Plaintiffs to be defamatory in nature.
66. These statements are understood by the general public based upon their plain meaning and further evidenced by the “comments” sections of the various places of publication.
67. The plaintiffs have suffered special damages in the form of lost business, loss of good will in the community and damage to reputation in the restaurant business.
68. The statements published by the defendant were false.
69. The statements published by the defendant were done so with a malicious intent.

COUNT 6 – SHAREHOLDER DERIVATIVE ACTION (15 PA CSA 1782)

(As to defendants Shizhou Da and Atom Ren only)

70. Plaintiff repeats the allegations in the foregoing paragraphs as if fully set forth herein.
71. Plaintiff Ru Fang Wang is and at all times relevant hereto was shareholder of Shanghai Dim Sum Garden, Inc., a Pennsylvania Corporation.
72. Plaintiff does not make this action as a collusive one to otherwise confer jurisdiction upon the Court where it may otherwise not exist.

73. Plaintiff is or was unable to obtain any desired action by the defendants because she only learned of their actions after they abandoned the corporate business and otherwise engaged in the tortious and or illegal conduct as spelled out in the complaint.
74. Plaintiff is or was unable to obtain any desired action by the defendants because the defendants and or their agents refused to acknowledge her rights as a shareholder.
75. Plaintiff Shanghai Dim Sum Garden, Inc., is a Pennsylvania Corporation.
76. Defendant Shizhou Da holds 500 Shares of Shanghai Dim Sum Garden, Inc.
77. Defendant Atom Ren holds 250 shares of Shanghai Dim Sum Garden, Inc.
78. Defendants Shizhou Da and Atom Ren did breach their fiduciary duty to Shanghai Dim Sum Garden, Inc., and Ru Fang Wang by:
- a. Converting corporate assets to themselves, specifically restaurant equipment, business good will and other tangible property.
 - b. Converting corporate intellectual property, specifically the restaurant name Dim Sum Garden.
 - c. Engaging in a scheme to defraud shareholders by creating or directing the creation of a new entity, namely Song Enterprise, LLC., with the purpose of operating a restaurant of the same name as that operated by Shanghai Dim Sum Garden, Inc., in order to avoid payments to other shareholders and or otherwise freeze them out of the business.
 - d. Engaging in a course of conduct which served to reduce the value of the corporation.

- e. Sanctioning, endorsing and otherwise facilitating the operation of an entity, namely Song Enterprise, LLC., which has engaged in unfair trade practices and other tortious conduct against the corporation as outlined in this complaint.
- f. Failing to properly defend the corporation in litigation, specifically the City of Philadelphia v. Ren, which resulted in the City barring the establishment from operation until remedial repairs were made.
- g. Abandoning the commercial lease at 59 North 11th Street, Philadelphia, PA resulting in liability to the corporation.
- h. Various other conduct in which the defendants' wrongdoing and misappropriations have deprived corporation of assets properly belonging to it, and have placed its operating status in continuing peril and jeopardy.

79. As a result of the defendants' actions the plaintiffs have and will continue to suffer damages.

COUNT 7 – CONVERSION

(As to defendants Shizhou Da and Atom Ren only)

- 80. Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth herein.
- 81. Plaintiff Shanghai Dim Sum Garden, Inc., was the owner of various restaurant equipment located at 59 North 11th Street, Philadelphia, PA.
- 82. Defendants Shizhou Da and or Atom Ren did convert for their own personal use with the intent to permanently deprive the plaintiffs the use of said property.
- 83. As a result of the defendants actions the plaintiffs have suffered damages.

COUNT 8 – NEGLIGENCE

(As to defendants Shizhou Da and Atom Ren only)

84. Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth herein.
85. Defendants Shizhou Da and Atom Ren had a duty to the plaintiffs to operate the Dim Sum Garden restaurant located at 59 North 11th Street, Philadelphia, PA, in a lawful manner.
86. Defendants Shizhou Da and Atom Ren had a duty to the plaintiffs to operate the Dim Sum Garden restaurant located at 59 North 11th Street, Philadelphia, PA, in a competent manner.
87. Defendants Shizhou Da and Atom Ren breached their duty by failing to operate the restaurant in accordance with Pennsylvania and Philadelphia laws and ordinances.
88. Defendants Shizhou Da and Atom Ren breached their duty by collaborating with an entity, namely Song Enterprise, LLC., and knowing or should have known that such actions would cause damages to the plaintiffs.
89. As a direct and proximate cause of the defendants' breach, the City of Philadelphia filed the action City of Philadelphia v. Ren which resulted in the closure or interruption of business at the 59 North 11th Street restaurant.
90. As a direct and proximate cause of the defendants' breach, the business at 59 North 11th Street has suffered damages to its business.
91. The plaintiffs have suffered damages as a result of the aforementioned breach.

COUNT 9 - FRAUD

(As to defendants Shizhou Da and Atom Ren only)

92. Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth herein.

93. The defendants defrauded the plaintiffs by clandestinely relocating the restaurant and refusing to acknowledge the plaintiffs rights to either a representative share in the 1020 Race Street establishment or the continued operation of the 59 North 11th Street establishment.

94. The defendants conduct was undertaken with the intent to defraud the plaintiffs.

95. As a result of the defendants fraudulent conduct the plaintiffs have suffered and will continue to suffer damages.

COUNT 10 – PUNITIVE DAMAGES

96. Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth herein.

97. Defendants' actions as alleged herein are outrageous, malicious and were intended to and did cause injury to plaintiff

WHEREFORE, Plaintiffs pray for the following relief:

- (a) Monetary damages, both compensatory and punitive, as a result of the willful nature of their actions.
- (b) For orders preliminarily and permanently enjoining the defendants from using the restaurant name “Dim Sum Garden.”
- (c) For an order requiring the defendants to withdraw their application for a federal trademark of the restaurant name “Dim Sum Garden.”
- (d) For an order requiring the defendants to destroy and otherwise cease all use of any advertising or promotional materials bearing the name “Dim Sum Garden” or any variation thereof.

- (e) An order directing the defendants to restore 59 North 11th Street as the address of record for the restaurant Dim Sum Garden located in Philadelphia, Pennsylvania, by whatever means may be necessary.
- (f) For the award of attorney's fees as allowed under 15 U.S.C. 1117, the Pennsylvania Unfair Trade Practices and Consumer Protection Law and 15 Pa. C.S.A. 1782.
- (g) For an order awarding the 750 shares of Shanghai Dim Sum Garden, Inc., previously held by Shizhou Da and Atom Ren, to Ru Fang Wang as a result of their being abandoned by the aforementioned defendants.
- (h) For an order awarding a twenty-five percent (25%) interest, or the value thereof to include past and future profits, of the restaurant located at 1020 Race Street owned or operated by Song Enterprise, LLC.
- (i) For such other relief as this Honorable Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

Dated: 3/12/14

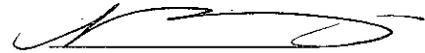
Respectfully submitted,

By: s/ Donald Benedetto
Donald Benedetto, Esq.
BAHURIAK LAW GROUP
520 South Third Street
Philadelphia, PA 19147

VERIFICATION IN ACCORDANCE WITH F.R.C.P. 23.1

I, Ru Fang Wang, being duly sworn according to law, hereby state that I am the plaintiff in the within action and that the facts set forth in the foregoing civil action complaint are true and correct to the best of my knowledge, information and belief. I, undersigned, understand that statements made herein are made subject to penalty of law.

Date: 3/27/14



Ru Fang Wang

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Shanghai Dim Sum Garden, Inc. AKA Dim Sum Garden, Inc. D/B/A Dim Sum Garden & Ru Fang Wang

(b) County of Residence of First Listed Plaintiff Philadelphia (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Donald Benedetto, Esq. The Bahuriak Law Group 520 S. 3rd Street Philadelphia, PA 19147

DEFENDANTS

Song Enterprise, LLC, Dajuan "Sally" Song, Shizhou Da & Atom Ren

County of Residence of First Listed Defendant Philadelphia (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like 110 Insurance, 310 Airplane, 375 False Claims Act, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 16 USC 1125

Brief description of cause: The Defendants have used the name "Dim Sum Garden" in a false and misleading manner.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 3-31-2014 SIGNATURE OF ATTORNEY OF RECORD Donald Benedetto

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Shanghai Dim Sum

CIVIL ACTION

v.
Song Enterprises, LLC
et al.

NO. 14 1940

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

4/2/2014
Date

D. Penderick
Attorney-at-law

Plaintiff
Attorney for

215-413-1100
Telephone

215-413-2288
FAX Number

don@bahmerick.com
E-Mail Address

APR - 2 2014

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 59 North 11th Street, Philadelphia, PA 19107
Address of Defendant: 1020 Race Street, Philadelphia, PA 19107
Place of Accident, Incident or Transaction: 59 North 11th Street, Philo, PA 19107
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [] No [X]

Does this case involve multidistrict litigation possibilities? Yes [] No [X]

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [] No [X]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [] No [X]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [] No [X]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes [] No [X]

CIVIL: (Place [X] in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FELA
3. [] Jones Act-Personal Injury
4. [] Antitrust
5. [] Patent
6. [] Labor-Management Relations
7. [] Civil Rights
8. [] Habeas Corpus
9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [X] All other Federal Question Cases (Please specify) 16 USC 1125

B. Diversity Jurisdiction Cases:

- 1. [] Insurance Contract and Other Contracts
2. [] Airplane Personal Injury
3. [] Assault, Defamation
4. [] Marine Personal Injury
5. [] Motor Vehicle Personal Injury
6. [] Other Personal Injury (Please specify)
7. [] Products Liability
8. [] Products Liability — Asbestos
9. [] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, [] counsel of record do hereby certify:
[] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
[] Relief other than monetary damages is sought.

DATE: [] Attorney-at-Law Attorney I.D.# APR - 2 2014
NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/2/2014 [Signature] 309199
Attorney-at-Law Attorney I.D.#

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHANGHAI DIM SUM GARDEN, INC.	:	NO. 14-1940
A/K/A DIM SUM GARDEN, INC. D/B/A	:	
DIM SUM GARDEN	:	
	:	
AND	:	
	:	
RU FANG WANG,	:	JURY TRIAL DEMANDED
Plaintiffs	:	
	:	
v.	:	
SONG ENTERPRISE, LLC.,	:	
DAJUAN "SALLY" SONG, SHIZHOU DA	:	
	:	
AND	:	
	:	
ATOM REN,	:	
Defendants	:	

**DEFENDANTS, SONG ENTERPRISE, LLC, SALLY SONG, SHIZHOU DA, AND
ATOM REN'S AMENDED ANSWER TO PLAINTIFFS' COMPLAINT WITH
AFFIRMATIVE DEFENSES AND AMENDED COUNTERCLAIM**

Defendants, by and through their undersigned counsel, Robert H. Black, Esquire, files this Answer to Plaintiffs' Civil Action Complaint as follows:

JURISDICTION AND VENUE

1. Admitted
2. Admitted
3. Admitted
4. Admitted in part. Denied in part. Dim Sum Garden, Inc. incorporated on September 10, 2007 and began operating the restaurant Dim Sum Garden (hereinafter referred to as the "Restaurant") at that time. Shanghai Dim Sum Garden, Inc. incorporated on October 27, 2008

and took over the operations of the Restaurant at that time. Philly Dim Sum Garden, Inc. incorporated on November 21, 2013 and took over the operations of the Restaurant at that time over the objections of Defendants.

5. Admitted in part. Denied in part. It is admitted that Plaintiff Ru Fang Wang is an adult individual but it is denied that neither Ru Fang Wang nor her corporation, Philly Dim Sum Garden, Inc., has the right to operate a business at 59 North 11th Street, Philadelphia, PA 19107.
6. Admitted in part. Denied in part. Song Enterprise, LLC., is a Pennsylvania Limited Liability Company doing business under the registered fictitious name as Dim Sum Garden Philly located at 1020 Race Street, Philadelphia, PA 19107.
7. Admitted
8. Admitted in part. Denied in part. Shizhou Da is an employee at 1020 Race Street.
9. Admitted in part. Denied in part. Atom Ren is an employee at 1020 Race Street.

FACTS

10. Admitted in part. Denied in part. Jack Chen formed Dim Sum Garden, Inc. on September 10, 2007. Zheng Zhu formed Shanghai Dim Sum Garden, Inc. on October 27, 2008. Both corporations have a status as active at 59 north 11th Street, Philadelphia, PA 19107.
11. Admitted in part. Denied in part. The Restaurant opened for business in September 2007 and its success was largely as a result of the popularity of Shizhou Da's cuisine.
12. Admitted in part. Denied in part. Jack Chen left the business in 2008, at which point Zheng Zhu formed Shanghai Dim Sum Garden, Inc. on October 27, 2008. Zhang Qi Sheng, Ru Fang Wang's husband, became aware of Shizhou Da's immense success and negotiated

terms with Shizhou Da and the previous owners in order to transfer ownership. Then in 2009, Ru Fang Wang allegedly bought her shares from Zeng Zhu.

13. Admitted in part. Denied in part. Atom Ren paid \$20,000 for his 250 shares or 25% ownership of Shanghai Dim Sum Garden, Inc.
14. Admitted in part. Denied in part. Shizhou Da paid \$41,000 for her 500 shares or 50% ownership of Shanghai Dim Sum Garden, Inc. Additionally Defendant Da paid Plaintiff Ru Fang Wang the sum of \$4,500 for security deposit.
15. Admitted as stated.
16. Admitted as stated. Additionally, Wang received rent from the Defendants, as either Wang or one of her family members was the named tenant of the location where the business opened and subleased the premises to the Defendants, Da and Ren.
17. Admitted only as set forth in the answer to paragraph 16 above.
18. Admitted in part. Denied in part. Shizhou Da was the original chef since the Restaurant began its operation in 2007, even prior obtaining ownership rights.
19. Admitted. It must be noted that Plaintiff Ru Fang Wang was also a shareholder and Plaintiff Ru Fang Wang held the same fiduciary duty.
20. Admitted.
21. Denied. To the contrary, Plaintiff Ru Fang Wang, the principal tenant of the business location was well aware that there were problems pertaining to license and inspection and knew prior to the Defendants that the operation went dark and, in fact, moved equipment and product from the location to next door where her husband conducted his business during all other times that the restaurant was inspected by the City of Philadelphia.
22. Denied as stated as set forth in answer 21 above; however the Complaint speaks for itself.

23. Denied. Defendants do not have a foundation for either admitting or denying the truth or circumstances of Plaintiffs' allegation, therefore the allegation is denied on that basis.
24. Denied in its entirety. To the contrary, Ru Fang Wang, acting within her capacity as sub-leasor of the property located at 59 North 11th Street, locked the doors of the Restaurant in order to prevent Shizhou Da and Atom Ren from entering the premises and operating the Restaurant. Ru Fang Wang purposely prevented Atom Ren and Shizhou Da from remedying the deficiencies identified in the complaint.
25. Denied. Ru Fang Wang, as the leasor of the property, locked the doors and prevented entry to Atom Ren and Shizhou Da. Ru Fang Wang. Furthermore, Ru Fang Wang's mother, Gao Mei Ying, had wanted Atom Ren and Shizhou Da out of the business and used the aforementioned suit as an opportunity and a pretext to lock out the defendants from the premises. Additionally, Wang and other members of her family filed for another incorporation in like name in order to open and operate the restaurant without the consent of the Defendants.
26. Denied as stated. Shizhou Da and Atom Ren are not partners with Song Enterprise, LLC or Sally Song. They have assigned all intellectual property rights to the use of the Restaurant to Song Enterprise, LLC. The restaurant name at Race Street is Dim Sum Garden Philly. It is further denied that it is a second location or a successor to the 11th Street location, which is operating without permission by the majority of shareholders.
27. Denied. To the contrary, Atom Ren and Shizhou Da, who are majority shareholders of Shanghai Dim Sum Garden, Inc., have given permission and assigned ownership of all intellectual property to Defendant Song who operates Dim Sum Garden Philly.

28. Denied. Ru Fang Wang knew of all the health inspections that occurred over the restaurant's years of operation, specifically the one that occurred on October 11, 2013. She further knew of the court date scheduled for October 15, 2013 in regards to these violations. Atom Ren and Shizhou Da in no way prevented Ru Fang Wang from knowledge of these occurrences. Ru Fang Wang knew of every health inspection that occurred over the years of operation because during the inspections certain equipment and product she would have moved to the neighboring property, operated by Ru Fang Wang and her family, and she opened with a key always and solely in Ru Fang Wang's possession.
29. Denied in its entirety. To the contrary, Ru Fang Wang leases the property from the landlord, Parametric Garage Associates, L.P. Ru Fang Wang was aware of the inspection and closing. Defendants assert that if the landlord was not aware of such closing, it was by and through the failure of Ru Fang Wang. Defendants Da and Ren were unaware of the closing and subsequent reopening and were not able to gain access to the restaurant at any time after October 11, 2013.
30. Denied in its entirety. To the contrary, no equipment was removed from the Restaurant or its premises. To the contrary, Ru Fang Wang, as sub-lesor of the property to the named defendants, locked the premises to Atom Ren and Shizhou Da in order to prevent their entry.
31. Admitted in part. Denied in part. Defendants Da and Ren sought employment elsewhere due to being locked out of the premises of the Restaurant at 59 North 11th Street by their sub-lesor and minority shareholder, Ru Fang Wang. It is admitted that some of the staff

is at the restaurant operated by the Defendants and some of the staff is at the restaurant wrongfully operated by the Plaintiffs.

32. Denied. Defendants do not have a foundation for either admitting or denying the truth or circumstances of Plaintiffs' allegation, therefore the allegation is denied on that basis. Defendants are aware that without any of their knowledge or consent, Plaintiff Ru Fang Wang filed for another corporation of like name and is operating the 11th Street restaurant without sharing any of the income or proceeds of the business to Defendants Da and Ren, who are 75% shareholders of Shanghai Dim Sum Garden, Inc.
33. Admitted.
34. Admitted as stated.
35. Admitted in part. Denied in Part. The article speaks for itself and anything said by Defendant Song is true to her best knowledge and belief.
36. Denied that Defendant Song redirected any website. To the contrary, the websites redirect restaurant web directory entries on their own. They do not do so upon request of the business owner to the knowledge of Defendant Song who denies any active role pertaining to redirection of web directories.
37. Denied. Public opinion is based on customers having had bad experiences from the Restaurant located at 59 North 11th Street. Shizhou Da was the main chef and the source of success on the good food. Since she is no longer there, their success or lack of success is unknown to Defendants. Ru Fang Wang created this problem by locking out her fellow shareholders, starting a new corporation and operating the business maliciously and without consent of the Defendants.

38. Denied as stated. It is denied that any of the Defendants operated a restaurant at 1020 Race Street in the beginning of September 2012. To the contrary, Defendant Song opened a new restaurant in September 2013, and Defendants Da and Ren came to work at Song's restaurant after they were locked out by Wang later in 2013.
39. Admitted as Plaintiff Ru Fang Wang has no interest in the business on Race Street.
40. Denied. The Restaurant was reopened under new ownership of a new corporation. This corporation is now called Philly Dim Sum Garden, Inc. filed by Plaintiff Wang and her family members. Ru Fang Wang has never been involved with any operations of the Restaurant, regardless of the owning entity, whether it was Dim Sum Garden, Inc., Shanghai Dim Sum Garden, Inc., or Philly Dim Sum Garden, Inc. The restaurant operating at 59 North 11th Street is not rightfully owned by Ru Fang Wang and the operation is clearly contrary to the rights and interests of Defendants Da and Ren as well as the corporate entity Shanghai Dim Sum Garden, Inc.

THE ALLEGATIONS

COUNT 1 – VIOLATION OF 15 U.S.C. 1125

41. Denied in part according to the foregoing denials.
42. Admitted that the portion of the statute speaks for itself.
43. Denied that the defendants used the name in a false or misleading manner. The restaurant was named Dim Sun Garden Philly. The main chef and reason for success, Shizhou Da is at the Race Street location. 75% or 100% of the shareholders of Shanghai Dim Sum Garden, Inc. are now employees of Song Enterprises. This was due to the fact that Ru Fang Wang locked Defendants Da and Ren out of the 11th Street location and Plaintiffs set up a new corporation to maliciously operate Defendants' business.

44. Admitted in part. Denied in part. Song Enterprise, LLC has filed for a federal trademark, but its action is not false or misleading. 75% of the shareholders of Shanghai Dim Sum Garden, Inc. are now employees of Song Enterprises and have assigned their intellectual property rights to Song Enterprise, LLC.
45. Denied. Defendants have never stated that the Restaurant located at 59 North 11th Street was “illegitimate” or otherwise “lacked a right to operate.” (other than the articles and the cease and desist letter). However, Plaintiffs did not have the right to have locked Defendants out of the 11th Street property, start a new corporation of like name without knowledge and consent of Defendants and operate the business without the consent of Defendants Da and Ren to their financial detriment.
46. Denied. Defendants’ actions have not been false or misleading. The sign displays Dim Sum Garden Philly. Further, 75% of the shareholders of Shanghai Dim Sum Garden, Inc. are now employees of Song Enterprises, LLC and have assigned their rights to Song Enterprise, LLC.
47. Denied. These websites update their information on their own. It is believed that customers have prompted this updating. Accordingly, defendants have done nothing in regards to commercial advertising or promotion to misrepresent the nature, characteristics, qualities, or geographic origin of the Restaurant.
48. Denied. The website is www.dimsumgardenphilly.com and does not misrepresent the nature, characteristics, qualities, or geographic origin of the restaurant Dim Sum Garden.
49. Denied as conclusions of law and further denied that there is no basis of fact to lead to this conclusion of law.

50. Denied that Plaintiffs are damaged. To the contrary, Defendants are damaged by Plaintiffs' violation of U.S.C. § 1125 as set forth in the Counterclaim herein.

COUNT 2 – UNFAIR COMPETITION AND TRADE PRACTICES

51. Admitted in part. Denied in part according to the foregoing denials.
52. Denied that any of Defendants' actions constitute unfair competition to the Plaintiffs. To the contrary, Plaintiffs' actions constitute unfair competition to the Defendants under the common law as set forth in the Counterclaim.
53. Denied as conclusions of law on the basis of answer to 52 above.
54. Denied. It is specifically denied that Defendants intended any harm to Plaintiffs or that Defendants violated Unfair Trade Practices, the Pennsylvania Unfair Trade Practices Act and Consumer Protection Law in any way whatsoever, including but not limited to the allegations set forth in subparagraphs (a)-(f), which are specifically denied in their entirety.
55. Denied by virtue of answer to 54 above. Additionally, any harm to the Restaurant was caused by Plaintiff Ru Fang Wang's inability to run a restaurant and the fact that it no longer contains its star chef, Shizhou Da. To the contrary, Plaintiffs have an unjust enrichment by improperly operating the 11th Street property without consent or compensation to Defendants Da and Ren.
56. Denied that Defendants engaged in any conduct that would entitle Plaintiffs to punitive damages or attorney's fees.

COUNT 3 – UNJUST ENRICHMENT AND CONSTRUCTIVE TRUST

57. Admitted in part. Denied in part according to the foregoing denials.

58. Denied in its entirety. It is denied that Defendants did anything to harm the Plaintiffs. To the contrary, Plaintiff Ru Fang Wang has harmed the Defendants by locking Defendants Da and Ren out of the property, creating a new corporation and operating the 11th Street property under like name without consent or remuneration to Defendants thus harming Defendants and depriving Defendants monies to which they are entitled.
59. Denied that Defendants have received any monies due to Plaintiffs. To the contrary, Plaintiffs have wrongfully denied Defendants' money to Defendants' detriment as set forth in Defendants' Counterclaim herein.

COUNT 4 – TORTIOUS INTERFERENCE

60. Admitted in part. Denied in part according to foregoing denials.
61. Denied. It is specifically denied that Defendants did anything to tortiously interfere with Plaintiffs' business relations. To the contrary, the opposite is true as set forth in Defendants' Counterclaim herein.

COUNT 5 – DEFAMATION

(As to defendant Sally Song only)

62. Admitted in part. Denied in part according to the foregoing denials.
63. Denied that any statements of Defendant Sally Song were defamatory in nature.
64. Admitted in part. Denied in part. Admitted that statements were made to "Philly.com," but it is specifically denied that any statements were either defamatory or untrue.
65. Denied that any statements made by Defendant Sally Song were either defamatory or untrue.
66. Denied. No comments were made on Philly.com and it is specifically denied that any statements made by Defendant Sally Song were either defamatory or untrue.

67. Denied that Defendant Sally Song harmed Plaintiffs in any way whatsoever. To the contrary, any harm to the Restaurant was done because of Plaintiff's inability to run the restaurant and or not having the main chef, Shizhou Da. The latter reason was due to the direct actions of Plaintiff, Ru Fang Wang's intentional locking out of Defendants Da and Ren in order to prevent their entry and it reopened the restaurant under a new corporation.
68. Denied that any statements published were false.
69. Denied that any statements made by Defendant Sally Song were done with malicious intent.

COUNT 6 – SHAREHOLDER DERIVATIVE ACTION (15 PA CSA 1782)

(As to defendants Shizhou Da and Atom Ren only)

70. Admitted in part. Denied in part in accordance with foregoing denials.
71. Admitted as stated.
72. Denied. It is specifically denied that Plaintiffs are not acting collusively.
73. Denied in its entirety. To the contrary, Defendants never abandoned the corporate business; rather, Plaintiff Ru Fang Wang, acted as sub-lesor to the Restaurant's property, locked the premises to bar entry to the defendants. Plaintiff Ru Fang Wang knew of all the health inspections that occurred over the Restaurant's years of operation, specifically the one that occurred on October 11, 2013. She further knew of the court date scheduled for October 15, 2013 in regards to these violations. Defendants Atom Ren and Shizhou Da in no way prevented Ru Fang Wang from knowledge of these occurrences. Ru Fang Wang knew of every health inspection that occurred over the years of operation because during the inspections certain product and equipment would have to be moved to the neighboring

property, owned or operated by Ru Fang Wang and/or her family, and opened with a key solely in Ru Fang Wang's possession.

74. Denied. Plaintiff Ru Fang Wang, acting by and through her position as sub-lesor of the property at 59 North 11th Street, locked the doors in order to bar defendants' entry into the premises. These actions are contrary to her shareholder duties, and she wrongfully and maliciously started a new corporation under like name and opened the restaurant as if she owned it in full to the detriment of Defendants.
75. Admitted as stated.
76. Admitted in part. 500 shares which is 50% of the corporate stock.
77. Admitted in part. 250 shares which is 25% of the corporate stock.
78. Denied. It is specifically denied that Defendants breached any fiduciary duty to Plaintiffs, including:
 - a. Denied. No equipment or other assets taken from the Restaurant by the Defendants.
 - b. Denied. To the contrary, Defendants, as 75% majority owners of the *former* operating corporation, Shanghai Dim Sum Garden, Inc., have had to relocate the business due to Plaintiff Ru Fang Wang's willful conduct to bar their entry to the Restaurant's premises and deprive Defendants of any compensation from the 11th Street restaurant. It is denied that Defendant converted the name of the restaurant. To the contrary, Plaintiffs converted the name.
 - c. Denied. Defendants, as 75% majority owners of the *former* operating corporation, Shanghai Dim Sum Garden, Inc., have had to relocate the business due to Plaintiff Ru Fang Wang's willful conduct to bar their entry to the Restaurant's premises. To the contrary, Ru Fang Wang schemed to defraud Defendants Da and Ren.

- d. Denied. Defendants, as 75% majority owners of the *former* operating corporation, Shanghai Dim Sum Garden, Inc., have had to relocate the business due to Plaintiff Ru Fang Wang's willful conduct to bar their entry to the Restaurant's premises. Furthermore, any harm to the Restaurant was done because of Plaintiff's inability to run the restaurant and or not having the main chef, Shizhou Da. The latter reason was due to the direct actions of Plaintiff, Ru Fang Wang's intentional locking out of defendant's in order to prevent their entry.
 - e. Denied. Song Enterprise, LLC. has not engaged in unfair trade practices or other tortious conduct against Shanghai Dim Sum Garden, Inc., which no longer operates the Restaurant. To the contrary, Plaintiffs have engaged in undue practices against Defendants as set forth in the Counterclaim herein.
 - f. Denied. The failure to properly defend Shanghai Dim Sum Garden, Inc. lies with Plaintiff Ru Fang Wang, who barred the defendants' entry into the Restaurant's premises. Plaintiff Ru Fang Wang willfully locked the doors subsequent to the health inspection in order to prevent defendants from rectifying the deficiencies.
 - g. Denied. Plaintiff Ru Fang Wang, acting as sub-leasor of the Restaurant's property, locked the doors to the premises. She did this in a willful manner in order to prevent defendants from entering the property and in order to prevent defendants from rectifying the deficiencies found by the health inspection.
 - h. Denied as to any and all alleged wrongful conduct on the part of Defendants.
79. Denied that Plaintiffs suffered any damages. To the contrary, Defendants have suffered damages and continue to suffer damages based solely on Plaintiffs' wrongful and malicious conduct as set forth in the Counterclaim herein.

COUNT 7 – CONVERSION

(As to defendants Shizhou Da and Atom Ren only)

80. Admitted in part. Denied accord to foregoing denials.
81. Denied as stated. Plaintiff Shanghai Dim Sum Garden, Inc. did and continues to own various equipment located at 59 North 11th Street. However, a new corporation has been formed, Philly Dim Sum Garden, Inc., formed by Plaintiff Wang and her family which, to the Defendant's best knowledge, now wrongfully uses various equipment located at 59 North 11th Street for Plaintiffs' sole benefit.
82. Denied specifically. Neither Shizhou Da nor Atom Ren has removed any equipment or other property from the Restaurant's premises.
83. Denied that Plaintiffs have suffered damages. To the contrary, Defendants have suffered damages due to Plaintiffs' conversion of Defendants' property and Defendants continue to suffer damages.

COUNT 8 – NEGLIGENCE

(As to defendants Shizhou Da and Atom Ren only)

84. Admitted in part. Denied in part according to foregoing denials.
85. Admitted in part. Denied in part. Defendants Shizhou Da and Atom Ren had a duty to all shareholders, including themselves, to operate the Restaurant located at 59 North 11th Street in a lawful and competent manner as did Plaintiff Ru Fang Wang.
86. Admitted in part. Denied in part. Defendants Shizhou Da and Atom Ren had a duty to all shareholders, including themselves, to operate the Restaurant located at 59 North 11th Street in a lawful and competent manner as did Plaintiff Ru Fang Wang, in the event she is a shareholder.

87. Denied specifically. To the contrary Plaintiff Ru Fang Wang, by and through her capacity as the property's sub-lesor, locked the doors of the property in a willful and malicious manner in order to prevent entry to defendants Shizhou Da and Atom Ren. This action resulted in the defendants being unable to rectify the deficiencies found through the health inspection.
88. Denied. Plaintiffs' allegations are specifically denied. To the contrary, Plaintiff Ru Fang Wang, by and through her capacity as the property's sub-lesor, locked the doors of the property in a willful and malicious manner in order to prevent entry to defendants Shizhou Da and Atom Ren. Due to these actions, the defendants sought employment elsewhere while still being 75% majority owners of Shanghai Dim Sum Garden, Inc.
89. Denied. Plaintiffs' allegations are specifically denied. To the contrary, Plaintiff Ru Fang Wang, by and through her capacity as the property's sub-lesor, locked the doors of the property in a willful and malicious manner in order to prevent entry to defendants Shizhou Da and Atom Ren. As a direct and proximate cause of Plaintiff Ru Fang Wang's breach, the City of Philadelphia filed the action City of Philadelphia v. Ren which resulted in the closure or interruption of the Restaurant.
90. Denied that the 11th Street property suffered damages as a result of Defendants' actions. To the contrary, Plaintiff Ru Fang Wang, by and through her capacity as the property's sub-lesor, locked the doors of the property in a willful and malicious manner in order to prevent entry to defendants Shizhou Da and Atom Ren. As a direct and proximate cause of Plaintiff Ru Fang Wang's breach, the Restaurant may have suffered damages. Furthermore, any harm to the Restaurant was done because of Plaintiff's inability to run the Restaurant and or not having the main chef, Shizhou Da.

91. Denied that Plaintiffs have been harmed by Defendants in any way whatsoever. To the contrary, if the Restaurant has sustained any harm, it was due to the direct and proximate cause of Plaintiff Ru Fang Wang's breach as well as any and all of the aforementioned causes set forth herein.

COUNT 9 – FRAUD

(As to defendants Shizhou Da and Atom Ren only)

92. Admitted in part. Denied in part according to foregoing denials.
93. Denied. It is specifically denied that Defendants did anything to Plaintiffs that would or could constitute fraud. Plaintiff Ru Fang Wang, by and through her capacity as the property's sub-lesor, locked the doors of the property in a willful and malicious manner in order to prevent entry to defendants Shizhou Da and Atom Ren. Due to these actions, the defendants sought employment elsewhere as 75% majority owners of Shanghai Dim Sum Garden, Inc.
94. Denied in its entirety. To the contrary, the Defendants' conduct was undertaken with the intent to find employment elsewhere due to the willful and malicious conduct of Ru Fang Wang, acting through her capacity as the sub-lesor of the property at 59 North 11th Street. It is Plaintiff Ru Fang Wang who has defrauded the Defendants as set forth in the Counterclaim herein.
95. Denied specifically that Plaintiffs have suffered any damages through any conduct of Defendants Da and Ren.

COUNT 10 – PUNITIVE DAMAGES

96. Admitted in part. Denied in part according to foregoing denials.

97. Denied specifically that any actions or conduct by the Defendants were outrageously malicious and/or intended to cause injury to Plaintiffs. To the contrary, Plaintiffs' actions and conduct have been outrageous, malicious and intended to cause injury to Defendants Da and Ren as set forth in the Counterclaim herein.

WHEREFORE, Defendants request that this Honorable Court dismiss Plaintiffs' Complaint and find in favor of the Defendants.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are in violation of the Statute of Frauds.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs lack Standing to raise the claims alleged in its Complaint.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrines of waiver, estoppel and unclean hands.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs have failed, in whole or in part, to mitigate its alleged damages.

SIXTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed for lack of personal jurisdiction.

SEVENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed for lack of subject matter jurisdiction.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' prior breaches of and/or misrepresentations made in connection with any alleged or underlying agreements with Defendants excused any conduct by Defendants and/or bars any recovery or relief to which Plaintiffs may have been entitled (if any), in whole or in part.

NINTH AFFIRMATIVE DEFENSE

Defendants are justified to act or not act as either or both have chosen.

TENTH AFFIRMATIVE DEFENSE

Defendants have acted properly, with due care and good faith, and in accordance with their obligations under an applicable Agreement(s), as concerns the matters at issue in this action.

ELEVENTH AFFIRMATIVE DEFENSE

If Plaintiffs have suffered any loss, it is a result, in whole or in part, of their own culpable conduct.

TWELFTH AFFIRMATIVE DEFENSE

If Plaintiffs have suffered any loss, they must bear that proportion of the total loss as was caused by their own culpable conduct.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendants' alleged conduct was not the proximate cause or a substantial factor in Plaintiffs' alleged damages.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' recovery pursuant to the Complaint, and each purported cause of action alleged therein, is barred in whole or in part, because Plaintiff's have engaged in fraud.

AMENDED COUNTERCLAIM

**DEFENDANTS, SONG ENTERPRISE, LLC, DAJUAN “SALLY SONG,” SHIZHOU DA
AND ATOM REN V. PLAINTIFFS AND
PHILLY DIM SUM GARDEN, INC., GAO MEIYING, DAI ZHANG, TOM GUO, AND
JIN WANG, ADDITIONAL DEFENDANTS**

98. All answers set forth above in the Answer to Plaintiffs’ Complaint, including admissions pertaining to Plaintiffs’ allegations, denials and all contrary factual averments are incorporated herein as if set forth at length herein.
99. Plaintiff/Counter Defendant Ru Fang Wang, hereinafter referred to as “Wang” is an adult individual with a primary place of business situated at 59 North 11th Street Philadelphia, PA 19107.
100. Additional Defendant Gao Meiyong, hereinafter referred to as “Meiyong,” is the mother of Plaintiff/Counter Defendant Wang and an adult individual with a primary place of business situated at 59 North 11th Street Philadelphia, PA 19107.
101. Additional Defendant Dai Zhang, hereinafter referred to as “Zhang,” is the wife of Additional Defendant Tom Guo and is an adult individual with a primary place of business situated at 59 North 11th Street Philadelphia, PA 19107.
102. Additional Defendant Tom Guo, hereinafter referred to as “Guo,” is the husband of Additional Defendant Zhang and is an adult individual with a primary place of business situated at 59 North 11th Street Philadelphia, PA 19107.
103. Additional Defendant Jin Wang is the sister of Plaintiff/Counter Defendant Wang and is an adult individual with a primary place of business situated at 59 North 11th Street Philadelphia, PA 19107.
104. Plaintiff/Counter Defendant Wang, along with Additional Defendants Meiyong, Zhang, Guo, and Jin Wang, are operating that business under the name of Plaintiff/Counter

Defendant Shanghai Dim Sum Garden, Inc. a/k/a Dim Sum Garden, Inc. a/k/a Dim Sum Garden Inc. d/b/a Dim Sum Garden, hereafter referred to as Dim Sum Garden Inc. for purposes of brevity only as set forth in paragraph 40 of the Complaint.

105. Additional Defendant is Philly Dim Sum, Inc. Plaintiff/Counter Defendant Wang, along with Additional Defendants Meiyang, Zhang, Guo, and Jin Wang, are also operating that business under Additional Defendant Philly Dim Sum Garden, Inc., a corporation registered at 59 North 11th Street Philadelphia, PA 19107 and incorporated by Additional Defendants Meiyang and Zhang as of 11/21/13, hereafter referred to as Philly Inc. for purposes of brevity only.
106. Plaintiff/Counter Defendants and Additional Defendants have alleged through counsel that the City of Philadelphia forced them to start a new corporation in order to reopen the 11th Street property/restaurant when in fact the 11th Street property/restaurant could have been reopened without this change and further without substituting Defendant/Counter Plaintiff Atom Ren's name to any licenses, permits, or certifications required by the City of Philadelphia.
107. Defendants/Counter Plaintiffs believe and therefore aver that the new corporation was formed solely so that Ren's name could be removed and replaced with regard to any of these licenses, permits, or certifications and that this was the plan in order to facilitate a hostile takeover of the 11th Street property/restaurant.
108. Plaintiff/Counter Defendant Wang is believed to be an officer and shareholder of the Additional Defendant Philly Dim Sum Garden, Inc. acting in concert with her husband Zhang Oi Sheng and Additional Defendants Meiyang, Zhang, Guo, and Jin Wang.

109. Defendants/Counter Plaintiffs aver that Additional Defendant Guo is a de facto co-owner, but is hiding behind his wife Additional Defendant Zhang, as it is believed that he is not a US citizen, with no visa, no green card, or any legal basis to be in the US.
110. Additional Defendants Meiying and Zhang are the incorporators of Additional Defendant Philly Inc. and are believed to be shareholders of that corporation together with Plaintiff/Counter Defendant Wang.
111. Further, Additional Defendant Zhang, in conjunction with her husband, Additional Defendant Guo, sold her shares of Plaintiff/Counter Defendant Shanghai Dim Sum Garden, Inc., yet still assists in the operation of the restaurant both in the old corporate form and in the new form under Additional Defendant Philly, Inc.
112. Despite numerous requests, counsel for Plaintiffs/Counter Defendants never provided the names of the officers or shareholders of Philly, Inc.
113. For the purpose of the Counterclaim, without admission, Defendants/Counter Plaintiffs acknowledge Wang's assertion that she is a shareholder of Plaintiff/Counter Defendant Dim Sum Garden, Inc. as well as an originator and a shareholder of Additional Defendant Philly, Inc.
114. Plaintiff/Counter Defendant Wang and Additional Defendants Meiying, Zhang, Guo, and Jin Wang operate the restaurant situated at the 59 North 11th Street Philadelphia, PA 19107 property both in the old corporate capacity and in the new, as evidenced in part by the allegations, admissions, in Plaintiff's Complaint herein.
115. Defendants/Counter Plaintiffs reserve the right to file a Joinder against additional officers and shareholders of Additional Defendant Philly Inc. upon receipt of that information from Plaintiffs/Counter Defendants' counsel.

116. Defendants/Counter Plaintiffs Da and Ren are and at all times relevant hereto have been 75% majority shareholders of Plaintiffs/Counter Defendants Dim Sum Garden, Inc.
117. In October 2013, the Dim Sum Garden restaurant situated at 59 North 11th Street was temporarily shut down by the City of Philadelphia for health code violations.
118. Soon thereafter, at a hearing, the Court scheduled November 16, 2013 for inspection in order to reopen the restaurant.
119. From October 11, 2013 through November 16, 2013 and thereafter, none of the Defendants/Counter Plaintiffs were permitted access into the restaurant in order to make the repairs and/or to operate their restaurant after it was reopened.
120. Defendants/Counter Plaintiffs aver that Plaintiffs Counter Defendants changed the locks on the restaurant in order to prevent their access and during that period of time Defendants/Counter Plaintiffs observed Plaintiff/Counter Defendant Wang and members of her family, including but not limited to Additional Defendants Meiying, Zhang, Guo, and Jin Wang, making repairs and alterations.
121. At all times relevant hereto, Plaintiff/Counter Defendant Wang and/or her mother Additional Defendant Meiying were the sublessors of the premises and had exclusive communication with the land lord.
122. At all times relevant hereto, Defendants/Counter Plaintiffs paid their rent to Plaintiff/Counter Defendant Wang and/or her mother Additional Defendant Meying through October 2013.
123. At all times relevant hereto, Plaintiff/Counter Defendant's husband, Zhang Qi Sheng, rented the property next to the restaurant and Plaintiff/Counter Defendant Wang prior to

October 2013 utilized that property to move product and material back and forth at times of the health inspections.

124. From October 2013 through December 2013 and thereafter, Defendants/Counter Plaintiffs Da and Ren were continuously denied access into the restaurant, denied employment and denied any compensation from lost revenue or for the respective ownership shares. Specifically, Additional Defendant Jin Wang personally prevented access to the personal property to Defendants/Counter Plaintiffs Da and Ren.
125. In December 2013, Defendants/Counter Plaintiffs retained counsel who wrote cease and desist letters asserting that Plaintiffs/Counter Defendants had no right to operate the restaurant without approval and consent of the majority shareholders Da and Ren.
126. At no time have Plaintiffs/Counter Defendants or Additional Defendants ceased operations nor did they provide any profits to the majority shareholders Da and Ren.
127. As a result, Defendants/Counter Plaintiffs Da and Ren went to work at Defendant/Counter Plaintiff Song's restaurant at 1020 Race Street, Philadelphia, PA.
128. At all times relevant hereto, Defendants/Counter Plaintiffs Da and Ren, have given their consent to Defendant/Counter Plaintiff Song to use the name of Dim Sum Garden and have more recently executed Intellectual Property Assignment Agreements to Song.
129. During numerous interviews resulting in numerous articles including but not limited to "Philly.com," Plaintiffs/Counter Defendants and the Additional Defendants gave false and misleading information such that they had the right to operate the restaurant on 11th Street and that Song did not have the right to operate the restaurant on Race Street.
130. During their interview, Plaintiffs Counter/Defendants and the Additional Defendants made detrimental remarks about Defendants/Counter Plaintiffs in an attempt to hurt the

reputation of the restaurant on Race Street and have undertaken a relentless campaign to destroy that business.

131. At no time relative hereto did the majority shareholders, Da and Ren give permission to anyone to operate the business on Race Street after it was temporarily shut down in October 2013.

132. Plaintiff/Counter Defendant Wang and Additional Defendants Meiying, Zhang, Guo, and Jin Wang, along with any currently unknown officers or shareholders of Additional Defendant Philly Inc., are all personally liable as any protection provided by any of the corporate entities shall be pierced as the business is closely held, all named individuals actively participate in the business, they failed to follow corporate formalities, and have commingled business assets and affairs with individual assets and affairs.

133. Plaintiff/Counter Defendant Wang and Additional Defendants Meiying, Zhang, Guo, and Jin Wang, along with any currently unknown officers or shareholders of Additional Defendant Philly Inc., are all personally liable as they are personally operating Plaintiff/Counter Defendant Shanghai Dim Sum Garden, while taking in cash proceeds due Plaintiff/Counter Defendant Shanghai Dim Sum Garden, while trying to hide under the authority of Additional Defendant Philly Inc. in order to escape from their personal liabilities in the hostile takeover of the 11th Street property/restaurant.

**COUNTERCLAIM PLAINTIFFS V. COUNTERCLAIM DEFENDANTS
AND PHILLY DIM SUM GARDEN, INC., MEI YING GAO, DAI ZHANG, TOM GOU,
AND JIN WANG, ADDITIONAL DEFENDANTS**

COUNT I – VIOLATION OF 15 U.S.C. 1125

134. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.

135. 15 U.S.C. 1125 states in pertinent part:

(a) Civil action

1. Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which

a. is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or

b. in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities,

shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.

15 U.S.C. 1125 (West 2012).

136. Through its actions the Counter Defendants and the Additional Defendants have used the name "Dim Sum Garden" in a false and misleading manner.

137. Through its actions the Counter Defendants and the Additional Defendants have made false and/or misleading representations of fact to operate the restaurant named Dim Sum Garden.

138. Through its actions the Counter Defendants and the Additional Defendants have made false and/or misleading representations of fact to include representing to the public at large that the Dim Sum Garden restaurant located at 1020 Race Street was in some way illegitimate and otherwise lacked a right to operate.

139. Through its actions the Counter Defendants and the Additional Defendants have made false and/or misleading representations of fact to include the location of a sign at the restaurant located at 59 North 11th Race Street advertising “Dim Sum Garden.”
140. Counter Defendants and Additional Defendants are using the name “Dim Sum Garden” without the express or implied permission of the majority shareholders.
141. Counter Defendants and Additional Defendants have, in a commercial advertising or promotion, misrepresented the nature, characteristics, qualities, or geographic origin of the restaurant named Dim Sum Garden.
142. As a result of their actions Counter Defendants and Additional Defendants have violated 15 U.S.C. 1125.
143. As a direct result of the aforementioned actions of Counter Defendants and Additional Defendants, Counter Plaintiffs were and continue to be damaged.

COUNT II – UNFAIR COMPETITION AND TRADE PRACTICES

144. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.
145. The foregoing averments constitute unfair competition under the common law.
146. The foregoing averments are in violation of 73 Pa. C.S.A. 201-1 et seq., the Pennsylvania Unfair Trade Practices and Consumer Protection Law.
147. Counter Defendants and Additional Defendants intended to harm the business of Counter Plaintiffs as a result of their unfair trade practices and violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law to include:
 - a. Passing off goods or services as those of another, specifically by marketing their product as being the successor of the 11th Street location of the Dim Sum Garden restaurant as of October 11, 2013 and thereafter.

- b. Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services, specifically by informing the press, internet directories and the public that the 11th Street Dim Sum Garden location was legitimate and duly authorized to operation as of October 11, 2013 and thereafter.
- c. Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another, specifically by claiming to be the successor of the 11th Street location of the Dim Sum Garden restaurant as of October 11, 2013 and thereafter.
- d. Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another, specifically by claiming that the previous operators of the 11th Street property had no right to operate at the Race Street location.
- e. Disparaging the goods, services or business of another by false or misleading representation of fact, specifically by making disparaging remarks in the press, in public and in the comments sections of various websites.
- f. Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

148. Counter Plaintiffs were harmed and continue to be harmed as a result of the Counter Defendants' and Additional Defendants' unfair trade practices to include lost profits, damage to their reputation, loss of good will and other damages both realized and unrealized.

149. The fraudulent, willful and malicious acts of Counter Defendants and Additional Defendants entitle the Counter Plaintiffs to punitive damages and attorney's fees as allowed by statute.

COUNT III – UNJUST ENRICHMENT AND CONSTRUCTIVE TRUST

150. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.

151. As a direct, proximate and intended result of the Counter Defendants and Additional Defendants breaches of its common law duties to the Counter Plaintiffs/Counter Defendants and Additional Defendants have received, or will receive, monies to which they are not entitled and for which it should be held accountable.
152. Such monies received by Counter Defendants and Additional Defendants are monies they cannot equitably keep and they should be held to be constructive trustees of such monies. As constructive trustees, Counter Defendants and Additional Defendants should be required to disgorge all monies that it has received as the fruits of its wrongful acts. The full amount of such monies is not presently capable of being precisely ascertained.

COUNT IV– TORTIOUS INTERFERENCE

153. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.
154. The foregoing acts of the Counter Defendants and Additional Defendants constitute tortious interference with existing and prospective business relations under the common law.

COUNT V– DEFAMATION

155. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.
156. The statements referenced in the previous paragraphs by Counter Defendants and Additional Defendants were defamatory in nature.
157. These statements were published in various news outlets and websites, most notably “Philly.com.”

158. The referenced statements on their face were overtly directed at the Counter Plaintiffs' Song's establishment, Dim Sum Garden, located at 1020 Race Street, and understood by the Counter Plaintiffs to be defamatory in nature.
159. These statements are understood by the general public based upon their plain meaning and further evidenced by the "comments" sections of the various places of publication.
160. The Counter Plaintiffs have suffered special damages in the form of lost business, loss of good will in the community and damage to reputation in the restaurant business.
161. The statements published by the Counter Defendants and Additional Defendants were false.
162. The statements published by the Counter Defendants and Additional Defendants were done so with malicious intent.

COUNT VI- SHAREHOLDER DERIVATIVE ACTION (15 PA CSA 1782)

(As to Defendants/Counter Plaintiffs Shizhou Da and Atom Ren only against
All Counter Defendants and Additional Defendants Shanghai Dim Sum Garden, Inc., Zhang,
and Guo.)

163. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.
164. Plaintiff/Counter Defendant Wang alleges to be a 25% shareholder of Shanghai Dim Sum Garden, Inc., a Pennsylvania Corporation.
165. Additional Defendants Zhang and Guo were previous shareholders of Shanghai Dim Sum Garden, Inc, and sold their shares in 2009, yet presently operate the 11th Street restaurant as if they were still shareholders of Shanghai Dim Sum Garden, Inc.

166. Counter Plaintiffs do not make this action as a collusive one to otherwise confer jurisdiction upon the Court where it may otherwise not exist.
167. Counter Plaintiffs are or were unable to obtain any desired action by the Counter Defendants and Additional Defendants because they learned of their actions after they were abandoned from the original corporate business.
168. Counter Plaintiffs are or were unable to obtain any desired action by the Counter Defendant and Additional Defendants because the Counter Defendant, and Additional Defendants and/or their agents refused to acknowledge Counter Plaintiffs' rights as the major or sole shareholder of Shanghai Dim Sum Garden, Inc.
169. Plaintiff/Counter Defendant Shanghai Dim Sum Garden, Inc. is a Pennsylvania Corporation.
170. Defendant Counter Plaintiff Shizhou Da holds 500 shares of Shanghai Dim Sum Garden, Inc., constituting 50% of the corporate shares.
171. Defendant Counter Plaintiff Atom Ren holds 250 shares of Shanghai Dim Sum Garden, Inc., constituting 50% of the corporate shares.
172. Counter Defendant Ru Fang Wang breached her fiduciary duty to Shanghai Dim Sum Garden, Inc. and Counter Plaintiffs Da and Ren by:
 - a. Converting corporate assets to themselves, specifically restaurant equipment, business goodwill and other tangible property.
 - b. Converting corporate intellectual property, specifically the restaurant named Dim Sum Garden.
 - c. Engaging in a scheme to defraud shareholders by creating or directing the creation of a new entity, namely Philly Dim Sum Garden, Inc., with the purpose of operating a restaurant of the same name as that operated by Shanghai Dim Sum Garden, Inc. in order to avoid payments to other shareholders and/or otherwise freeze them out of the business.

- d. Engaging in a course of conduct which served to reduce the value of the corporation.
- e. Sanctioning, endorsing and otherwise facilitating the operation of an entity, namely Philly Dim Sum Garden, Inc., which has engaged in unfair trade practices and other tortious conduct against the corporation as outlined in this Counter Complaint.
- f. Failing to allow the majority shareholders Da and Ren to properly defend the corporation in litigation, specifically the City of Philadelphia v. Ren, which resulted in the City barring the establishment from operation until Counter Defendants and Additional Defendant physically prevented them from returning to their business.
- g. Abandoning the rights of the majority shareholders resulting in liability to the corporation.
- h. Various other conduct in which the Counter Defendants' and Additional Defendant's wrongdoing and misappropriations have deprived the corporation of assets properly belonging to it and have placed its operating status in continuing peril and jeopardy.

173. As a result of the Counter Defendants' and Additional Defendants' actions, Counter Plaintiffs have and will continue to suffer damages.

COUNT VII- CONVERSION

(As to Defendants/Counter Plaintiffs Shizhou Da and Atom Ren only against
All Counter Defendants and All Additional Defendants)

174. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.
175. Counter Defendant Shanghai Dim Sum Garden, Inc. was the owner of various restaurant equipment located at 59 North 11th Street, Philadelphia, PA and Counter Plaintiffs were the majority shareholders of said corporation.

176. Counter Defendants and Additional Defendants did convert for their own personal use with the intent to permanently deprive the Counter Plaintiffs the use of said property.
177. As a result of the Counter Defendants' and Additional Defendants' actions, Counter Plaintiffs have suffered damages.

COUNT VIII- NEGLIGENCE

As to Defendants/Counter Plaintiffs Shizhou Da and Atom Ren only against
All Counter Defendants and All Additional Defendants)

178. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.
179. Counter Defendant Ru Fang Wang had a duty to the Counter Plaintiffs to operate the Dim Sum Garden restaurant located at 59 North 11th Street, Philadelphia, PA in a lawful manner.
180. Counter Defendant Ru Fang Wang had a duty to the Counter Plaintiffs to operate the Dim Sum Garden restaurant located at 59 North 11th Street, Philadelphia, PA in a competent manner.
181. Counter Defendant Ru Fang Wang breached her duty by failing to operate the restaurant in accordance with Pennsylvania and Philadelphia laws and ordinances.
182. Counter Defendant Ru Fang Wang breached her duty by collaborating with an entity and other individuals, namely Additional Defendants Philly Dim Sum Garden, Inc., Meiyang, Zhang, Guo, and Jin Wang, and knowing or should have known that such actions would cause damages to the Counter Plaintiffs.

183. All Additional Defendants collaborated with Plaintiff/Counter Defendant Wang and conspired with Wang to take over the 11th Street property/restaurant in a hostile manner.
184. As a direct and proximate cause of the Counter Defendant Ru Fang Wang's breach, the City of Philadelphia filed the action City of Philadelphia v. Ren which resulted in the temporary closure or interruption of the business at the 59 North 11th Street restaurant, thus allowing Counter Defendants and Additional Defendants the hostile takeover of the business.
185. As a direct and proximate cause of the Counter Defendants' breach, the business at 59 North 11th Street has suffered damages to its business as well as its majority shareholders, Counter Plaintiffs Da and Ren.
186. Counter Plaintiffs Da and Ren have suffered damages as a result of the aforementioned breach.

COUNT IX- FRAUD

As to Defendants/Counter Plaintiffs Shizhou Da and Atom Ren only against
All Counter Defendants and All Additional Defendants)

187. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.
188. The Counter Defendants and Additional Defendants defrauded the Counter Plaintiffs by clandestinely reopening the restaurant and refusing to acknowledge the Counter Plaintiffs' rights to their representative share in the continued operation of the 59 North 11th Street establishment.
189. The Counter Defendants' and Additional Defendants' conduct were undertaken with the intent to defraud the Counter Plaintiffs.

190. As a result of the Counter Defendants' and Additional Defendants' fraudulent conduct, the Counter Plaintiffs have suffered and will continue to suffer damages.

COUNT X- PUNITIVE DAMAGES

191. Counter Plaintiffs repeat the allegations in the foregoing paragraphs as if fully set forth at length herein.

192. Counter Defendants' and Additional Defendants' actions as alleged herein are outrageous, malicious and were intended to and did cause injury to all Counter Plaintiffs.

WHEREFORE, Counter Plaintiffs pray for the following relief:

(a) Monetary damages, both compensatory and punitive, as a result of the willful nature of their actions.

(b) For orders preliminarily and permanently enjoining the Counter Defendants and Additional Defendant from using the restaurant name "Dim Sum Garden."

(c) For an order directing the Counter Defendants and Additional Defendant to immediately vacate the 59 North 11th Street location.

(d) For an order requiring the Counter Defendants and Additional Defendant to destroy and otherwise cease all use of any advertising or promotional materials bearing the name "Dim Sum Garden" or any variation thereof.

(e) An order directing the Counter Defendants and Additional Defendant to remove 59 North 11th Street as the address of record for the restaurant Dim Sum Garden located in Philadelphia, PA by whatever means may be necessary.

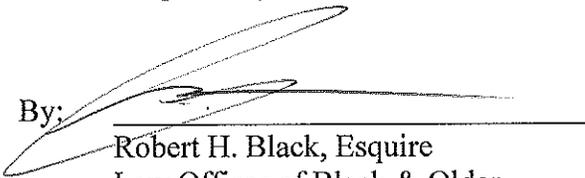
(h) For an order awarding a seventy-five percent (75%) interest, or the value thereof to include past and future profits, of the restaurant located at 59 North 11th Street to Counter Plaintiffs Shizhou Da and Atom Ren.

(i) For such other relief as this Honorable Court deems just and proper.

DEMAND FOR JURY TRIAL

Counter Plaintiffs hereby demand a trial of their claims by jury to the extent authorized by law.

Respectfully submitted,

By: 

Robert H. Black, Esquire
Law Offices of Black & Older
Two Penn Center Plaza
1500 JFK Blvd., Suite 1900
Philadelphia, PA 19102
rblack@blackandolder.com
215-567-6340

CERTIFICATE OF SERVICE

I, Robert H. Black, hereby certify that a true and correct copy of the foregoing Amended Answer, Affirmative Defenses and Amended Counterclaim of Defendants/Counterclaim Plaintiffs has been filed electronically on this date and is available for viewing and downloading from the ECF system. I further certify that a true and correct copy of the foregoing Amended Answer, Affirmative Defenses and Amended Counterclaim of Defendants was mailed to Plaintiffs' counsel, addressed below, by United States Mail, first class, postage prepaid.

Donald Benedetto, Esquire
Bahuriak Law Group
520 South 3rd Street
Philadelphia, PA 19147

/s/ Robert H. Black, Esquire
Robert H. Black, Esquire
Attorney for Defendants/Counterclaim Plaintiffs

May 20, 2014

SONG ENTERPRISE LLC
INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT

This Intellectual Property Assignment Agreement (“Agreement”) is made as of
February 27, 2014 (“Effective Date”), by and between **SONG ENTERPRISE LLC**, a
Pennsylvania limited liability company (the “Company”) and Shizhou Da (“Assignor”).

WHEREAS, Assignor may have contributed to the development of the Dim Sung Garden Philly business which consists of the development and operation of the restaurant, the development and deployment of the social media advertisement, the development, manufacturer and methods of creating the food products, the development and deployment of the recipes incorporated within the menu, and more generally the business currently being conducted under the name “Dim Sum Garden Philly” (collectively, the “Restaurant”) participated in by the signatories herein.

WHEREAS, the Company desires to secure the right, title, and interest in and to all intellectual property related to the Restaurant, and Assignor is willing to assign the same upon the terms and conditions herein set forth.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, and intending to be legally bound, the parties agree as follows:

1. **Assignment.** Assignor hereby irrevocably assigns to the company all rights, title and interest to the Intellectual Property (as defined below), and Assignor acknowledges that the Company owns and will own all such existing and future right, title, and interest in and to the Intellectual Property, including, but not limited to, the right to sue for, settle, and release past, present, and future infringement of any legal rights related to the Intellectual Property. The Company may use, sell license, translate, copy, duplicate, perform, add to, subtract from, arrange, rearrange, revise, modify, change, adapt, and otherwise exploit the Intellectual Property and any derivative works thereof in the Company’s sole and absolute discretion.
 - a. “Intellectual Property” includes, without limitation, ideas, discoveries, inventions, formulas, algorithms, software code, techniques, processes, engineering, recipes, expansion plans, component designs, electrical and electronic system designs, product creation methodology, know-how, and other intellectual property, whether or not it can be protected by copyright, patent, trademark, or other similar legal protection, relating to the Project.
2. **Moral Rights.** Assignor hereby waives Assignor’s moral rights in the Intellectual Property.
3. **Cooperation and Notice of Up-to-Date Contact Information.** Assignor agrees to assist the Company in any proceeding necessary to protect or commercialize the Intellectual Property, without additional consideration but at the Company’s cost and expense.

Assignor hereby acknowledges that the company may need to contact Assignor in a timely manner, and Assignor shall promptly provide notice, in writing to the Company, via standard mail or electronic mail, of any changes to Assignor's address, phone number, or permanent email address. Assignor agrees to promptly execute, acknowledge, and deliver to the Company all additional instruments or documents the Company may reasonably request:

- a. To obtain, maintain, defend, or enforce patent, copyright, industrial design, trademark, or other similar protection for the Intellectual Property; and
 - b. To confirm the Company's ownership of the Intellectual Property.
4. **Designation.** Assignor hereby irrevocably designates and appoints the Company and its duly authorized officers and agents, as Assignor's agent and attorney-in-fact to act for and on Assignor's behalf and instead of Assignor, to execute and file any documents, applications, and related findings and to do all other lawfully permitted acts in furtherance of the purposes set forth herein, including, but not limited to, the perfection of assignment and prosecution and issuance of patent applications, copyright applications and registrations, trademark applications and registrations, or other rights in connection with the Intellectual Property and improvements thereto with the same legal force and effect as if executed by Assignor.
5. **Portfolio Rights.** Assignor retains the nonexclusive, perpetual, and worldwide right to display, reproduce, and distribute tangible embodiments of the Intellectual Property that are available for public viewing in any media coverage of the Intellectual Property, prior to the Effective Date of this Agreement ("Prior Published Works"). Assignor may use Prior Published Works solely for the purpose of exemplifying the Assignor's work, and in each instance of use, Assignor shall credit the Company as the owner of all right, title, and interest to the Prior Published Works and mark all tangible embodiments of Prior Published Works as required by patent, trademark, or copyright law to preserve the Company's rights.
6. **Confidentiality.** Assignor shall not (i) disclose or communicate Confidential Information (as defined below) to any third party or (ii) use any Confidential Information for any purpose.

"Confidential Information" means:

- a. All intellectual Property that is not a Prior Published Work; or
 - b. All materials otherwise previously disclosed to the public other than in violation of a confidentiality restriction.
7. **Entire Agreement.** This Agreement supersedes any prior agreements or understandings, oral or written, between the Assignor and the Company with respect to the subject matter hereof, and constitutes the entire agreement of the parties with respect hereto. No change,

addition, or amendment shall be made except by written agreement signed by a duly authorized representative of all parties.

8. **Severability and Non-Waiver Clause.** The provisions of this Agreement are severable, and if one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions, and any partially enforceable provisions to the extent enforceable in any jurisdiction, shall nevertheless be binding and enforceable. Furthermore, the Company's failure to enforce any provision of this Agreement will not be construed as a waiver of that or any other provision and will not prevent the Company from later enforcing that or any other provision.
9. **Governing Law.** This Agreement is made under and shall be construed pursuant to the laws of the Commonwealth of Pennsylvania, without reference to principles of conflicts of choice of law under which the law of any other jurisdiction would apply.
10. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

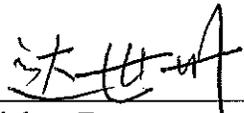
SONG ENTERPRISE LLC

By:



Sally Song
President
1020 Race Street, 1st Floor
Philadelphia, PA 19107

By:



Shizhou Da
Individually and on behalf of
Shanghai Dim Sum Garden INC,
Philly Dim Sum Garden INC, and
Dim Sum Garden INC.

**SONG ENTERPRISE LLC
INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT**

This Intellectual Property Assignment Agreement (“Agreement”) is made as of February 27, 2014 (“Effective Date”), by and between **SONG ENTERPRISE LLC**, a Pennsylvania limited liability company (the “Company”) and Atom Ren (“Assignor”).

WHEREAS, Assignor may have contributed to the development of the Dim Sung Garden Philly business which consists of the development and operation of the restaurant, the development and deployment of the social media advertisement, the development, manufacturer and methods of creating the food products, the development and deployment of the recipes incorporated within the menu, and more generally the business currently being conducted under the name “Dim Sum Garden Philly” (collectively, the “Restaurant”) participated in by the signatories herein.

WHEREAS, the Company desires to secure the right, title, and interest in and to all intellectual property related to the Restaurant, and Assignor is willing to assign the same upon the terms and conditions herein set forth.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, and intending to be legally bound, the parties agree as follows:

1. **Assignment.** Assignor hereby irrevocably assigns to the company all rights, title and interest to the Intellectual Property (as defined below), and Assignor acknowledges that the Company owns and will own all such existing and future right, title, and interest in and to the Intellectual Property, including, but not limited to, the right to sue for, settle, and release past, present, and future infringement of any legal rights related to the Intellectual Property. The Company may use, sell license, translate, copy, duplicate, perform, add to, subtract from, arrange, rearrange, revise, modify, change, adapt, and otherwise exploit the Intellectual Property and any derivative works thereof in the Company’s sole and absolute discretion.
 - a. “Intellectual Property” includes, without limitation, ideas, discoveries, inventions, formulas, algorithms, software code, techniques, processes, engineering, recipes, expansion plans, component designs, electrical and electronic system designs, product creation methodology, know-how, and other intellectual property, whether or not it can be protected by copyright, patent, trademark, or other similar legal protection, relating to the Project.
2. **Moral Rights.** Assignor hereby waives Assignor’s moral rights in the Intellectual Property.
3. **Cooperation and Notice of Up-to-Date Contact Information.** Assignor agrees to assist the Company in any proceeding necessary to protect or commercialize the Intellectual Property, without additional consideration but at the Company’s cost and expense.

Assignor hereby acknowledges that the company may need to contact Assignor in a timely manner, and Assignor shall promptly provide notice, in writing to the Company, via standard mail or electronic mail, of any changes to Assignor's address, phone number, or permanent email address. Assignor agrees to promptly execute, acknowledge, and deliver to the Company all additional instruments or documents the Company may reasonably request:

- a. To obtain, maintain, defend, or enforce patent, copyright, industrial design, trademark, or other similar protection for the Intellectual Property; and
 - b. To confirm the Company's ownership of the Intellectual Property.
4. **Designation.** Assignor hereby irrevocably designates and appoints the Company and its duly authorized officers and agents, as Assignor's agent and attorney-in-fact to act for and on Assignor's behalf and instead of Assignor, to execute and file any documents, applications, and related findings and to do all other lawfully permitted acts in furtherance of the purposes set forth herein, including, but not limited to, the perfection of assignment and prosecution and issuance of patent applications, copyright applications and registrations, trademark applications and registrations, or other rights in connection with the Intellectual Property and improvements thereto with the same legal force and effect as if executed by Assignor.
5. **Portfolio Rights.** Assignor retains the nonexclusive, perpetual, and worldwide right to display, reproduce, and distribute tangible embodiments of the Intellectual Property that are available for public viewing in any media coverage of the Intellectual Property, prior to the Effective Date of this Agreement ("Prior Published Works"). Assignor may use Prior Published Works solely for the purpose of exemplifying the Assignor's work, and in each instance of use, Assignor shall credit the Company as the owner of all right, title, and interest to the Prior Published Works and mark all tangible embodiments of Prior Published Works as required by patent, trademark, or copyright law to preserve the Company's rights.
6. **Confidentiality.** Assignor shall not (i) disclose or communicate Confidential Information (as defined below) to any third party or (ii) use any Confidential Information for any purpose.
- "Confidential Information" means:
- a. All intellectual Property that is not a Prior Published Work; or
 - b. All materials otherwise previously disclosed to the public other than in violation of a confidentiality restriction.
7. **Entire Agreement.** This Agreement supersedes any prior agreements or understandings, oral or written, between the Assignor and the Company with respect to the subject matter hereof, and constitutes the entire agreement of the parties with respect hereto. No change,

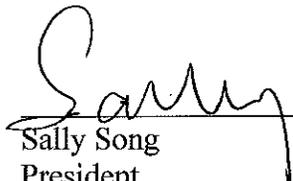
addition, or amendment shall be made except by written agreement signed by a duly authorized representative of all parties.

8. **Severability and Non-Waiver Clause.** The provisions of this Agreement are severable, and if one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions, and any partially enforceable provisions to the extent enforceable in any jurisdiction, shall nevertheless be binding and enforceable. Furthermore, the Company's failure to enforce any provision of this Agreement will not be construed as a waiver of that or any other provision and will not prevent the Company from later enforcing that or any other provision.
9. **Governing Law.** This Agreement is made under and shall be construed pursuant to the laws of the Commonwealth of Pennsylvania, without reference to principles of conflicts of choice of law under which the law of any other jurisdiction would apply.
10. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

SONG ENTERPRISE LLC

By:



Sally Song
President
1020 Race Street, 1st Floor
Philadelphia, PA 19107

By:



Atom Ren
Individually and on behalf of
Shanghai Dim Sum Garden INC,
Philly Dim Sum Garden INC, and
Dim Sum Garden INC.

**SONG ENTERPRISE LLC
INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT**

This Intellectual Property Assignment Agreement (“Agreement”) is made as of May 23, 2014 (“Effective Date”), by and between **SONG ENTERPRISE LLC**, a Pennsylvania limited liability company (the “Company”) and Zheng Chang Zhu (“Assignor”).

WHEREAS, Assignor may have contributed to the development of the Dim Sung Garden Philly business which consists of the development and operation of the restaurant, the development and deployment of the social media advertisement, the development, manufacturer and methods of creating the food products, the development and deployment of the recipes incorporated within the menu, and more generally the business currently being conducted under the name “Dim Sum Garden Philly” (collectively, the “Restaurant”) participated in by the signatories herein.

WHEREAS, the Company desires to secure the right, title, and interest in and to all intellectual property related to the Restaurant, and Assignor is willing to assign the same upon the terms and conditions herein set forth.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, and intending to be legally bound, the parties agree as follows:

1. **Assignment.** Assignor hereby irrevocably assigns to the company all rights, title and interest to the Intellectual Property (as defined below), and Assignor acknowledges that the Company owns and will own all such existing and future right, title, and interest in and to the Intellectual Property, including, but not limited to, the right to sue for, settle, and release past, present, and future infringement of any legal rights related to the Intellectual Property. The Company may use, sell license, translate, copy, duplicate, perform, add to, subtract from, arrange, rearrange, revise, modify, change, adapt, and otherwise exploit the Intellectual Property and any derivative works thereof in the Company’s sole and absolute discretion.
 - a. “Intellectual Property” includes, without limitation, ideas, discoveries, inventions, formulas, algorithms, software code, techniques, processes, engineering, recipes, expansion plans, component designs, electrical and electronic system designs, product creation methodology, know-how, and other intellectual property, whether or not it can be protected by copyright, patent, trademark, or other similar legal protection, relating to the Project.
2. **Moral Rights.** Assignor hereby waives Assignor’s moral rights in the Intellectual Property.
3. **Cooperation and Notice of Up-to-Date Contact Information.** Assignor agrees to assist the Company in any proceeding necessary to protect or commercialize the Intellectual Property, without additional consideration but at the Company’s cost and expense.

Assignor hereby acknowledges that the company may need to contact Assignor in a timely manner, and Assignor shall promptly provide notice, in writing to the Company, via standard mail or electronic mail, of any changes to Assignor's address, phone number, or permanent email address. Assignor agrees to promptly execute, acknowledge, and deliver to the Company all additional instruments or documents the Company may reasonably request:

- a. To obtain, maintain, defend, or enforce patent, copyright, industrial design, trademark, or other similar protection for the Intellectual Property; and
 - b. To confirm the Company's ownership of the Intellectual Property.
4. **Designation.** Assignor hereby irrevocably designates and appoints the Company and its duly authorized officers and agents, as Assignor's agent and attorney-in-fact to act for and on Assignor's behalf and instead of Assignor, to execute and file any documents, applications, and related findings and to do all other lawfully permitted acts in furtherance of the purposes set forth herein, including, but not limited to, the perfection of assignment and prosecution and issuance of patent applications, copyright applications and registrations, trademark applications and registrations, or other rights in connection with the Intellectual Property and improvements thereto with the same legal force and effect as if executed by Assignor.
5. **Portfolio Rights.** Assignor retains the nonexclusive, perpetual, and worldwide right to display, reproduce, and distribute tangible embodiments of the Intellectual Property that are available for public viewing in any media coverage of the Intellectual Property, prior to the Effective Date of this Agreement ("Prior Published Works"). Assignor may use Prior Published Works solely for the purpose of exemplifying the Assignor's work, and in each instance of use, Assignor shall credit the Company as the owner of all right, title, and interest to the Prior Published Works and mark all tangible embodiments of Prior Published Works as required by patent, trademark, or copyright law to preserve the Company's rights.
6. **Confidentiality.** Assignor shall not (i) disclose or communicate Confidential Information (as defined below) to any third party or (ii) use any Confidential Information for any purpose.
- "Confidential Information" means:
- a. All intellectual Property that is not a Prior Published Work; or
 - b. All materials otherwise previously disclosed to the public other than in violation of a confidentiality restriction.
7. **Entire Agreement.** This Agreement supersedes any prior agreements or understandings, oral or written, between the Assignor and the Company with respect to the subject matter hereof, and constitutes the entire agreement of the parties with respect hereto. No change,

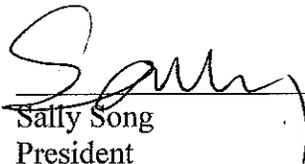
addition, or amendment shall be made except by written agreement signed by a duly authorized representative of all parties.

8. **Severability and Non-Waiver Clause.** The provisions of this Agreement are severable, and if one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions, and any partially enforceable provisions to the extent enforceable in any jurisdiction, shall nevertheless be binding and enforceable. Furthermore, the Company's failure to enforce any provision of this Agreement will not be construed as a waiver of that or any other provision and will not prevent the Company from later enforcing that or any other provision.
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

SONG ENTERPRISE LLC

By:


Sally Song
President
1020 Race Street, 1st Floor
Philadelphia, PA 19107

By:


Zheng Zhu
Individually and on behalf of
Shanghai Dim Sum Garden INC,
Philly Dim Sum Garden INC, and
Dim Sum Garden INC.



LAW OFFICES OF
BLACK & OLDER

TWO PENN CENTER PLAZA
SUITE 1900
1500 JFK BOULEVARD
PHILADELPHIA, PENNSYLVANIA 19102
215-567-8910
215-567-2097 FAX
rblack@blackandolder.com
smolder@blackandolder.com

WEBSITE: www.blackandolder.com

MONTGOMERY COUNTY OFFICE
BALA CYNWYD, PA

BUCKS COUNTY OFFICE
BRISTOL, PA

ROBERT H. BLACK
STEPHEN M. OLDER*

*ALSO MEMBER NEW JERSEY BAR

PARALEGALS
CATHERINE M. DUNSON

December 31, 2013

Personal and Confidential – Extremely Urgent

Meiying Gao
Philly Dim Sum Garden Inc.
59 N. 11th Street
Philadelphia, PA 19107

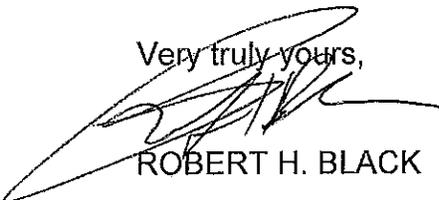
RE: Tortuous Interference – Corporate Infringement – Undue Enrichment

Dear Sir/Madam:

Please be advised that I represent Sally Song, d/b/a Dim Sum Garden Philly, who has moved her restaurant to 1020 Race Street. You are improperly using the name Dim Sum Garden; even worse, on your door you have newspaper articles favorable to my client's Dim Sum Garden for your own apparent advertising purposes. You also incorporated a name without notification to my client for permission. You have infringed on the business reputation of my client for your own profit. **YOU MUST CEASE AND DESIST THIS ACTIVITY IMMEDIATELY.**

My client is entitled to economic damages, but it is more important that you immediately change the name of your restaurant and not continue to act in such a way that you are taking customers from my client and causing her financial loss. If you take immediate action to remedy your wrongdoing, I may be able to convince my client to not file a lawsuit against you and your corporation. Also, you should consult an attorney so that you can confirm that if we have to file for Injunctive Relief, the Court may order for you to pay Ms. Song's legal fees. This matter will only go away if you take immediate action starting January 1, 2014. I can promise you that we will pursue all remedies if you ignore this letter and fail to immediately change the name of your restaurant. Please have your attorney or representative call me at the above number on Thursday, January 2, 2014 to avoid immediate litigation.

Very truly yours,


ROBERT H. BLACK

RHB/cmd
CC: sally.song.sdj@gmail.com