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

Proceeding	92050616
Party	Defendant LINDORA, INC.
Correspondence Address	Thomas A. Zeigler ADORNO YOSS ALVARADO & SMITH 1 MacArthur Place, Suite 200 Santa Ana, CA 92707 UNITED STATES ahunter@adorno.com
Submission	Motion to Suspend for Civil Action
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Date	06/02/2010
Attachments	Motion to Suspend.pdf (22 pages)(1783695 bytes)

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

RIOWELL, LLC, a Texas limited liability
Company,

Petitioner,

v.

LINDORA, INC., a California Corporation,

Registrant.

Cancellation No.: 92050616

Registration No.: 3228958

**REGISTRANT'S MOTION
TO SUSPEND PROCEEDINGS
DURING PENDENCY
OF CIVIL ACTION**

**REGISTRANT'S MOTION TO SUSPEND PROCEEDINGS DURING
PENDENCY OF CIVIL ACTION**

Lindora, Inc. ("Registrant") submits the following memorandum in support of its motion to suspend the current Trademark Trial and Appeal Board proceedings (the "Motion") in light of the civil action currently pending against petitioner Riowell, LLC ("Petitioner") in federal court for trademark infringement and trademark dilution.

I. INTRODUCTION

The present dispute centers around Petitioner's attempts to cancel Registrant's mark LEAN FOR LIFE under Section 2 (d) of the Lanham Act on the grounds that the LEAN FOR LIFE mark is likely to cause confusion with Petitioner's unregistered mark LEANLIFE.¹

On June 1, 2010, Registrant filed a civil action against Petitioner for claims under the

¹ Petitioner has also filed a motion for leave to amend its petition to add a claim for descriptiveness. The granting or denying of that motion is irrelevant to the present Motion, as it is not a dispositive motion, and even if granted, the issue of descriptiveness will be litigated and disposed of in the Civil Action if asserted as an affirmative defense.

Lanham Act including trademark infringement and trademark dilution in the United States District Court, Central District of California (the “Civil Action”). (Exhibit 1.) Because the issues to be litigated in the Civil Action directly bear on the issues before the Board, Registrant respectfully requests that this action be suspended during the pendency of the Civil Action.

II. THIS BOARD HAS THE AUTHORITY TO SUSPEND THIS ACTION DURING THE PENDENCY OF THE CIVIL ACTION

Under TTAB, Rule 510.02 (a) and 37 CFR § 2.117, the Board may suspend a Board case until final determination of any pending civil action “which may have a bearing on the Board case.” (TTAB, Rule 510.02 (a); 37 CFR § 2.117; *Other Telephone Co. v. Connecticut National Telephone Co.*, 181 USPQ 125 (TTAB 1974).)

For example, in the *Other Telephone Co.*, an applicant’s attempt to register the mark THE OTHER PHONE COMPANY! for telephonic communication service was opposed by an opposer under Section (d) on the grounds that the registration of the mark was likely to cause consumer confusion in light of the opposer’s priority of use of the same or similar mark. (*Other Telephone Co.*, 181 USPQ at 125-26.)

Nine days prior to the close of the testimony period, the opposer filed an action in federal court for trademark infringement due to the applicant’s use of the disputed mark; the opposer also sought to enjoin the applicant’s use of the mark in the civil action. (*Id.* at 126-27.) The following day, the opposer filed a motion requesting that the Board stay the Board proceedings pending the civil action. Upon granting the request for the suspension, the Board noted that an adjudication of the issue of infringement in the civil action would be dispositive of the issues before the Board, and that “It is clear therefore that the final determination of the civil suit will directly affect the resolution of the issue of likelihood of confusion which is involved in the proceeding before the Trademark Trial and Appeal Board.” (*Id.* at 127.) The Board also noted that the filing of the action was sufficient to grant the motion; there was no requirement that the applicant appear or answer the federal action. (*Id.* at 126.)

The *Other Telephone Co.* is directly on point with the facts in this case. Registrant has filed a Civil Action in federal court asserting claims for trademark infringement and trademark dilution. Whether Petitioner's use of its mark LEANLIFE infringes on Registrant's marks, including the LEAN FOR LIFE mark that Petitioner seeks to cancel in the present proceeding, will be litigated and disposed of in the Civil Action. (See Exhibit 1.) As such, "the final determination of the civil suit will directly affect the resolution of the issue of likelihood of confusion which is involved in the proceeding before the Trademark Trial and Appeal Board." (*Id.* at 127.)

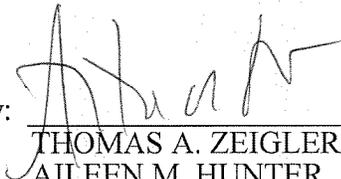
VI. CONCLUSION

For the foregoing reasons, Registrant respectfully requests that the Board grant the Motion in its entirety and suspend these proceedings pending a final resolution in the Civil Action.

DATED: June 2, 2010

Respectfully submitted,

ADORNO YOSS ALVARADO & SMITH
A Professional Corporation

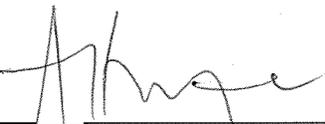
By: 

THOMAS A. ZEIGLER
AILEEN M. HUNTER
Attorneys for Registrant,
LINDORA, INC.

Certificate of Service

I hereby certify that on this 2nd day of June, 2010, the foregoing Motion to Suspend Proceedings During Pendency of Civil Action was served, by mailing same by overnight mail, on the following correspondent as set forth in the records of the U.S. Patent and Trademark Office:

Ryan M. Kaiser
AMIN HALLIHAN, LLC
225 N Michigan Ave., Suite 700
Chicago, IL 60601



Aileen M. Hunter

EXHIBIT "1"

1 THOMAS A. ZEIGLER (CA Bar No. 145053)
tzegiler@adorno.com
2 ROBERT A. RIVAS (CA Bar No. 196744)
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3 AILEEN M. HUNTER (CA Bar No. 253162)
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4 ADORNO YOSS ALVARADO & SMITH
A Professional Corporation
5 1 MacArthur Place, Suite 200
Santa Ana, California 92707
6 Tel: (714) 852-6800
Fax: (714) 852-6899

7 Attorneys for Plaintiff
8 LINDORA, INC.

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

FILED
2010 JUN -1 PM 3:02
U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

12 LINDORA, INC., a California corporation
13 Plaintiff,
14 v.
15 RIOWELL, LLC, a Texas limited liability
16 company,
17 Defendant.

CASE NO. SACV10-700 JVS(ANx)

JUDGE:

COMPLAINT FOR:

1. TRADEMARK INFRINGEMENT AND FALSE DESIGNATION OF ORIGIN [15 U.S.C. § 1125(a)]
2. TRADEMARK DILUTION [15 U.S.C. § 1125(c)(1)]

DEMAND FOR JURY TRIAL
(F.R.CIV. P.38(B))

22 Plaintiff Lindora, Inc. ("Plaintiff") complains of defendant Riowell, LLC as
23 follows:

24 PARTIES, JURISDICTION AND VENUE

25 1. Plaintiff is, and at all times relevant herein was, a California corporation
26 in good standing doing business in California and headquartered in Costa Mesa,
27 California.

28 2. Plaintiff is informed and believes that Defendant Riowell, LLC

1 (“Defendant”) is a Texas limited liability company, whose principal place of business
2 is in Houston, Texas. Plaintiff is informed and believes that at all relevant times
3 herein, Defendant has done business in California and has marketed, distributed and
4 sold the infringing products and services which are the subject of this action in this
5 judicial district.

6 3. This is an action for trademark infringement and related claims of unfair
7 competition under the Lanham Act, 15 U.S.C. § 1125(a). This Court has subject
8 matter jurisdiction over the claims in this action which relate to trademark
9 infringement and federal unfair competition laws pursuant to the provisions of 15
10 U.S.C. §§ 1121, 1125, and 28 U.S.C. §§ 1331, 1338, and 1391(b)(2).

11 4. This Court also has diversity jurisdiction pursuant to 28 U.S.C. § 1332, as
12 the matter in controversy well exceeds the sum or value of \$75,000.00, exclusive of
13 interest and costs, and Plaintiff and Defendant are citizens of different States.

14 5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b). The
15 infringing goods and services that are the subject of this complaint were advertised,
16 marketed and sold to customers in the Central District of California including but not
17 limited to areas in Orange County, California, Riverside County, California, and Los
18 Angeles County, California. The infringing products and services which are the
19 subject of this litigation were distributed and shipped to and/or offered for distribution
20 in the Central District of California, and the claims alleged in this action arose in the
21 Central District of California.

22 6. This Court has jurisdiction over the parties as Defendant’s activities in
23 this state have been substantial, continuous and systematic, and Defendant’s infringing
24 activities giving rise to this claim have occurred in and throughout California.

25 **CENTRAL ALLEGATIONS OF WRONGDOING**

26 7. Beginning in 1971 and continuing to the present, Plaintiff has been in the
27 business of developing, marketing and providing weight loss services and weight loss
28 products. Plaintiff provides its services and products to consumers both nationally

1 and internationally through clinic locations, through the internet and by telephone.
2 Plaintiff's services include medically supervised weight management programs
3 wherein patients utilize Plaintiff's books, tapes, videos, recipe books, vitamins,
4 supplements, protein bars, meal replacements, and a variety of other food and
5 beverage items for long-term weight management.

6 8. Beginning at least as early as 1989, in connection with the weight loss
7 services and products being offered by Plaintiff, Plaintiff began using the mark LEAN
8 FOR LIFE! as a service mark, and the mark LEAN FOR LIFE as a service mark and a
9 trademark. Plaintiff registered the service mark LEAN FOR LIFE! in the United
10 States Patent and Trademark Office, registration number 1,868,744 (the "744 Mark").
11 Plaintiff owns the 744 Mark, which has become incontestable under the provisions of
12 15 U.S.C. § 1065, and which continues to be in full force and effect.

13 9. Plaintiff also registered the trademark LEAN FOR LIFE in the United
14 States Patent and Trademark Office, registration number 3,228,958 (the "958 Mark").
15 Plaintiff owns the 958 Mark, which continues to be in full force and effect. Plaintiff
16 also has common law rights to the service mark LEAN FOR LIFE, which it has used
17 continuously since at least as early as 1989. The 744 Mark, the 958 Mark and the
18 LEAN FOR LIFE service mark shall collectively be referred to as Plaintiff's Marks.

19 10. Plaintiff has spent over two decades branding its weight loss products
20 and services with the Marks and has spent significant sums of money advertising and
21 marketing its products and services under the Marks.

22 11. Plaintiff and its Marks have achieved international recognition and are
23 famous marks, and Plaintiff has appeared on both national and international programs,
24 including the Maury Povich show (with the first appearance in 1991, followed by
25 repeated appearances over the years), the Montel Williams show, NBC, Today, Extra,
26 and Discovery Health, to name a few.

27 12. Plaintiff has also been featured and/or advertised in newspapers and
28 periodicals such as the New York Times, the Los Angeles Times, and Woman's

1 World, to name a few. One of Plaintiff's principals, Cynthia Graff, published the
2 book "Lean for Life," and several follow-up books, "Lean for Life, Phase One,"
3 "Lean for Life, Phase Two," and "Staying Lean for Life," which describe Plaintiff's
4 services and products.

5 13. As a result of Plaintiff's extensive efforts, Plaintiff's Marks are famous
6 and have acquired substantial goodwill and have attained secondary meaning as the
7 public associates Plaintiff's Marks with Plaintiff's products and services. Plaintiff's
8 services and programs are commonly referred to as the "LEAN FOR LIFE program"
9 and its products are known as "LEAN FOR LIFE products." Attached as **Exhibit A** is
10 a copy of a page from the Lean for Life book published in the 90's, evidencing the
11 variety of LEAN FOR LIFE products.

12 14. Plaintiff did not and has not licensed or assigned any of its rights in its
13 Marks to Defendant or Defendant's predecessor.

14 15. After Plaintiff began using its Marks, and beginning at an unknown time
15 but continuing to the present, Defendant, and its predecessor in interest, began
16 marketing, distributing and selling competing products that are closely related to
17 Plaintiff's products, including vitamins, supplements, protein bars and other meal
18 replacement products using the mark LEANLIFE.

19 16. Additionally, after Plaintiff began using its Marks, and beginning at an
20 unknown time but continuing to the present, Defendant, and its predecessor in interest,
21 began using the mark LEANLIFE as a service mark in connection with weight loss
22 services, including by identifying a weight loss program as the "LEANLIFE
23 program." Attached as **Exhibit B** are images of Defendant's label using the
24 LEANLIFE mark and Defendant's use of LEANLIFE as a service mark.

25 17. Defendant's marketing, distribution and sales of products and services
26 under the mark LEANLIFE have occurred nationally and internationally, including
27 throughout southern California by way of sales in Orange County, California,
28 Riverside County, California and Los Angeles County, California.

1 FIRST CLAIM FOR TRADEMARK INFRINGEMENT
2 AND FALSE DESIGNATION OF ORIGIN

3 [15 U.S.C. § 1125(a)]

4 18. Paragraphs 1 through 17 are incorporated by this reference as though set
5 forth herein in full.

6 19. As described above, Plaintiff is in the business of providing weight loss
7 services and products for long-term weight management.

8 20. In connection with its products and services, since at least as early as
9 1989, Plaintiff has been using its Marks as described more fully in paragraphs 8 and 9
10 and has never licensed or assigned the Marks to Defendant.

11 21. Plaintiff's Marks are distinctive in that they are both inherently
12 distinctive and have acquired secondary meaning through the decades of promotion,
13 advertising and sales efforts made by Plaintiff. Plaintiff has established a wide
14 patronage and invaluable goodwill for Plaintiff's Marks. Plaintiff's Marks have
15 become fixed in the minds of the public as denoting and being associated exclusively
16 with Plaintiff's products and services. As such, Plaintiff's Marks have achieved
17 national fame and recognition.

18 22. Defendant is also engaged in the business of providing weight loss
19 services and products throughout the United States.

20 23. After Plaintiff began using its Marks, and beginning at an unknown time
21 but continuing to the present, Defendant, and its predecessor in interest, began
22 marketing, distributing and selling competing products and services under the mark
23 LEANLIFE.

24 24. Defendant's actions are likely to cause confusion or mistake among the
25 public as to the true origin and sponsorship of Defendant's products and services, and
26 to confuse the public into believing that Defendant's products and services are
27 somehow associated with Plaintiff in violation of Section 43(a) of the Lanham Act, 15
28 U.S.C. § 1125(a).

1 25. Defendant's use of the LEANLIFE mark in connection with its products
2 and services constitutes unfair competition and a false designation of origin that is
3 likely to deceive customers and prospective customers concerning the source of
4 Defendant's products and services in violation of Section 43(a) of the Lanham Act, 15
5 U.S.C. § 1125(a).

6 26. Unless enjoined by this Court, Defendant will continue to engage in acts
7 of unfair competition and false designation of origin as complained herein to the
8 irreparable damage and injury of Plaintiff.

9 27. Upon information and belief, the aforesaid acts of Defendant have been
10 undertaken with knowledge of Plaintiff's exclusive rights to its Marks, and are willful,
11 entitling Plaintiff to an award of treble damages and attorneys' fees in bringing and
12 maintaining this action pursuant to Section 35 of the Trademark Act, 15 U.S.C. §
13 1117.

14 **SECOND CLAIM FOR TRADEMARK DILUTION**

15 **[15 U.S.C. § 1125(c)(1)]**

16 28. Paragraphs 1 through 17 are incorporated by this reference as though set
17 forth herein in full.

18 29. Plaintiff's Marks have achieved national fame and recognition and are
19 famous Marks.

20 30. After Plaintiff's Marks became famous, Defendant, and its predecessor,
21 began making commercial use of a nearly identical mark, LEANLIFE, as both a
22 trademark and service mark in connection with Defendant's weight loss products and
23 services.

24 31. Upon information and belief, Defendant is intentionally and willfully
25 trading on the famousness of Plaintiff's Marks.

26 32. Defendant's use of the LEANLIFE mark, which is virtually identical to
27 Plaintiff's Marks, dilutes the quality of Plaintiff's Marks and diminishes the capacity
28 of the Marks to identify and distinguish Plaintiff's goods and services.

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infringing conduct.

2. For compensatory damages to compensate Plaintiff for all damages sustained by Defendant's acts, in treble amount, or statutory damages in an amount to be determined;

3. That Defendant is required to pay to Plaintiff punitive damages as may be permitted by law or in the discretion of the court;

4. That Defendant is required to pay Plaintiff's attorneys' fees and costs incurred in this action as permitted by law due to the exceptional nature of Defendant's conduct;

5. That Defendant is required to pay to Plaintiff interest at the highest legal rate; and

6. That Plaintiff have such other and further relief as the court may deem appropriate.

DATED: May 28, 2010

ADORNO YOSS ALVARADO & SMITH
A Professional Corporation

By: 

THOMAS A. ZEIGLER
ROBERT A. RIVAS
AILEEN M. HUNTER
Attorneys for Plaintiff
LINDORA. INC.

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DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial of all issues so triable pursuant to Rule 38 (b) of the Federal Rules of Civil Procedure.

DATED: June 1, 2010

ADORNO YOSS ALVARADO & SMITH
A Professional Corporation

By: 

THOMAS A. ZEIGLER
ROBERT A. RIVAS
AILEEN M. HUNTER
Attorneys for Plaintiff
LINDORA. INC.

ADORNO YOSS ALVARADO & SMITH
ATTORNEYS AT LAW
SANTA ANA

Exhibit A

Lean for Life

PRODUCTS



An assortment of products designed to enhance weight loss and weight maintenance results.

Exhibit B

Achieving Success: Step 2

LeanLife Program weeks 3 to 8

The success of a weight loss program is measured by how you modify your current lifestyle to enhance your long-term health. The LeanLife Weight Management Program will provide you with the roadmap and the tools to be successful. The *Jump Start* period got the ball rolling and *Achieving Success* will keep the ball on the right path. *Achieving Success* requires that **YOU** begin to apply the LeanLife Program to your daily life.

Achieving Success in a weight loss program requires setting goals and maintaining discipline. Goals should be built around what you would like to achieve and also realistic targets. Health professionals all agree that a healthy weight loss ranges from 1 to 2 pounds each week. That means if you want to lose 25 pounds (and keep it off!), it will require 15 to 20 weeks or 4 to 5 months. But why so slow? We all know that we could simply starve ourselves or go on some unhealthy fad diet for the next week and lose 10 or 15 pounds. However, we also know that everyone who goes on these quick-fix diets gains the weight back before the end of the month.

There are two important reasons why weight loss should be slow. The first requires understanding your body. When you gained the extra pounds, it occurred slowly probably over years as your body slowly deposited excess body fat. Fortunately for all of us, our bodies do not pick up fat very quickly. Unfortunately, when we try to lose weight, our bodies follow the same slow process, just in reverse. If you try to speed up the process, the weight loss shifts from body fat to loss of water and your muscles. Loss of muscle is a primary reason why fad diets fail. So, the bottom line: healthy weight loss takes time ...

That second important reason for a slow steady weight loss is that it allows you the time to learn a new lifestyle. Eating properly and exercising routinely require learning new habits. Learn to take the time to be healthy and enjoy life. *Achieving Success* will take you through the steps to learn the right ways to eat.

During the *Jump Start* period, the LeanLife Program used the LeanLife Meal Replacement Shakes for two meals each day and you prepared a regular dinner meal. With the dinner meal, you began to learn about *balance* and “plate-look.” Now you need to learn to apply these principles to the other meals. After 1 or 2 weeks on the *Jump Start* Program, you should begin to practice meals for breakfast and lunch. We recommend that you do this in steps.

Achieving Success: Step 2 (week 3)

Use 1 LeanLife Meal Replacement Shake for breakfast or lunch.

1 pkg of Essentials with breakfast

Eat 2 sensible meals selected from the LeanLife menus.

1 XL Herbal Energizer with lunch

Use the LeanLife Real Meal Bar for that extra snack or meal on the go.

Use Choc-o-life wafers as an “anytime snack.”

Thomas A. Zeigler (CA Bar No. 145053)
Robert A. Rivas (CA Bar No. 196744)
Adorno Yoss Alvarado & Smith
1 MacArthur Place, Suite 200
Santa Ana, CA 92707
Ph: 714-852-6800 Fax: 714-852-6899

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LINDORA, INC., a California Corporation

PLAINTIFF(S)

v.

RIOWELL, LLC, a Texas limited liability
company

DEFENDANT(S).

CASE NUMBER

SACV10-700 JVS(ANx)

SUMMONS

TO: DEFENDANT(S): RIOWELL, LLC

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Thomas A. Zeigler, whose address is Adorno Yoss Alvarado & Smith, 1 MacArthur Place, Suite 200, Santa Ana, CA 92707. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUN - 1 2010

By: [Signature]

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) LINDORA, INC., a California Corporation	DEFENDANTS RIOWELL, LLC, a Texas limited liability company
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Thomas A. Zeigler (CA Bar No. 145053) Robert A. Rivas (CA Bar No. 196744) Adorno Yoss Alvarado & Smith 1 MacArthur Place, Suite 200 Santa Ana, CA 92707 Ph: 714-852-6800 Fax: 714-852-6899	Attorneys (If Known)

I. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input checked="" type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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V. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																									

REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint)

LASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT: \$ TBD at Trial**

I. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Trademark Infringement and False Designation of Origin [15 U.S.C. § 1125(a)]; 2. Trademark Dilution [15 U.S.C. § 1125(c)(1)]

I. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
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**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). **IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). **RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
ORANGE COUNTY	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	TEXAS

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

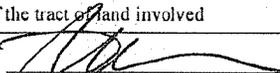
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
ORANGE COUNTY, RIVERSIDE COUNTY, LOS ANGELES COUNTY	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):


Thomas A. Zeigler

Date June 1, 2010

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))