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

Proceeding	91198506
Party	Defendant HEAL THE WORLD FOUNDATION
Correspondence Address	HEAL THE WORLD FOUNDATION 44489 TOWN CENTER WAY STE D425 PALM DESERT, CA 92260-2723 UNITED STATES
Submission	Motion to Suspend for Civil Action
Filer's Name	Melissa Johnson
Filer's e-mail	johnsonswb@hotmail.com
Signature	/Melissa Johnson/
Date	03/08/2011
Attachments	makethatchange-016.pdf (2 pages)(17849 bytes) complaint-9-29-09.pdf (30 pages)(1190323 bytes) Answer 2009-11-06 DL.pdf (20 pages)(183314 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Applicant:
Heal the World Foundation
44489 Town Center Way Ste. D425
Palm Desert, Ca 92260

Serial No. 77800279 –Opposition No. 91198506
Mark: MAKETHATCHANGE

REQUEST TO SUSPEND THE PROCEEDINGS PENDING CIVIL TRIAL

Applicant hereby requests pursuant to 37 CFR §2.117(a), for suspension of these proceedings pending resolution of the civil action described below, subject to the right of either party to request resumption of proceeding at any time prior thereto.

37 CFR §2.117(a) provides for the suspension of proceedings before the TTAB: "Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or the other Board proceeding."

This application been subject to board proceeding in an opposition, as grounds in support of this request, applicant asserts that it and the subject mark(s), are involved in a suit before the United States Court for the Central District of California, Western Division (Case No. CV09-07084-MMM(PLAx)), recently changed to (Case No. CV-09-07084- DMG-(PLAx) which involves claims by an Opposer, Triumph International, Inc., against Applicant for, among other claims, unfair competition under Lanham Act § 43(a), and common law unfair competition and trademark infringement of the subject mark(s).

Copies of the Complaint and Answer, Affirmative Defenses, and Counterclaims in this matter are attached hereto.

Applicant anticipates that the District Court's determination may be dispositive of the issues raised in the answer to opposition and therefore, cannot be answered fully before the deadline, pending the outcome of the current civil suit, where the applicant will gain a court determination that will provide evidence to better answer the opposition.

Applicant therefore requests that this opposition be suspended pending the outcome of the aforementioned case, which remains pending in the United States Court for the Central District of California, Western Division.

Pursuant to TBMP 114.01 (and 37 CFR § 10.14(e)), Applicant hereby appoints Melissa Johnson, an officer of HEAL THE WORLD FOUNDATION who is authorized to represent Applicant, Heal The World Foundation in this request.

Dated this 8th day of March, 2011.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized, overlapping 'M' and 'J' followed by a horizontal line extending to the right.

Melissa Johnson

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

1 GREENBERG TRAUERIG, LLP
2 VINCENT H. CHIEFFO (SBN 49069)
3 E-Mail: *ChieffoV@gtlaw.com*
4 NINA D. BOYAJIAN (SBN 246415)
5 E-Mail: *Boyajiann@gtlaw.com*
6 2450 Colorado Avenue, Suite 400E
7 Santa Monica, CA 90404-5524
8 Telephone: 310-586-7700
9 Facsimile: 310-586-7800

10 Attorneys for Plaintiffs John G. Branca and
11 John McClain, Special Administrators of the Estate of
12 Michael J. Jackson; Triumph International, Inc.

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION

16 JOHN G. BRANCA, Special
17 Administrator of the Estate of Michael
18 J. Jackson; JOHN MCCLAIN, Special
19 Administrator of the Estate of Michael
20 J. Jackson; TRIUMPH
21 INTERNATIONAL, INC., a California
22 corporation,

23 Plaintiffs,

24 vs.

25 HEAL THE WORLD FOUNDATION,
26 a California corporation; UNITED
27 FLEET, a California corporation; and
28 DOES 1-10, inclusive,

Defendants.

CASE NO. **CV09 07084**

MMM PLA_x

COMPLAINT FOR:

- (1) TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114(1);
- (2) UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN, 15 U.S.C. § 1125(a);
- (3) TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION UNDER CALIFORNIA COMMON LAW;
- (4) VIOLATION OF THE RIGHT OF PUBLICITY, CAL. CIV. CODE § 3344.1;
- (5) CANCELLATION OF REGISTERED TRADEMARKS (HEAL THE WORLD, HEAL THE WORLD FOUNDATION, HTWF);
- (6) CANCELLATION OF REGISTERED TRADEMARKS (MJ); AND
- (7) VIOLATIONS OF THE ANTI-CYBERSQUATTING CONSUMER PROTECTION ACT, 15 U.S.C. § 1125(d)

1 For their COMPLAINT herein, Plaintiffs allege:

2 **JURISDICTION AND VENUE**

3 1. This is an action for trademark infringement, unfair competition and false
4 designation of origin arising under the Trademark Act of 1946, 15 U.S.C. §§ 1051, *et*
5 *seq.*, (the “Lanham Act”); for violations of the Anticybersquatting Consumer Protection
6 Act, 15 U.S.C. § 1125(d) (“ACPA”); and for trademark infringement, unfair
7 competition, and violation of the right of publicity under the laws of the State of
8 California.

9 2. This Court has original jurisdiction over this action pursuant to 28 U.S.C.
10 §§ 1331 and 1338; 15 U.S.C. § 1114; 15 U.S.C. § 1125(a) and (d); and 15 U.S.C. §§
11 1116 and 1121. This Court has jurisdiction, pursuant to the principles of supplemental
12 jurisdiction and 28 U.S.C. § 1367, over Plaintiffs’ claims for trademark infringement,
13 unfair competition, and violation of the right of publicity under the laws of the State of
14 California.

15 3. This Court has personal jurisdiction over Defendants in that they do
16 business and/or reside in the State of California.

17 4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(a)
18 in that the Defendants are entities subject to personal jurisdiction in this judicial district.

19 **THE PARTIES**

20 5. Plaintiffs John G. Branca and John McClain are the duly appointed Special
21 Co-Administrators of the Estate of Michael J. Jackson (“Estate”), now deceased. The
22 Special Administrators of the Estate are authorized, pursuant to the Letters of Special
23 Administration issued by the Los Angeles County Superior Court, LASC Case No.
24 BP117321, to “register and take actions with respect to statutory rights of publicity.” A
25 true and correct copy of the Letters of Special Administration and the Order of Probate
26 are attached hereto and incorporated herein as Exhibit A. The Estate has also owned
27 Michael Jackson’s Right of Publicity since July 15, 2009, and has properly registered its
28 ownership with the California Secretary of State. A true and correct copy of a letter

1 from the California Secretary of State is attached hereto and incorporated herein as
2 Exhibit B.

3 6. Plaintiff, Triumph International, Inc. ("Triumph") is a corporation,
4 organized and existing under the laws of the State of California and this judicial district,
5 having addresses and/or conducting and transacting business at the address 1801
6 Century Park West, Los Angeles, California 90067. Triumph was wholly owned by
7 Mr. Jackson and is now wholly owned by the Estate. Mr. Branca is the President and
8 CEO and Mr. McClain is the Secretary and CFO. The sole directors of Triumph are
9 Mr. Branca and Mr. McClain.

10 7. Upon information and belief, Defendant Heal the World Foundation
11 ("HTWF") is a corporation, organized and existing under the laws of the State of
12 California and this judicial district, having addresses and/or conducting and transacting
13 business at the addresses 41605 Goodrich St., Indio, California 92203 and 44489 Town
14 Center Way, Suite 542, Palm Desert, California 92260. HTWF was formed on March
15 13, 2008. A true and correct copy of the Articles of Incorporation for HTWF is
16 attached hereto and incorporated herein as Exhibit C. A true and correct copy of the
17 Restated Articles of Incorporation of HTWF is attached hereto and incorporated herein
18 as Exhibit D.

19 8. Upon information and belief, Melissa Johnson is president of HTWF; Mel
20 Wilson is vice president of HTWF; and Sandhya Deepak is vice president of HTWF.

21 9. Upon information and belief, Defendant United Fleet ("United Fleet") is a
22 corporation, organized and existing under the laws of the State of California and this
23 judicial district, having an address and/or conducting and transacting business at the
24 address 41605 Goodrich St., Indio, California 92203. United Fleet was formed on June
25 25, 2008. A true and correct copy of the Articles of Incorporation for United Fleet is
26 attached hereto and incorporated herein as Exhibit E.

27 10. Melissa Johnson, president of HTWF, is HTWF's registered agent for
28 service of process.

1 11. Melissa Johnson is also United Fleet's registered agent for service of
2 process.

3 12. The true names and capacities, whether individual, corporate, associate, or
4 otherwise, of defendants sued herein as Does 1 through 10, are unknown to Plaintiffs,
5 which sues said defendants by such fictitious names (the "Doe Defendants"). If
6 necessary, Plaintiffs will seek leave of Court to amend this complaint to state their true
7 names and capacities when the same have been ascertained. Plaintiffs are informed and
8 believe and on that basis aver that the Doe Defendants are liable to Plaintiffs as a result
9 of their participation in all or some of the acts hereinafter set forth. The parties
10 identified in paragraphs 7, 9 and 12 are hereinafter collectively referred to as
11 "Defendants."

12 13. Upon information and belief, each Defendant is, and at all times mentioned
13 herein was, an agent, employee, principal and/or co-venturer of the other Defendants
14 herein; that each Defendant acted within the course and scope and authority of said
15 relationships; and that as a result, Defendants are jointly and severally liable for the acts
16 alleged herein.

17 **MICHAEL JACKSON AND HIS HEAL THE WORLD FOUNDATION**

18 14. Michael Jackson was one of the most commercially successful entertainers
19 of all time prior to his untimely death on June 25, 2009. After making his debut as a
20 member of The Jackson 5, he embarked on a highly successful solo career that
21 continued for over three and a half decades. His 1982 album "Thriller" remains the
22 best-selling album of all time, and his subsequent albums have similarly been
23 successful.

24 15. As a result of his talent and remarkable success, Mr. Jackson came to be
25 known as the "King of Pop." Mr. Jackson acquired this nickname when actress and
26 friend Elizabeth Taylor presented Mr. Jackson with an "Artist of the Decade" award at
27 the 1989 Soul Train Awards, proclaiming him "the true king of pop, rock and soul".
28 Since that time, major media outlets and Mr. Jackson himself have marketed

1 Mr. Jackson as the “King of Pop.” In 2008, in celebration of Mr. Jackson’s 50th
2 birthday, a compilation album, entitled “King of Pop” was released. Currently the
3 album has reached the top ten in the majority of countries in which it was released.

4 16. In addition to his success as a musician and performer, Mr. Jackson was
5 also a notable philanthropist and humanitarian who donated and raised million of
6 dollars through the support of dozens of charities and his own Heal the World
7 Foundation (“Jackson’s Foundation”).

8 17. Mr. Jackson founded the Heal the World Foundation in 1992, naming it
9 after his hit song, “Heal the World,” which he both wrote and composed. The song
10 reached #2 in the UK Singles Chart in December 1992, and reached #27 on the
11 Billboard Hot 100. In a 2001 Internet chat with fans, Jackson said “Heal the World” is
12 the song he is most proud to have created. The song was so identified with Mr. Jackson
13 that it was performed as the closing to Mr. Jackson’s memorial service at the Staples
14 Center in Los Angeles on July 7, 2009. An ensemble of performers, including members
15 of Mr. Jackson’s family, paid tribute to Mr. Jackson by singing this song. Mr.
16 Jackson’s memorial service was viewed live by millions around the world, and millions
17 more have since watched the memorial service, including the performance of “Heal the
18 World.”

19 18. The purpose of Jackson’s Foundation was to provide medicine to children
20 and fight world hunger, homelessness, child exploitation and abuse.

21 19. Mr. Jackson raised millions of dollars for his Heal the World Foundation
22 by aggressively publicizing the Jackson’s Foundation and its goals. For example, all
23 profits from “The Dangerous World Tour,” during which Mr. Jackson performed
24 concerts for millions of people around the world, were donated to Jackson’s
25 Foundation.

26 20. Mr. Jackson also performed his song “Heal the World” during the halftime
27 show at the Super Bowl XXVII, one of the most viewed events on television.
28 Mr. Jackson donated his entire fee to his charity, with the NFL also donating \$100,000

1 and a 30-second advertisement requesting contributions. Jackson's Foundation also
2 raised money so that children may visit Mr. Jackson's Neverland Ranch, which Mr.
3 Jackson owned from 1988 through 2005. Other efforts by Mr. Jackson to raise
4 awareness and funds for Jackson's Foundation are numerous and well-publicized.

5 21. While Jackson's Foundation is no longer active, as a result of its
6 worldwide success in raising awareness and money for children's causes, "Heal the
7 World" is a phrase that continues to invoke Mr. Jackson, Mr. Jackson's Heal the World
8 charity, song, and commitment to improving the lives of children around the world.

9 **MICHAEL JACKSON'S TRADEMARK**
10 **REGISTRATIONS AND APPLICATIONS**

11 22. Jackson's Foundation, a non-profit corporation, registered the word mark
12 HEAL THE WORLD, and its associated design, a child's hands holding a globe with a
13 band-aid on it (the "Logo"), on October 25, 1994 and September 19, 1995, U.S.
14 Trademark Registration Nos. 1,860,559 and 1,920,720, respectively. In addition, the
15 typed drawing HEAL THE WORLD, was registered on February 8, 1994, U.S.
16 Trademark Registration No. 1,820,329. True and correct copies of the U.S. Patent and
17 Trademark Office Certificate of Registration Nos. 1,860,559, 1,920,720 and 1,820,329
18 are attached hereto and incorporated herein as Exhibit F. Despite the fact that these
19 trademark registrations were cancelled in 2001 and 2002, as a result of the success of
20 the "Heal the World" song, and the extent to which the works of Jackson's Foundation
21 were well-known and publicized throughout the world, HEAL THE WORLD and its
22 Logo, continue to be connected to Mr. Jackson.

23 23. Plaintiff Triumph is the owner of the registered mark MICHAEL
24 JACKSON, U.S. Trademark Registration No. 1,908,209, registered on August 1, 1995.
25 A true and correct copy of the U.S. Patent and Trademark Office Certificate is attached
26 hereto and incorporated herein as Exhibit G. In addition, Triumph is the owner of U.S.
27 Trademark Application Serial Nos. 77,806,358; 77,806,355; 77,806,351; and
28 77,806,349 for the standard character mark MICHAEL JACKSON. True and correct

1 copies of the foregoing applications are attached hereto and incorporated herein as
2 Exhibit H. Triumph is also the owner of U.S. Trademark Application Serial Nos.
3 77,806,397; 77,806,395; 77,806,393; and 77,806,392, for word mark MICHAEL
4 JACKSON, plus a design (a signature). True and correct copies of the foregoing
5 applications are attached hereto and incorporated herein as Exhibit I.

6 24. Plaintiff Triumph is also the owner of U.S. Trademark Application Serial
7 Nos. 77,806,377; 77,806,362; 77,806,361 and 77,806,360 for the standard character
8 mark KING OF POP, a name commonly connected with Mr. Jackson. True and correct
9 copies of the foregoing applications are attached hereto and incorporated herein as
10 Exhibit J.

11 25. Triumph is further the owner of U.S. Trademark Application Serial Nos.
12 77,811,345; 77,811,342; 77,811,340; and 77,811,338 for the standard character mark
13 NEVERLAND VALLEY RANCH, in reference to Mr. Jackson's former home. True
14 and correct copies of the foregoing applications are attached hereto and incorporated
15 herein as Exhibit K.

16 26. Triumph is also the owner of U.S. Trademark Application Serial Nos.
17 77,811,337; 77,811,334; 77,811,329; and 77,811,328 for the standard character mark
18 NEVERLAND RANCH. True and correct copies of the foregoing applications are
19 attached hereto and incorporated herein as Exhibit L.

20 27. Plaintiff Triumph is also the owner of U.S. Trademark Application Serial
21 Nos. 77,480,301 and 77,480,413 for the mark THRILLER 25 THE WORLD'S
22 BIGGEST SELLING ALBUM OF ALL TIME, plus a design. True and correct copies
23 of the foregoing applications are attached hereto and incorporated herein as Exhibit M.

24 28. Finally, Triumph is the owner of U.S. Trademark Application Serial Nos.
25 77,806,913; 77,806,908; 77,806,905; and 77,806,901 for the standard character mark
26 MJ, Mr. Jackson's initials. True and correct copies of the foregoing applications are
27 attached hereto and incorporated herein as Exhibit N.

1 29. All of the registered marks identified in paragraphs 22 through 28 are
2 collectively referred to herein as the "MJJ Trademarks."

3 30. The MJJ Trademarks are associated exclusively with Plaintiffs, and as a
4 result of sales, marketing, the media and the general public's interest in Mr. Jackson,
5 these marks have become well-known in the United States as identifying and referring
6 to Plaintiffs. Consequently, the MJJ Trademarks have developed substantial
7 recognition among the consuming public for their connection with Plaintiffs and Mr.
8 Jackson's charitable works and have acquired and enjoy a valuable reputation and
9 significant goodwill.

10 31. The MJJ Trademarks are famous not only within the United States, but
11 throughout the world entitling them to the greater protection afforded marks of such
12 international distinction under both United States law and international treaties, such as
13 the Paris Convention and the TRIPS Agreement both of which were entered into by the
14 United States.

15 **DEFENDANTS' CONDUCT**

16 32. From at least February 2008, Defendants have been and are currently
17 conducting business at and out of the locations 41605 Goodrich St., Indio, California
18 92203 and/or 44489 Town Center Way, Suite 542, Palm Desert, California 92260.
19 Defendants have created an "organization" that purports to carry on the work of
20 Jackson's Foundation and make numerous false representations regarding their
21 affiliation with Mr. Jackson and his charity. Attached hereto and incorporated herein as
22 Exhibit O are screenshots from Defendants' websites.

23 33. Defendant HTWF has registered 6 trademarks and filed 41 trademark
24 applications for marks connected to Mr. Jackson, many of which are identical or
25 confusingly similar to the MJJ Trademarks. The registered and applied-for marks also
26 falsely suggest a connection between Defendant and Plaintiffs, and violate
27 Mr. Jackson's right of publicity. Each of these trademarks was registered and/or
28

1 applied for without Plaintiffs' or Mr. Jackson's consent. A chart summarizing these
2 trademarks is attached hereto and incorporated herein as Exhibit P.

3 34. Defendant HTWF has registered the following trademarks referencing
4 Mr. Jackson's charity's name, Heal the World Foundation:

- 5 • U.S. Trademark Registration No. 3,511,658, registered on
6 October 7, 2008 for the standard character mark HEAL THE
7 WORLD FOUNDATION;
- 8 • U.S. Trademark Registration No. 3,515,854, registered on
9 October 14, 2008 for the standard character mark HEAL THE
10 WORLD FOUNDATION;
- 11 • U.S. Trademark Registration No. 3,564,618, registered on
12 January 20, 2009 for the standard character mark HEAL THE
13 WORLD;
- 14 • U.S. Trademark Registration No. 3,508,540, registered on
15 September 20, 2008 for the standard character mark HEAL THE
16 WORLD; and
- 17 • U.S. Trademark Registration No. 3,508,542, registered on
18 September 30, 2008 for the standard character mark HTWF. True
19 and correct copies of the U.S. Patent and Trademark Office
20 Certificate of Registrations for the foregoing registrations are
21 attached hereto and incorporated herein as Exhibit Q.

22 35. Defendant HTWF has also filed the following applications with the U.S.
23 Patent and Trademark Office, also using the name of Mr. Jackson's charity:

- 24 • U.S. Trademark Application Serial No. 77,784,571, filed on July
25 20, 2009 for the word mark HEAL THE WORLD, plus a design, a
26 child's hands holding a globe;
- 27 • U.S. Trademark Application Serial No. 77,503,630, filed on June
28 19, 2008 for the standard character mark HEAL THE WORLD;

- 1 • U.S. Trademark Application Serial No. 77,643,005, filed on
2 January 4, 2009, for the standard character mark HEAL THE
3 WORLD;
- 4 • U.S. Trademark Application Serial No. 77,410,532, filed on March
5 1, 2008, for the standard character mark HEAL THE WORLD;
- 6 • U.S. Trademark Application Serial No. 77,503,630, filed on June
7 19, 2008 for the standard character mark HEAL THE WORLD;
- 8 • U.S. Trademark Application Serial No. 77,657,994, filed on
9 January 28, 2009, for the standard character mark HEAL THE
10 WORLD; and
- 11 • U.S. Trademark Application Serial No. 77,786,633, filed on July
12 22, 2009, for the word mark MICHAEL JACKSON'S HEAL THE
13 WORLD FOUNDATION, plus a design, a child's hands holding a
14 globe with a band-aid on it--the exact same design associated with
15 Mr. Jackson's Foundation. True and correct copies of the
16 application records from the United States Patent and Trademark
17 Office website for the foregoing applications are attached hereto
18 and incorporated herein as Exhibit R.

19 36. Defendant HTWF further registered the standard character mark MJ,
20 Mr. Jackson's initials, with the U.S. Patent and Trademark Office, U.S. Trademark
21 Registration No. 3,567,671 on January 27, 2009. A true and correct copy of U.S.
22 Trademark Registration No. 3,567,671 is attached hereto and incorporated herein as
23 Exhibit S.

24 37. Defendant HTWF also filed numerous trademark applications for marks
25 that uniquely and unmistakably point to Mr. Jackson and his persona. Most of these
26 were filed immediately following Mr. Jackson's death in the hopes of exploiting the
27 deceased artist's name and life and suggesting a connection with Mr. Jackson. The
28 following applications refer or relate to Mr. Jackson:

- 1 • U.S. Trademark Application Serial No. 77,800,279, filed on
2 August 8, 2009 for the standard character mark MAKE THAT
3 CHANGE, a phrase connected to Mr. Jackson and his hit song
4 “Man in the Mirror”;
- 5 • U.S. Trademark Application Serial No. 77,789,656, filed on July
6 25, 2009 for the standard character mark MAKE THAT
7 CHANGE;
- 8 • U.S. Trademark Application Serial No. 77,805,384, filed on
9 August 14, 2009 for the standard character mark KING OF POP;
- 10 • U.S. Trademark Application Serial No. 77,800,273, filed on
11 August 8, 2009 for the standard character mark GONE TOO
12 SOON;
- 13 • U.S. Trademark Application Serial No. 77,795,154, filed on
14 August 3, 2009 for the standard character mark THRILLER;
- 15 • U.S. Trademark Application Serial No. 77,800,275, filed on
16 August 8, 2009 for the standard character mark THRILLER;
- 17 • U.S. Trademark Application Serial No. 77,795,094, filed on
18 August 2, 2009 for the standard character mark NEVERLAND;
- 19 • U.S. Trademark Application Serial No. 77,773,906, filed on July
20 2, 2009 for the standard character mark MICHAEL;
- 21 • U.S. Trademark Application Serial No. 77,781,986 filed on July
22 15, 2009 for the standard character mark MICHAEL;
- 23 • U.S. Trademark Application Serial No. 77,784,293, filed on July
24 18, 2009 for the standard character mark MICHAEL;
- 25 • U.S. Trademark Application Serial No. 77,800,167, filed on
26 August 7, 2009 for the standard character mark MICHAEL;
- 27 • U.S. Trademark Application Serial No. 77,800,165, filed on
28 August 7, 2009 for the standard character mark MICHAEL;

- 1 • U.S. Trademark Application Serial No. 77,515,451, filed on July
- 2 7, 2008 for the standard character mark MJ;
- 3 • U.S. Trademark Application Serial No. 77,779,048, filed on July
- 4 11, 2009 for the standard character mark MJ;
- 5 • U.S. Trademark Application Serial No. 77,778,977, filed on July
- 6 11, 2009 for the standard character mark MJ;
- 7 • U.S. Trademark Application Serial No. 77,800,152, filed on
- 8 August 7, 2009 for the standard character mark MJ;
- 9 • U.S. Trademark Application Serial No. 77,800,141, filed on
- 10 August 7, 2009 for the standard character mark MJ;
- 11 • U.S. Trademark Application Serial No. 77,773,957, filed on July
- 12 2, 2009 for the standard character mark MICHAEL JACKSON;
- 13 • U.S. Trademark Application Serial No. 77,774,275, filed on July
- 14 3, 2009 for the standard character mark MICHAEL JACKSON;
- 15 • U.S. Trademark Application Serial No. 77,774,279, filed on July
- 16 4, 2009 for the standard character mark MICHAEL JACKSON;
- 17 • U.S. Trademark Application Serial No. 77,775,180, filed on July
- 18 6, 2009 for the standard character mark MICHAEL JACKSON;
- 19 • U.S. Trademark Application Serial No. 77,775,174, filed on July
- 20 6, 2009 for the standard character mark MICHAEL JACKSON;
- 21 • U.S. Trademark Application Serial No. 77,774,291, filed on July
- 22 4, 2009 for the standard character mark MICHAEL JACKSON;
- 23 • U.S. Trademark Application Serial No. 77,784,350, filed on July
- 24 19, 2009 for the standard character mark MICHAEL JACKSON;
- 25 • U.S. Trademark Application Serial No. 77,789,658, filed on July
- 26 25, 2009 for the standard character mark MICHAEL JACKSON;
- 27
- 28

- 1 • U.S. Trademark Application Serial No. 77,794,935, filed on
2 August 1, 2009 for the standard character mark MICHAEL
3 JACKSON; and
- 4 • U.S. Trademark Application Serial No. 77,800,408, filed on
5 August 9, 2009 for the standard character mark MICHAEL
6 JACKSON. True and correct copies of the application records
7 from the United States Patent and Trademark Office website for
8 the foregoing applications are attached hereto and incorporated
9 herein as Exhibit T.

10 38. All of the registered and applied-for marks identified in paragraphs 34
11 through 37 are collectively referred to herein as the “Infringing Trademarks.”

12 39. Despite being placed on notice that their conduct was infringing Plaintiffs’
13 rights, Defendant HTWF continued to unlawfully use and apply to register the
14 Infringing Trademarks.

15 40. In addition, Defendant HTWF has registered several domain names
16 connected to Mr. Jackson and/or Jackson’s Foundation. These websites are:
17 <healtheworld.us>, <healtheworldfoundation.net>, <mjaid.com>, and
18 <mjquotes.com>. Defendant’s use of the trademarks HEAL THE WORLD, HEAL
19 THE WORLD FOUNDATION, MICHAEL JACKSON, and MJ can be seen on
20 Defendant’s <healtheworld.us>, <healtheworldfoundation.net>, <mjaid.com>, and
21 <mjquotes.com> websites. True and correct copies of screenshots from Defendant’s
22 websites showing the use of the MJJ Trademarks are attached hereto and incorporated
23 herein as Exhibit U.

24 41. Defendants sell merchandise bearing many of the Infringing Trademarks,
25 including HEAL THE WORLD, MJ, MICHAEL JACKSON, MAKE THAT
26 CHANGE, MICHAEL, and the Logo. True and correct copies of screenshots from
27 Defendants’ websites showing the use of these Infringing Trademarks on merchandise
28 are attached hereto and incorporated herein as Exhibit V.

1 42. Defendants' acts of infringement and unfair competition have been
2 committed with the intent to cause confusion, mistake, and to deceive. The intent to
3 deceive is obvious from the marks Defendants have chosen to register/apply for, but
4 becomes truly egregious when taken together with statements made by representatives
5 of Defendants. For example, two days after Mr. Jackson's death, Melissa Johnson,
6 president of HTWF and registered agent for both Defendants, posted a message on the
7 internet where she claims that she has "been helping to develop the initiatives of
8 HTWF and doing its work since 1993." She also writes:

9 It is unclear if the Jackson Family will want to continue his charity work and his
10 humanitarian legacy and in what manner. The staff at HTWF only ask that the
11 public be patient with us and allow the family time to grieve as we wait for the
12 direction they would have us go....we must all be respectful and wait for the
13 family to come up for air, before and IF we can move forward on Mr. Jackson's
14 behalf.

14 43. Of course, Ms. Johnson has no more of a relationship with the "Jackson
15 Family" than Defendant HTWF has with Mr. Jackson. A true and correct copy of Ms.
16 Johnson's internet posting is attached hereto and incorporated herein as Exhibit W.

17 44. Unfortunately, Defendants have succeeded in their efforts to confuse and
18 deceive. For example, when one of the largest toy manufacturers wished to obtain a
19 license to produce and distribute toys bearing Mr. Jackson's trademarks, signature,
20 image and likeness, this toy manufacturer approached Defendant, HTWF, rather than
21 Plaintiffs, as a result of Defendant's registration, application and use of the Infringing
22 Trademarks.

23 45. Most unfortunate of all, however, is the extent to which consumers and
24 the public at large, including fans of Mr. Jackson, have been confused by the existence
25 of Defendant's HTWF and the other Infringing Trademarks. There have been lengthy
26 discussions on internet forums regarding the legitimacy of Defendant HTWF and
27 whether it is related to Mr. Jackson and Jackson's Foundation. Some of the postings
28 confirm that many donated money to Defendant's HTWF, believing it to be

1 Mr. Jackson's charity. A true and correct copy of a selection of internet postings
2 evidencing actual confusion is attached hereto and incorporated herein as Exhibit X.
3 Plainly, it is Defendants' intent to solicit and collect money from the public who, as a
4 result of Defendants' misleading conduct, erroneously believe that they are making
5 charitable donations to a charity sponsored by Mr. Jackson.

6 **COUNT ONE**

7 **INFRINGEMENT OF REGISTERED TRADEMARK UNDER**

8 **15 U.S.C. § 1114(1)**

9 **(Plaintiff Triumph against Defendant United Fleet)**

10 46. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 45 of
11 this Complaint as if fully set forth herein.

12 47. Defendant United Fleet is infringing Triumph's federally-registered
13 MICHAEL JACKSON mark by selling MICHAEL JACKSON-branded merchandise
14 in interstate commerce as shown in Exhibit Y.

15 48. United Fleet's unauthorized use of the MICHAEL JACKSON mark in
16 interstate commerce constitutes a willful and knowing attempt to trade on the goodwill
17 that Triumph owns and has developed in the MICHAEL JACKSON mark, and has
18 diminished the value of Triumph's MICHAEL JACKSON mark, all to the damage of
19 Plaintiffs.

20 49. United Fleet's unauthorized use of the MICHAEL JACKSON mark in
21 interstate commerce is likely to cause confusion, or to cause mistake, or to deceive the
22 purchasing public and others, leading them to mistakenly believe that Defendant is
23 affiliated with, related to, sponsored by, or connected with Plaintiffs, in violation of 15
24 U.S.C. § 1114(1), a result fully intended by Defendant.

25 50. Defendant United Fleet has caused, and, unless restrained and enjoined by
26 this Court, will continue to cause irreparable harm, damage, and injury to Plaintiffs.

27 51. Plaintiffs have no adequate remedy at law.
28

COUNT TWO

UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN

(Plaintiff Triumph against Defendants HTWF and United Fleet)

52. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 51 of this Complaint as if fully set forth herein.

53. Defendant HTWF purports to be a charity serving the same purposes as Jackson's Foundation, and, as such, Defendant's use of the name "Heal the World Foundation" is likely to cause confusion to the general purchasing public.

54. United Fleet also uses the phrase "Heal the World" in order to sell its unauthorized products.

55. By misappropriating and using the MJJ Trademarks, Defendants HTWF and United Fleet misrepresent and falsely describe to the general public the origin and source of their merchandise and services and create a likelihood of confusion as to both the source of the goods and sponsorship of their organization.

56. Defendants' unlawful, unauthorized and unlicensed use of the MJJ Trademarks creates express and implied misrepresentations that their Heal the World Foundation and associated merchandise was created, authorized or approved by Plaintiffs, all to Defendants' profit and Plaintiffs' great damage and injury. For example, as a result of Defendants' deception, the public has been confused and harmed by making donations to Defendant's HTWF, believing it to be Jackson's Foundation.

57. Defendants' aforesaid acts are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), in that Defendants' use of MJJ Trademarks, in connection with its goods and services in interstate commerce constitutes a false designation of origin and unfair competition.

58. Plaintiffs are without an adequate remedy at law and if the Defendants' activities are not enjoined, Plaintiffs will continue to suffer irreparable harm and injury to their goodwill and reputation.

1 **COUNT THREE**

2 **TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION UNDER**

3 **CALIFORNIA COMMON LAW**

4 **(Plaintiff Triumph against all Defendants)**

5 59. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 58 of
6 this Complaint as if fully set forth herein.

7 60. Defendants are using in interstate commerce some or all of the Infringing
8 Trademarks.

9 61. Plaintiffs have acquired common-law rights in the HEAL THE WORLD
10 mark through their use of the mark for nearly a decade, from approximately 1992
11 through 2002, in connection with charitable fundraising. The HEAL THE WORLD
12 mark has a secondary meaning in the charitable community and is connected to
13 Plaintiffs. Defendants' subsequent use of the mark HEAL THE WORLD and
14 confusingly-similar derivatives such as HEAL THE WORLD FOUNDATION and
15 HTWF are likely to cause confusion, deception, and mistake among the consuming
16 public as to the source of and authorization for the products and/or services sold by
17 Defendants in violation of the common law of the State of California.

18 62. Plaintiffs have acquired common-law rights in the design of a child's
19 hands holding a globe with a band-aid on it (the "Logo") through their use of the mark
20 in connection with charitable fundraising. The Logo has a secondary meaning in the
21 charitable community and is connected to Plaintiffs. Defendants' subsequent use of
22 the Logo is likely to cause confusion, deception, and mistake among the consuming
23 public as to the source of and authorization for the products and/or services sold by
24 Defendants in violation of the common law of the State of California.

25 63. Plaintiffs have acquired common-law rights in the MICHAEL JACKSON
26 mark through their use of the mark in interstate commerce in connection with sound
27 recordings, entertainment services, and other merchandise. Defendants' subsequent
28 use of the mark MICHAEL JACKSON, and confusingly-similar derivatives such as

1 MJ and MICHAEL, are likely to cause confusion, deception, and mistake among the
2 consuming public as to the source of and authorization for the products and/or services
3 sold by Defendants in violation of the common law of the State of California.

4 64. Defendants' acts as alleged herein were committed with the intent to
5 deceive the public into believing that Defendant Heal the World Foundation and the
6 products it and Defendant United Fleet sell using the Infringing Trademarks are made
7 by, approved by, sponsored by or affiliated with Mr. Jackson and/or Triumph.
8 Defendants' acts were committed with the intent to pass off and palm off Defendants'
9 goods and services as those of Plaintiffs, and with the intent to deceive and defraud the
10 public.

11 65. Plaintiffs have built up valuable goodwill in the MJJ Trademarks.

12 66. With full knowledge of the fame of the MJJ Trademarks, Defendants have
13 traded, and continue to trade, on the goodwill associated with the MJJ Trademarks, and
14 mislead the public into assuming a connection between Defendants (and the
15 unauthorized products bearing the MJJ Trademarks) and Plaintiffs and Jackson's
16 Foundation.

17 67. Defendants' acts of trademark infringement cause confusion and, mislead
18 and deceive the public as to the source of Defendants' merchandise and services,
19 permit Defendants to pass off their products as relating to Plaintiffs and falsely suggest
20 a connection between the Defendants and Plaintiffs and, unless restrained by this
21 Court, will continue to do so, in violation of the common law of the State of California,
22 and to the detriment of Plaintiffs and the unjust enrichment of Defendants.

23 68. Defendants' unauthorized use of any of the Infringing Trademarks
24 constitutes unfair competition and passing off under the common law of the State of
25 California.

26 69. Plaintiffs are without an adequate remedy at law and if Defendants'
27 activities are not enjoined, Plaintiffs will continue to suffer irreparable harm and injury
28 to their goodwill and reputation.

1 **COUNT FOUR**

2 **VIOLATION OF THE STATUTORY AND**
3 **COMMON LAW RIGHT OF PUBLICITY**

4 **(Plaintiff Estate against all Defendants)**

5 70. Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 69
6 of this Complaint as if fully set forth herein.

7 71. By registering and applying to register the Infringing Marks, using the
8 Infringing Marks, selling and offering to sell merchandise which includes the
9 Infringing Marks, and by using the name and image of Mr. Jackson knowingly and
10 without the Estate's prior consent, Defendants violated the Estate's worldwide
11 exclusive rights to Mr. Jackson's name and likeness in violation of California Civil
12 Code § 3344.1 and the California common law.

13 72. Defendants' misappropriation of the Estate's rights was for the
14 commercial purpose of raising money through their Heal the World Foundation and by
15 selling merchandise using Mr. Jackson's name, after unlawfully fabricating a
16 relationship between Mr. Jackson and their organization.

17 73. As a proximate result of the above-described misappropriation of the
18 Estate's exclusive rights, Defendants have deprived the Estate of the revenue it
19 otherwise would have received from the use of Mr. Jackson's name and image.

20 74. The above-mentioned acts were done in an intentional, willful, malicious,
21 and oppressive manner in conscious disregard of the Estate's rights.

22 75. Defendants continue to, and unless restrained, will continue to, use
23 Mr. Jackson's name and image. Damages cannot provide full or adequate relief
24 because they cannot completely compensate for the injury to the Estate and Jackson's
25 Foundation's reputation and goodwill.

26 76. The Estate is therefore entitled to preliminary and permanent injunctive
27 relief enjoining Defendants from further exploitation of Mr. Jackson's name and
28 image.

1 77. Pursuant to California Civil Code Section 3344.1(a), the Estate is also
2 entitled to its attorneys' fees and costs.

3 **COUNT FIVE**

4 **CANCELLATION OF REGISTERED TRADEMARKS BASED ON FALSE**
5 **SUGGESTION OF A CONNECTION**

6 **(HEAL THE WORLD, HEAL THE WORLD FOUNDATION, HTWF)**

7 **(Plaintiff Triumph against Defendant HTWF)**

8 78. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 77 of
9 this Complaint as if fully set forth herein.

10 79. Plaintiffs are likely to be damaged by the continued registration of
11 Defendant HTWF's U.S. Trademark Registration Nos. 3,511,658, 3,515,854,
12 3,564,618, 3,508,540, and 3,508,542 in that beginning in 1992, HEAL THE WORLD,
13 HEAL THE WORLD FOUNDATION, and HTWF have been associated with Mr.
14 Jackson's charity organization, Heal the World Foundation, which he promoted and
15 raised money for throughout the world.

16 80. Plaintiffs are likely to be damaged by continued registration of these
17 marks in that the prima facie evidentiary effect of such registrations tends to impair
18 Plaintiffs' right to use these terms.

19 81. Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), prohibits
20 registration on the Principal Register of a mark that disparages or falsely suggests a
21 connection with persons, living or dead, institutions, beliefs, or national symbols, or
22 which bring them into contempt or disrepute.

23 82. The marks HEAL THE WORLD, HEAL THE WORLD FOUNDATION,
24 and HTWF falsely suggest a connection with Plaintiffs and have the potential to
25 disparage, bring into contempt or disrepute, the Plaintiffs.

26 83. The marks HEAL THE WORLD, HEAL THE WORLD FOUNDATION,
27 and HTWF would be recognized as identifying or falsely suggesting a connection with
28 Plaintiffs in that they point uniquely and unmistakably to Plaintiffs.

1 84. Defendant intentionally selected the marks HEAL THE WORLD, HEAL
2 THE WORLD FOUNDATION, and HTWF to falsely suggest a connection to
3 Plaintiffs.

4 85. Plaintiffs are not connected with Defendant or Defendant's goods or
5 services provided under the marks HEAL THE WORLD, HEAL THE WORLD
6 FOUNDATION, and HTWF.

7 86. Plaintiffs have not consented to registration of the marks HEAL THE
8 WORLD, HEAL THE WORLD FOUNDATION, and HTWF.

9 87. The fame and reputation of Plaintiffs is such that, when the marks HEAL
10 THE WORLD, HEAL THE WORLD FOUNDATION, and HTWF are used to identify
11 Defendant's goods or services, a connection with Plaintiffs would be presumed.

12 88. Plaintiffs are without an adequate remedy at law and if the Defendant's
13 trademark registrations are not cancelled, Plaintiffs will continue to suffer irreparable
14 harm and injury to their goodwill and reputation.

15 89. Plaintiffs request that this Court exercise its power under 15 U.S.C. §
16 1119 to order the Commissioner of Patents and Trademarks to cancel the registration
17 of Defendant's U.S. Trademark Registration Nos. 3,511,658, 3,515,854, 3,564,618,
18 3,508,540, and 3,508,542.

19 **COUNT SIX**

20 **CANCELLATION OF REGISTERED TRADEMARKS (MJ) BASED ON**

21 **FALSE SUGGESTION OF A CONNECTION**

22 **(Plaintiff Triumph against Defendant HTWF)**

23 90. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 89 of
24 this Complaint as if fully set forth herein.

25 91. Plaintiffs are likely to be damaged by the continued registration of
26 Defendant's U.S. Trademark Registration No. 3,567,671 in that the initials "MJ" are
27 commonly used to refer to Mr. Jackson.

1 92. Plaintiffs are likely to be damaged by continued registration of this mark
2 in that the prima facie evidentiary effect of such registration tends to impair Plaintiffs'
3 right to use this term.

4 93. Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), prohibits
5 registration on the Principal Register of a mark that disparages or falsely suggests a
6 connection with persons, living or dead, institutions, beliefs, or national symbols, or
7 which bring them into contempt or disrepute.

8 94. The mark MJ falsely suggests a connection with Plaintiffs and has the
9 potential to disparage, bring into contempt or disrepute, the Plaintiffs.

10 95. The mark MJ would be recognized as identifying or falsely suggesting a
11 connection with Plaintiffs in that it points uniquely and unmistakably to Plaintiffs.

12 96. Defendant HTWF intentionally selected the mark MJ to falsely suggest a
13 connection to Plaintiffs.

14 97. Plaintiffs are not connected with Defendant or Defendant's goods or
15 services provided under the mark MJ.

16 98. Plaintiffs have not consented to registration of the mark MJ.

17 99. The fame and reputation of Plaintiffs is such that, when the mark MJ is
18 used to identify Defendant's goods or services, a connection with Plaintiffs would be
19 presumed.

20 100. Plaintiffs are without an adequate remedy at law and if the Defendant's
21 trademark registration is not cancelled, Plaintiffs will continue to suffer irreparable
22 harm and injury to their goodwill and reputation.

23 101. Plaintiffs request that this Court exercise its power under 15 U.S.C. §
24 1119 to order the Commissioner of Patents and Trademarks to cancel the registration
25 of Defendant's U.S. Trademark Registration No. 3,567,671.

1 **COUNT SEVEN**

2 **VIOLATIONS OF THE ANTI-CYBERSQUATTING**

3 **CONSUMER PROTECTION ACT**

4 **(Plaintiff Triumph against Defendant HTWF)**

5 102. Plaintiffs repeat and reallege the allegations of paragraphs 1 through 101
6 of this Complaint as if fully set forth herein.

7 103. Defendant HTWF's registration of, use of, and trafficking in the domain
8 names <healtheworld.us>, <healtheworldfoundation.net>, <mjaid.com>, and
9 <mjquotes.com> which are nearly identical, confusingly similar to, and/or incorporate
10 the MJJ Trademarks are likely to cause confusion, mistake or deception as to the
11 source, origin, association or sponsorship of Defendant's goods and services in
12 violation of Section 43(d) of the Lanham Act, 15 U.S.C. § 1125(d), also known as the
13 Anticybersquatting Consumer Protection Act (the "ACPA").

14 104. Defendant HTWF has demonstrated a bad faith intent to profit from the
15 use of the MJJ Trademarks, and upon information and belief, has in fact profited from
16 use of Plaintiffs' trademarks.

17 105. As a result of the foregoing, Plaintiffs have suffered and will continue to
18 suffer irreparable harm for which there is no adequate remedy at law.

19 106. Pursuant to 15 U.S.C. § 1125(d)(1)(C), the Court should order forfeiture,
20 cancellation or transfer of the <healtheworld.us>, <healtheworldfoundation.net>,
21 <mjaid.com>, and <mjquotes.com> domain names.

22 WHEREFORE, Plaintiffs demand judgment:

23 1. That Defendants, their officers, agents, servants, employees, attorneys,
24 confederates, and all persons acting for, with, by, through or under them be
25 preliminarily enjoined and restrained, at first during the pendency of this action and,
26 thereafter, permanently enjoined and restrained:

1 (a) from using in any manner the MJJ Trademarks, alone or in
2 combination with any word or words which so resemble the MJJ Trademarks as to be
3 likely to cause confusion, deception, or mistake on or in connection with the
4 advertising, offering for sale, or sale of any product not authorized by Plaintiffs and
5 using the MJJ Trademarks;

6 (b) from passing off, inducing, or enabling others to sell or pass off any
7 product as a product sponsored by or affiliated with Plaintiffs by using the MJJ
8 Trademarks;

9 (c) from committing any acts calculated to cause purchasers to believe
10 that Defendants' products are those sold under the control and supervision of Plaintiffs,
11 or sponsored, approved by, or connected with Plaintiffs;

12 (d) from otherwise competing unfairly by using the MJJ Trademarks in
13 any manner; and

14 (e) from shipping, delivering, distributing, returning or otherwise
15 disposing of, in any manner, products or inventory bearing the MJJ Trademarks;

16 (f) from using Mr. Jackson's name, image or likenesses without
17 express written authorization from Plaintiffs in any manner, or on products,
18 merchandise, or goods; and

19 (g) from using and trafficking in the domain names <healtheworld.us>,
20 <healtheworldfoundation.net>, <mjaid.com >, and <mjquotes.com>.

21 2. That Defendants be required upon service of this Complaint to
22 immediately deliver up to Plaintiffs any and all products, guarantees, circulars, price
23 lists, labels, signs, prints, packages, wrappers, pouches, receptacles, advertising matter,
24 promotional, and other materials in the possession of Defendants or under their control
25 bearing the MJJ Trademarks, or each of them, alone or in combination with any other
26
27
28

1 words, or used in connection with the advertising, offering for sale or sale of products
2 not authorized by Plaintiffs.

3 3. That Defendants be required upon service of this Complaint to
4 immediately supply Plaintiffs with a complete list of entities from whom they
5 purchased and to whom they distributed and/or sold products falsely bearing the MJJ
6 Trademarks.

7 4. That Defendants be required upon service of this Complaint to
8 immediately deliver up for destruction their entire inventory of said products bearing
9 any of the MJJ Trademarks.

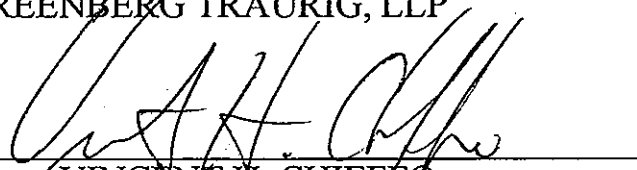
10 5. That Defendants, within thirty (30) days after service of judgment with
11 notice of entry thereof upon it, be required to file with the Court and serve upon
12 Plaintiffs a written report under oath setting forth in detail the manner in which
13 Defendants have complied with the preceding paragraphs.

14 6. That Plaintiffs be awarded reasonable attorneys fees and have such other
15 and further relief as the Court may deem equitable including, but not limited to, any
16 relief set forth under Sections 34-39 of the 1946 Trademark Act and/or California Civil
17 Code Section 3344.1(a).

18 Dated: September 29, 2009

GREENBERG TRAURIG, LLP

19
20
21 By:



VINCENT H. CHIEFFO

22 Attorneys for Plaintiffs John G. Branca and John
23 McClain, Special Administrators of the Estate of
24 Michael J. Jackson; Triumph International, Inc.
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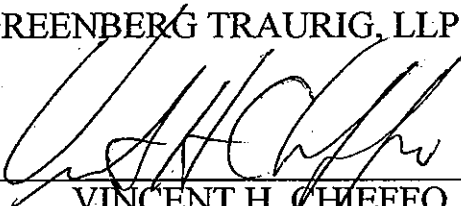
DEMAND FOR JURY TRIAL

Pursuant to Federal Rule 38(b), Plaintiffs hereby demand a jury trial on all issues so triable that are raised by this Complaint.

Dated: September 29, 2009

GREENBERG TRAURIG, LLP

By:



VINCENT H. CHIEFFO

Attorneys for Plaintiffs John G. Branca and John McClain, Special Administrators of the Estate of Michael J. Jackson; Triumph International, Inc.

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Margaret M. Morrow and the assigned discovery Magistrate Judge is Paul L. Abrams.

The case number on all documents filed with the Court should read as follows:

CV09- 7084 MMM (PLAx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

GREENBERG TRAUERIG, LLP
VINCENT H. CHIEFFO (SBN 49069)
ChieffoV@gtlaw.com
NINA D. BOYAJIAN (SBN 246415)
BoyajianN@gtlaw.com
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404-5524
Tel: 310-586-7700; Fax: 310-586-7800

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOHN G. BRANCA, Special Administrator of the Estate of Michael J. Jackson; JOHN MCCLAIN, Special Administrator of the Estate of Michael J. Jackson; TRIUMPH INTERNATIONAL, INC., a California corporation,

PLAINTIFF(S)

v.

HEAL THE WORLD FOUNDATION, a California corporation; UNITED FLEET, a California corporation; and DOES 1-10, inclusive,

DEFENDANT(S).

CASE NUMBER

CV09 07084 MMM PLA_x

SUMMONS

TO:DEFENDANT(S): HEAL THE WORLD FOUNDATION; and UNITED FLEET

A lawsuit has been filed against you.

Within 20 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, VINCENT H. CHIEFFO and NINA D. BOYAJIAN, whose address is GREENBERG TRAUERIG, LLP 2450 Colorado Avenue, Suite 400E, Santa Monica, CA 90404-5524; Tel: 310-586-7700. 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: SEP 29 2009

By: CHRISTOPHER POWERS

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)].

I (a) PLAINTIFFS (Check box if you are representing yourself)
 JOHN G. BRANCA, Special Administrator of the Estate of Michael J. Jackson; JOHN MCCLAIN, Special Administrator of the Estate of Michael J. Jackson; TRIUMPH INTERNATIONAL, INC., a California corporation

DEFENDANTS
 HEAL THE WORLD FOUNDATION, a California corporation; UNITED FLEET, a California corporation; and DOES 1-10, inclusive

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
 GREENBERG TRAUERIG, LLP
 VINCENT H. CHIEFFO (SBN 49069) ChieffoV@gtlaw.com
 NINA D. BOYAJIAN (SBN 246415) BoyajianN@gtlaw.com
 2450 Colorado Avenue, Suite 400E
 Santa Monica, CA 90404-5524
 Tel: 310-586-7700; Fax: 310-586-7800

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 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.)

Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <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 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

IV. 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 Multi-District Litigation 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)
CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. 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.)
 15 U.S.C. §§ 1114 and 1125

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

OTHER STATUTES	CONTRACT	TORTS - PERSONAL INJURY	TORTS - PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 22 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 154 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input checked="" type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 61 HIA(1395ff)
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 196 Franchise	IMMIGRATION	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	REAL PROPERTY	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 863 DIWC/DIWW 405(g)
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 230 Rent Lease & Ejectment				FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 240 Torts to Land				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
	<input type="checkbox"/> 290 All Other Real Property				

FOR OFFICE USE ONLY: Case Number: CV09 07084

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

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
Los Angeles County	

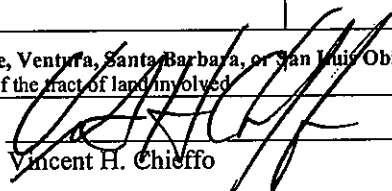
(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

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

(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
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):  Date September 29, 2009

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))

1 Derek A. Newman, State Bar No. 190467
derek@newmanlaw.com
2 Derek Linke (*pro hac vice pending*)
linke@newmanlaw.com
3 NEWMAN & NEWMAN, ATTORNEYS AT LAW, LLP
4 505 Fifth Avenue South, Suite 610
Seattle, WA 98104
5 Telephone: (206) 274-2800
Facsimile: (206) 274-2801

6 Attorneys for Defendants
7 UNITED FLEET and
8 HEAL THE WORLD FOUNDATION

9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 JOHN G. BRANCA, Special
Administrator of the Estate of Michael
14 J. Jackson; JOHN MCCLAIN, Special
Administrator of the Estate of Michael
15 J. Jackson; TRIUMPH
INTERNATIONAL, INC., a
16 California corporation,

17 Plaintiffs,

18 v.

19 HEAL THE WORLD
FOUNDATION, a California
20 corporation; UNITED FLEET, a
California corporation; and DOES 1-
21 10, inclusive,

22 Defendants.

Case No. CV09-07084-MMM(PLAx)

**ANSWER, AFFIRMATIVE
DEFENSES, AND
COUNTERCLAIMS FOR**

- 1) **DEFAMATION**
- 2) **TRADE LIBEL**

The Honorable Margaret M. Morrow
Roybal Courthouse

1 Defendants HEAL THE WORLD FOUNDATION (“HTWF”) and UNITED
2 FLEET answer Plaintiffs’ Complaint and assert affirmative defenses as follows:

3 **I. ANSWER**

4 **JURISDICTION AND VENUE**

5 1. Defendants state that the statutes and laws referred to in Paragraph 1
6 of Plaintiffs’ Complaint are not factual allegations to which a response is required.

7 2. Defendants state that the statutes and laws referred to in Paragraph 2
8 of Plaintiffs Complaint are not factual allegations to which a response is required.

9 To the extent that Paragraph 2 of Plaintiffs’ Complaint consists of Plaintiffs’
10 interpretation of those statutes or laws, no response is necessary.

11 3. Defendants ADMIT that they do business in California. Defendants
12 state that the remainder of Paragraph 3 of Plaintiffs’ Complaint consists of a legal
13 conclusion to which no response is necessary.

14 4. Defendants state that the statutes and laws referred to in Paragraph 4
15 of Plaintiffs Complaint are not factual allegations to which a response is required.

16 To the extent that Paragraph 4 of Plaintiffs’ Complaint consists of Plaintiffs’
17 interpretation of those statutes or laws, no response is necessary.

18 **THE PARTIES**

19 5. Defendants state that the documents referenced in Paragraph 5 of
20 Plaintiffs’ Complaint speak for themselves and that no response is necessary.
21 Defendants lack knowledge or information sufficient to form a belief about the
22 truth of the remaining allegations in Paragraph 5 of Plaintiffs’ Complaint and on
23 that basis DENY those allegations.

24 6. Defendants lack knowledge or information sufficient to form a belief
25 about the truth of the allegations in Paragraph 6 of Plaintiffs’ Complaint and on
26 that basis DENY those allegations.

27 7. Defendants state that the documents referenced in Paragraph 7 of
28 Plaintiffs’ Complaint speak for themselves and that no response is necessary.

1 Defendants ADMIT all remaining allegations contained in Paragraph 7 of
2 Plaintiffs' Complaint.

3 8. Defendants DENY that Sandhya Deepak is vice president of HTWF.
4 Defendants ADMIT all remaining allegations contained in Paragraph 8 of
5 Plaintiffs' Complaint.

6 9. Defendants state that the documents referenced in Paragraph 9 of
7 Plaintiffs' Complaint speak for themselves and that no response is necessary.
8 Defendants ADMIT all remaining allegations contained in Paragraph 9 of
9 Plaintiffs' Complaint.

10 10. Defendants ADMIT all allegations contained in Paragraph 10 of
11 Plaintiffs' Complaint.

12 11. Defendants ADMIT all allegations contained in Paragraph 11 of
13 Plaintiffs' Complaint.

14 12. To the extent Paragraph 12 of Plaintiffs' Complaint contains
15 allegations relating to Defendants, Defendants DENY those allegations.
16 Defendants lack knowledge or information sufficient to form a belief about the
17 truth of the remaining allegations contained in Paragraph 12 of Plaintiffs'
18 Complaint and on that basis DENY those allegations.

19 13. To the extent Paragraph 13 of Plaintiffs' Complaint contains
20 allegations relating to Defendants, Defendants DENY those allegations.
21 Defendants lack knowledge or information sufficient to form a belief about the
22 truth of the remaining allegations contained in Paragraph 13 of Plaintiffs'
23 Complaint and on that basis DENY those allegations.

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1 **MICHAEL JACKSON AND HIS HEAL THE WORLD FOUNDATION**¹

2 14. Defendants lack knowledge or information sufficient to form a belief
3 about the truth of the allegations contained in Paragraph 14 of Plaintiffs'
4 Complaint and on that basis DENY those allegations.

5 15. Defendants lack knowledge or information sufficient to form a belief
6 about the truth of the allegations contained in Paragraph 15 of Plaintiffs'
7 Complaint and on that basis DENY those allegations.

8 16. Defendants lack knowledge or information sufficient to form a belief
9 about the truth of the allegations contained in Paragraph 16 of Plaintiffs'
10 Complaint and on that basis DENY those allegations.

11 17. Defendants lack knowledge or information sufficient to form a belief
12 about the truth of the allegations contained in Paragraph 17 of Plaintiffs'
13 Complaint and on that basis DENY those allegations.

14 18. Defendants lack knowledge or information sufficient to form a belief
15 about the truth of the allegations contained in Paragraph 18 of Plaintiffs'
16 Complaint and on that basis DENY those allegations.

17 19. Defendants lack knowledge or information sufficient to form a belief
18 about the truth of the allegations contained in Paragraph 19 of Plaintiffs'
19 Complaint and on that basis DENY those allegations.

20 20. Defendants lack knowledge or information sufficient to form a belief
21 about the truth of the allegations contained in Paragraph 20 of Plaintiffs'
22 Complaint and on that basis DENY those allegations.

23 21. Defendants lack knowledge or information sufficient to form a belief
24 about the truth of the allegations contained in Paragraph 21 of Plaintiffs'
25 Complaint and on that basis DENY those allegations.

26 _____
27 ¹ To the extent section headings in Plaintiffs' Complaint contain allegations
28 relating to Defendants, Defendants DENY those allegations. Defendants include
Plaintiffs' section headings herein for the convenience of the Court and the parties.

**MICHAEL JACKSON'S TRADEMARK
REGISTRATIONS AND APPLICATIONS**

1
2 22. Defendants state that the trademark registrations referred to in
3 Paragraph 22 of Plaintiffs' Complaint are publicly-available documents to which
4 no response is required. Defendants lack knowledge or information sufficient to
5 form a belief about the truth of the remaining allegations contained in Paragraph 22
6 of Plaintiffs' Complaint and on that basis DENY those allegations.

7 23. Defendants state that the trademark registrations and applications
8 referred to in Paragraph 23 of Plaintiffs' Complaint are publicly-available
9 documents to which no response is required. Defendants lack knowledge or
10 information sufficient to form a belief about the truth of the remaining allegations
11 contained in Paragraph 23 of Plaintiffs' Complaint and on that basis DENY those
12 allegations.

13 24. Defendants state that the trademark applications referred to in
14 Paragraph 24 of Plaintiffs' Complaint are publicly-available documents to which
15 no response is required. Defendants lack knowledge or information sufficient to
16 form a belief about the truth of the remaining allegations contained in Paragraph 24
17 of Plaintiffs' Complaint and on that basis DENY those allegations.

18 25. Defendants state that the trademark applications referred to in
19 Paragraph 25 of Plaintiffs' Complaint are publicly-available documents to which
20 no response is required. Defendants lack knowledge or information sufficient to
21 form a belief about the truth of the remaining allegations contained in Paragraph 25
22 of Plaintiffs' Complaint and on that basis DENY those allegations.

23 26. Defendants state that the trademark applications referred to in
24 Paragraph 26 of Plaintiffs' Complaint are publicly-available documents to which
25 no response is required. Defendants lack knowledge or information sufficient to
26 form a belief about the truth of the remaining allegations contained in Paragraph 26
27 of Plaintiffs' Complaint and on that basis DENY those allegations.

28 27. Defendants state that the trademark applications referred to in

1 Paragraph 27 of Plaintiffs' Complaint are publicly-available documents to which
2 no response is required. Defendants lack knowledge or information sufficient to
3 form a belief about the truth of the remaining allegations contained in Paragraph 27
4 of Plaintiffs' Complaint and on that basis DENY those allegations.

5 28. Defendants state that the trademark registrations referred to in
6 Paragraph 28 of Plaintiffs' Complaint are publicly-available documents to which
7 no response is required. Defendants lack knowledge or information sufficient to
8 form a belief about the truth of the remaining allegations contained in Paragraph 28
9 of Plaintiffs' Complaint and on that basis DENY those allegations.

10 29. Defendants state that Paragraph 29 of Plaintiffs' Complaint does not
11 contain an allegation to which a response is necessary.

12 30. Defendants DENY that all of the "MJJ Trademarks" are associated
13 exclusively with Plaintiffs. Defendants further state that Paragraph 30 of Plaintiffs'
14 Complaint contains legal conclusions to which no response is necessary.
15 Defendants lack knowledge or information sufficient to form a belief about the
16 truth of the remaining allegations contained in Paragraph 30 of Plaintiffs'
17 Complaint and on that basis DENY those allegations.

18 31. Defendants state that the laws and treaties referenced in Paragraph 31
19 of Plaintiffs' Complaint speak for themselves and that no response is necessary.
20 Defendants further state that Paragraph 31 of Plaintiffs' Complaint consists of legal
21 conclusions to which no response is necessary.

22 **DEFENDANTS' [ALLEGED] CONDUCT**

23 32. Defendants ADMIT that they have been and are currently conducting
24 business at the addresses identified in Paragraph 32 of Plaintiffs' Complaint.
25 Defendants further ADMIT that they carry on charitable work initially begun by
26 Mr. Jackson. Defendants DENY that they have made any false representations
27 regarding their affiliation with Mr. Jackson or his charity. Defendants further state
28 that the documents referred to in Paragraph 32 of Plaintiffs' Complaint speak for

1 themselves and that no response is necessary.

2 33. Defendant HTWF ADMITS that it has registered numerous
3 trademarks and filed numerous trademark applications. Defendant HTWF DENIES
4 that it has registered, or applied for the registration of, trademarks that “falsely
5 suggest a connection” between Defendant HTWF and Plaintiffs. Defendants
6 HTWF further DENIES that it registered any of the trademarks identified in
7 Paragraphs 34 or 36 of Plaintiffs’ Complaint without the consent of Mr. Jackson,
8 which consent was duly provided to Defendant HTWF by former representatives
9 of Mr. Jackson. Defendants state that the remainder of Paragraph 33 of Plaintiffs’
10 Complaint consists of legal conclusions to which no response is necessary.

11 34. Defendants state that the trademark registrations referred to in
12 Paragraph 34 of Plaintiffs’ Complaint are publicly-available documents to which
13 no response is required. Defendants DENY that the trademarks referenced in
14 Paragraph 34 of Plaintiffs’ Complaint exclusively reference “Mr. Jackson’s
15 charity’s name”.

16 35. Defendants state that the trademark applications referred to in
17 Paragraph 35 of Plaintiffs’ Complaint are publicly-available documents to which
18 no response is required. Defendants DENY that the trademarks referenced in
19 Paragraph 35 of Plaintiffs’ Complaint exclusively reference “the name of Mr.
20 Jackson’s charity”.

21 36. Defendants state that the trademark registration referenced in
22 Paragraph 36 of Plaintiffs’ Complaint is a publicly-available document to which no
23 response is necessary. Defendants ADMIT that the letters “MJ” are Mr. Jackson’s
24 initials but DENY Paragraph 36 of Plaintiffs’ Complaint to the extent it alleges that
25 Mr. Jackson’s initials are the exclusive meaning of the letters “MJ”.

26 37. Defendants state that the trademark applications referenced in
27 Paragraph 37 of Plaintiffs’ Complaint are publicly-available documents to which
28 no response is necessary. Defendants DENY that they were filed “immediately

1 following Mr. Jackson's death in the hopes of exploiting the deceased artist's name
2 and life and suggesting a connection with Mr. Jackson." Rather, Defendant HTWF
3 filed the applications for the purpose of preventing third parties from registering
4 the marks in order to exploit them. At no time has Defendant HTWF ever sought to
5 exploit Mr. Jackson's name, life, or persona in any manner and has no intention of
6 doing so.

7 38. Defendants DENY that the trademarks identified in Paragraphs 34
8 through 37 of Plaintiffs' Complaint infringe the rights of any other party, including
9 Plaintiffs.

10 39. Defendants DENY that they were ever "placed on notice" by
11 Plaintiffs that their conduct was allegedly infringing Plaintiffs' rights. Defendants
12 further DENY that they acted unlawfully in any manner whatsoever in connection
13 with the trademarks identified in Plaintiffs' Complaint.

14 40. Defendant HTWF ADMITS that it has registered several Internet
15 domain names. Defendant HTWF lacks an understanding of the allegation in
16 Paragraph 40 of Plaintiffs' Complaint that its domain names are "connected to Mr.
17 Jackson and/or Mr. Jackson's Foundation" and on that basis DENIES the
18 allegation. Defendants state that the documents referenced in Paragraph 40 of
19 Plaintiffs' Complaint speak for themselves and that no response is necessary.

20 41. Defendants ADMIT that they have sold merchandise bearing a range
21 of designs but DENY that any such use was an infringing use. Defendants state
22 that the documents referenced in Paragraph 41 of Plaintiffs' Complaint speak for
23 themselves and that no response is necessary.

24 42. Defendants DENY that they have engaged in any acts of infringement
25 or unfair competition or that they ever took any action with the intent to cause
26 confusion, mistake, or deception. Defendants ADMIT that Melissa Johnson, in her
27 role as president of Defendant HTWF, posted a message relating to the operation
28 of HTWF and its intention to abide the decision of the Jackson family regarding

1 HTWF's future and operations.

2 43. Defendants state that the document referenced in Paragraph 43 of
3 Plaintiffs' Complaint speaks for itself and that no response is necessary.
4 Defendants further state that the remainder of Paragraph 43 of Plaintiffs'
5 Complaint consists of rhetoric and is not a factual allegation which must be
6 admitted or denied.

7 44. Defendants DENY that they have sought to confuse or deceive.
8 Defendants ADMIT that they were contacted by a large toy manufacturer
9 regarding obtaining a trademark license but DENY that they took any action in
10 response.

11 45. Defendants DENY that their actions have caused any consumer
12 confusion or that it was intended to do so. Defendants state that the document
13 referenced in Paragraph 45 of Plaintiffs' Complaint speaks for itself and that no
14 response is necessary. Defendants lack knowledge or information sufficient to
15 form a belief about the truth of the remaining allegations in Paragraph 45 of
16 Plaintiffs' Complaint and on that basis DENY those allegations. Defendants further
17 state that their review of Plaintiffs' alleged "lengthy discussions" regarding
18 Defendant HTWF appear to have been generated by a small number of alleged
19 "consumers". In addition, the Internet Protocol addresses associated with the
20 comments those alleged "consumers" left on HTWF's own forum appear to have
21 all originated from Plaintiffs' law firm's office or the immediate vicinity thereof.

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1
2 **COUNT ONE**
3 **ALLEGED INFRINGEMENT OF REGISTERED TRADEMARK**

4 46. Defendants hereby incorporate by reference their reply to Paragraphs
5 1 through 45 of Plaintiffs' Complaint as if fully stated herein.

6 47. Defendants state that the document referenced in Paragraph 47 of
7 Plaintiffs' Complaint speaks for itself and that no response is necessary.

8 Defendants DENY the remaining allegations in Paragraph 47 of Plaintiffs'
9 Complaint.

10 48. Defendants DENY the allegations in Paragraph 48 of Plaintiffs'
11 Complaint.

12 49. Defendants DENY the allegations in Paragraph 49 of Plaintiffs'
13 Complaint.

14 50. Defendants DENY the allegations in Paragraph 50 of Plaintiffs'
15 Complaint.

16 51. Defendants DENY that Plaintiffs are entitled to any remedy arising
17 from the allegations in their Complaint.

18 **COUNT TWO**
19 **ALLEGED UNFAIR COMPETITION AND DESIGNATION OF ORIGIN**

20 52. Defendants hereby incorporate by reference their reply to Paragraphs
21 1 through 51 of Plaintiffs' Complaint as if fully stated herein.

22 53. Defendants ADMIT that Defendant HTWF is a charity serving the
23 same purposes as "Jackson's Foundation" did almost 20 years ago. Defendants
24 DENY the remaining allegations in Paragraph 53 of Plaintiffs' Complaint.

25 54. Defendants ADMIT that Defendant United Fleet uses the phrase
26 "Heal the World" in connection with the sale of products. Defendants DENY that
27 such use was or is unauthorized or in any way improper.

28 55. Defendants DENY all allegations in Paragraph 55 of Plaintiffs'
Complaint.

1 56. Defendants DENY all allegations in Paragraph 56 of Plaintiffs’
2 Complaint.

3 57. Defendants DENY all allegations in Paragraph 57 of Plaintiffs’
4 Complaint.

5 58. Defendants DENY that Plaintiffs are entitled to any remedy arising
6 from the allegations in their Complaint.

7
8 **COUNT THREE**
9 **ALLEGED TRADEMARK INFRINGEMENT AND UNFAIR**
10 **COMPETITION UNDER CALIFORNIA COMMON LAW**

11 59. Defendants hereby incorporate by reference their reply to Paragraphs
12 1 through 58 of Plaintiffs’ Complaint as if fully stated herein.

13 60. Defendants ADMIT that they are using some or all of the marks
14 identified in Paragraph 38 of Plaintiffs’ Complaint but DENY that such uses are
15 infringing uses.

16 61. Defendants DENY that Plaintiffs have common law trademark rights
17 in the HEAL THE WORLD mark. Defendants DENY all remaining allegations in
18 Paragraph 61 of Plaintiffs’ Complaint.

19 62. Defendants DENY that Plaintiffs have common law trademark rights
20 in the design of “a child’s hands holding a globe with a band-aid on it”. Defendants
21 DENY all remaining allegations in Paragraph 62 of Plaintiffs’ Complaint.

22 63. Defendants lack knowledge or information sufficient to form a belief
23 about whether Plaintiffs have common law trademark rights in the MICHAEL
24 JACKSON mark in connection with any particular class of goods or services
25 Defendants DENY all remaining allegations in Paragraph 63 of Plaintiffs’
26 Complaint.

27 64. Defendants DENY all allegations in Paragraph 64 of Plaintiffs’
28 Complaint.

29 65. Defendants lack knowledge or information sufficient to form a belief

1 about the allegations in Paragraph 65 of Plaintiffs' Complaint and on that basis
2 DENY those allegations.

3 66. Defendants DENY all allegations in Paragraph 66 of Plaintiffs'
4 Complaint.

5 67. Defendants DENY all allegations in Paragraph 67 of Plaintiffs'
6 Complaint and specifically DENY that Plaintiffs are entitled to any relief in
7 connection with the allegations in their Complaint.

8 68. Defendants DENY all allegations in Paragraph 68 of Plaintiffs'
9 Complaint.

10 69. Defendants DENY all allegations in Paragraph 69 of Plaintiffs'
11 Complaint and specifically DENY that Plaintiffs are entitled to any relief in
12 connection with the allegations in their Complaint.

13
14 **COUNT FOUR**
15 **ALLEGED TRADEMARK INFRINGEMENT AND UNFAIR**
16 **COMPETITION UNDER CALIFORNIA COMMON LAW**

17 70. Defendants hereby incorporate by reference their reply to Paragraphs
18 1 through 69 of Plaintiffs' Complaint as if fully stated herein.

19 71. To the extent Paragraph 71 of Plaintiffs Complaint consists of legal
20 conclusions, Defendants state that no response is necessary. Defendants DENY all
21 remaining allegations in Paragraph 71 of Plaintiffs' Complaint.

22 72. Defendants DENY all allegations in Paragraph 72 of Plaintiffs'
23 Complaint.

24 73. Defendants DENY all allegations in Paragraph 73 of Plaintiffs'
25 Complaint.

26 74. Defendants DENY all allegations in Paragraph 74 of Plaintiffs'
27 Complaint.

28 75. Defendants DENY all allegations in Paragraph 75 of Plaintiffs'
Complaint and specifically DENY that Plaintiffs are entitled to any relief in

1 connection with the allegations in their Complaint.

2 76. Defendants DENY all allegations in Paragraph 76 of Plaintiffs'
3 Complaint and specifically DENY that Plaintiffs are entitled to any relief in
4 connection with the allegations in their Complaint.

5 77. Defendants DENY all allegations in Paragraph 77 of Plaintiffs'
6 Complaint and specifically DENY that Plaintiffs are entitled to any relief in
7 connection with the allegations in their Complaint.

8
9 **COUNT FIVE**
10 **CANCELLATION OF REGISTERED TRADEMARKS BASED ON FALSE**
11 **SUGGESTION OF A CONNECTION**
12 **(HEAL THE WOLRD, HEAL THE WORLD FOUNDATION, HTWF)**

13 78. Defendants hereby incorporate by reference their reply to Paragraphs
14 1 through 77 of Plaintiffs' Complaint as if fully stated herein.

15 79. Defendants state that the trademark registrations referred to in
16 Paragraph 79 of Plaintiffs' Complaint are publicly-available documents to which
17 no response is required. Defendants lack knowledge or information sufficient to
18 form a belief about the truth of the remaining allegations in Paragraph 79 of
19 Plaintiffs' Complaint and on that basis DENY those allegations.

20 80. To the extent that Paragraph 80 of Plaintiffs' Complaint consists of
21 legal conclusions, Defendants state that no response is necessary. Defendants lack
22 knowledge or information sufficient to form a belief about the remaining
23 allegations in Paragraph 80 of Plaintiffs' Complaint and on that basis DENY those
24 allegations.

25 81. Defendants state that the statutes and laws referred to in Paragraph 81
26 of Plaintiffs' Complaint are not factual allegations to which a response is required.

27 82. Defendants DENY all allegations contained in Paragraph 82 of
28 Plaintiffs' Complaint.

83. Defendants DENY all allegations contained in Paragraph 83 of
Plaintiffs' Complaint.

1 84. Defendants DENY all allegations contained in Paragraph 84 of
2 Plaintiffs' Complaint.

3 85. Defendants lack an understanding of the allegation in Paragraph 85 of
4 Plaintiffs' Complaint regarding whether Plaintiffs are "connected with Defendants
5 or Defendant's goods or services" and on that basis DENY the allegation.

6 86. Defendants DENY all allegations in Paragraph 86 of Plaintiffs'
7 Complaint.

8 87. Defendants lack knowledge or information sufficient to form a belief
9 about the truth of the allegations in Paragraph 87 of Plaintiffs' Complaint and on
10 that basis, DENY those allegations.

11 88. Defendants DENY all allegations in Paragraph 88 of Plaintiffs'
12 Complaint and specifically DENY that Plaintiffs are entitled to any relief in
13 connection with the allegations in their Complaint.

14 89. Defendants DENY that Plaintiffs are entitled to any relief in
15 connection with the allegations in their Complaint.

16
17 **COUNT SIX**
18 **CANCELLATION OF REGISTERED TRADEMARKS (MJ) BASED ON**
19 **ALLEGED FALSE SUGGESTION OF A CONNECTION**

20 90. Defendants hereby incorporate by reference their reply to Paragraphs
21 1 through 89 of Plaintiffs' Complaint as if fully stated herein.

22 91. Defendants state that the trademark registration referred to in
23 Paragraph 91 of Plaintiffs' Complaint is a publicly-available documents to which
24 no response is required. Defendants lack knowledge or information sufficient to
25 form a belief about the truth of the remaining allegations in Paragraph 91 of
26 Plaintiffs' Complaint and on that basis DENY those allegations.

27 92. To the extent that Paragraph 92 of Plaintiffs' Complaint consists of
28 legal conclusions, Defendants state that no response is necessary. Defendants lack
knowledge or information sufficient to form a belief about the remaining

1 allegations in Paragraph 92 of Plaintiffs' Complaint and on that basis DENY those
2 allegations.

3 93. Defendants state that the statutes and laws referred to in Paragraph 93
4 of Plaintiffs' Complaint are not factual allegations to which a response is required.

5 94. Defendants DENY all allegations contained in Paragraph 94 of
6 Plaintiffs' Complaint.

7 95. Defendants DENY all allegations contained in Paragraph 95 of
8 Plaintiffs' Complaint.

9 96. Defendants DENY all allegations contained in Paragraph 96 of
10 Plaintiffs' Complaint.

11 97. Defendants lack an understanding of the allegation in Paragraph 97 of
12 Plaintiffs' Complaint regarding whether Plaintiffs are "connected with Defendants
13 or Defendant's goods or services" and on that basis DENY the allegation.

14 98. Defendants DENY all allegations in Paragraph 98 of Plaintiffs'
15 Complaint.

16 99. Defendants lack knowledge or information sufficient to form a belief
17 about the truth of the allegations in Paragraph 99 of Plaintiffs' Complaint and on
18 that basis, DENY those allegations.

19 100. Defendants DENY all allegations in Paragraph 100 of Plaintiffs'
20 Complaint and specifically DENY that Plaintiffs are entitled to any relief in
21 connection with the allegations in their Complaint.

22 101. Defendants DENY that Plaintiffs are entitled to any relief in
23 connection with the allegations in their Complaint.

24 **COUNT SEVEN**
25 **ALLEGED VIOLATIONS OF THE ANTI-CYBERSQUATTING**
26 **CONSUMER PROTECTION ACT**

27 102. Defendants hereby incorporate by reference their reply to Paragraphs
28 1 through 101 of Plaintiffs' Complaint as if fully stated herein.

103. Defendant HTWF ADMITS that it has registered the domain names

1 <healtheworld.us>, <healtheworldfoundation.net>, <mjaid.com>, and
2 <mjquotes.com>. Defendants DENY all remaining allegations in Paragraph 103 of
3 Plaintiffs' Complaint.

4 104. Defendants DENY all allegations in Paragraph 104 of Plaintiffs'
5 Complaint.

6 105. Defendants DENY all allegations in Paragraph 105 of Plaintiffs'
7 Complaint.

8 106. Defendants DENY that Plaintiffs are entitled to any relief in
9 connection with the allegations in their Complaint.

11 II. AFFIRMATIVE DEFENSES

12 Without admitting any of the allegations described in Plaintiffs' Complaint,
13 Defendants raise the following affirmative defenses:

14 1. Plaintiffs' Complaint fails to state a claim upon which relief may be
15 granted.

16 2. Plaintiffs' claims are barred by laches, estoppel, waiver, release,
17 ratification, acquiescence, bad faith, consent, and other equitable defenses.

18 3. Plaintiffs' claims are barred by the doctrine of unclean hands.

19 4. Plaintiffs' claims are barred because its alleged trademarks are generic
20 or descriptive and lack secondary meaning.

21 5. Plaintiffs' claims are barred because Defendants are entitled to fair
22 use of the generic or descriptive terms alleged to be Plaintiffs' trademarks.

23 6. Plaintiffs' claims are barred because they abandoned their alleged
24 trademarks.

25 7. Plaintiffs' claims are barred because of other parties' use of Plaintiffs'
26 alleged trademarks.

27 8. Plaintiffs' claims are barred because Plaintiffs' alleged trademark
28 rights, if any, are limited to the geographic area in which Plaintiffs used their

1 alleged trademarks.

2 9. Defendants reserve the right to assert additional affirmative defenses.

3
4 **III. COUNTERCLAIMS**

5 Defendants HEAL THE WORLD FOUNDATION and UNITED FLEET
6 hereby allege for their Counterclaims on personal information as to their own
7 activities and upon information and belief as to the activities of others, as follows:

8 **SUBJECT MATTER JURISDICTION**

9 1. This Court has supplemental subject matter jurisdiction pursuant to 28
10 U.S.C. § 1367 because it has original jurisdiction over Plaintiffs' claims pursuant
11 to 28 U.S.C. §§ 1331 and 1332 and Defendants' Counterclaims are so related to
12 Plaintiffs' claims that they form part of the same case or controversy.

13 **FACTS**

14 2. For nearly a decade prior to Michael Jackson's untimely death,
15 Defendants had an ongoing relationship with Mr. Jackson's management regarding
16 their efforts to preserve various kinds of intellectual property on Mr. Jackson's
17 behalf and to preserve the charitable initiatives Mr. Jackson started but was unable
18 to further attend during his life.

19 3. Beginning in 2002 and 2003, Mr. Jackson's attorneys and
20 management began allowing Mr. Jackson's many federal trademark registrations to
21 expire. Ms. Johnson, the president of HTWF, observed this and reached out to Mr.
22 Jackson's management to urge them to maintain the registrations. They did not.

23 4. Ms. Johnson also observed that Mr. Jackson's attorneys and
24 management had failed to register critical Internet domain names related to Mr.
25 Jackson. At her own expense, she registered over 2000 domain names with the
26 intent to provide them to Mr. Jackson. She received confirmation from Mr.
27 Jackson's management that they would not allow the domain names to expire and
28 transferred them all to their care. Despite their promises, Mr. Jackson's

1 management and attorneys allowed all or almost all of the domain names to expire.

2 5. For years, Ms. Johnson regularly communicated with Mr. Jackson's
3 management and representatives for the purpose of asking for their support and
4 advice with regard to the charity, and informing them of mismanagement by Mr.
5 Jackson's attorneys of his intellectual property.

6 6. As a result of those relationships, Mr. Jackson's management was
7 aware of HTWF and its operations, and encouraged HTWF to continue its efforts
8 to maintain the charity and protect Mr. Jackson's intellectual property.

9 7. On information and belief, several weeks before Mr. Jackson's death,
10 his management, with whom HTWF had a long-term relationship, was terminated
11 or replaced. Heal the World Foundation's contacts no longer represented Mr.
12 Jackson and until the filing of this lawsuit, it had no contact with Plaintiffs.

13 8. Following Mr. Jackson's death, Ms. Johnson repeatedly reached out to
14 Mr. Jackson's attorneys and management to urge them to obtain registrations for
15 relevant intellectual property, but consistent with their ongoing disregard for
16 protecting Mr. Jackson's intellectual property, they did not.

17 9. Despite HTWF's and Ms. Johnson's long-standing and mutually-
18 supportive relationship with Mr. Jackson's former management, the Estate issued a
19 series of false statements asserting that HTWF had no connection whatsoever to
20 Mr. Jackson:

21 10. For example, the Estate issued a public statement that "The Michael
22 Jackson estate has no connection whatsoever to the 'Heal the World Foundation'
23 run by Melissa Johnson." This statement was made to a Los Angeles CBS affiliate
24 and was widely published.

25 11. The Estate also issued a press release stating that HTWF was engaged
26 in "unauthorized exploitation" of Mr. Jackson and was taking actions to "deceive
27 the public". The press release also falsely stated that Ms. Johnson and HTWF
28 "falsely suggest she had a long history of working with Mr. Jackson's legitimate

1 charitable endeavours”.

2 12. The false and damaging statements made by the Estate in Paragraphs
3 10 and 11 are collectively referred to as the “False Statements”.

4 13. Plaintiffs’ False Statements have been widely repeated on the Internet
5 and other public fora and have caused substantial damage to Defendants.

6 **IV. FIRST CAUSE OF ACTION**
7 **DEFAMATION**
8 **LIBEL AND LIBEL PER SE**

9 14. Defendants hereby incorporate by reference Paragraphs 1 through 13
10 of their Counterclaims as if fully stated herein.

11 15. Plaintiffs’ False Statements constitute false and unprivileged
12 communications.

13 16. Plaintiffs’ False Statements accuse Defendants of deceiving the public
14 and are therefore defamatory of Defendants without the necessity of explanatory
15 matter.

16 17. Plaintiffs’ False Statements have exposed and continue to expose
17 Defendants to contempt, ridicule, and obloquy.

18 18. Plaintiffs’ False Statements have a tendency to injure Defendants in
19 their occupation.

20 19. Plaintiffs’ False Statements were made in a state of mind arising from
21 ill will towards Defendants.

22 20. Plaintiffs’ False Statements have caused Defendants damage with
23 respect to their property, business, trade, profession or occupation, including the
24 amounts of money that Defendants have expended as a result of Plaintiffs’ False
25 Statements.

26 **V. SECOND CAUSE OF ACTION**
27 **TRADE LIBEL**

28 21. Defendants hereby incorporate by reference Paragraphs 1 through 19
of their Counterclaims as if fully stated herein.

