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

Proceeding	92063992
Party	Defendant Language People, Inc.
Correspondence Address	LANGUAGE PEOPLE INC 38750 SKY CANYON DRIVE , SUITE C MURRIETA, CA 92563 UNITED STATES
Submission	Motion to Suspend for Civil Action
Filer's Name	Robert Lauson
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Signature	/robert lauson/
Date	08/15/2016
Attachments	20160815RespondentsMot.pdf(942328 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Deafnation, Inc. Petitioner, vs. Language People, Inc., Respondent.	Cancellation No. 92063992 Mark: DEAFNATION Registration No. 4949298

Respondent's Motion To Suspend Pending Determination Of Civil Action;

Declaration of Robert J. Lauson In Support Thereof

Petitioner filed a civil action in state court in Travis County, Texas in January 2016. The currently operative First-Amended Complaint includes a cause of action for trademark infringement involving the same mark that is at issue here. Lauson Decl., ¶ 2, Ex. A. The civil action may be dispositive of, or have a substantial bearing on, the issues to be addressed in the Board proceeding. Accordingly, pursuant to TBMP 510, the Board should suspend the cancellation until the district court case is completed, at which time Respondent will notify the Board.

"Ordinarily, the Board will suspend proceedings in the case before it if the final determination of the other proceeding may have a bearing on the issues before the Board." TBMP 510.02(a), citing (at footnote 7) 37 CFR Sec. 2.117(g) and cases including, e.g. *New Orleans Louisiana Saints LLC v. Who Dat? Inc.,* 99 USPQ2d 1550, 1552 (TTAB 2011) (civil

action need not be dispositive of Board proceeding, but only needs to have a bearing on issues before the Board); *Other Telephone Co. v. Connecticut National Telephone Co.,* 181 USPQ 125, 126-27 (TTAB 1974) (decision in civil action for infringement and unfair competition would have bearing on outcome of Trademark Act § 2(d) claim before Board), pet. Denied, 181 USPQ 779 (Comm'r 1974).

Although an answer has yet to be in the instant cancellation, the Board does not usually require that such pleadings be filed before considering whether to suspend, so long as the Board can ascertain that the civil action may have a bearing on the issues before it. TBMP 510.02(a), citing (at footnote 14) *Other Telephone Co., supra*.

For all these reasons, the Board should GRANT the motion and suspend the cancellation proceedings pending determination of at least the trademark-related claims by the Texas state court civil action.

DATED: August 15, 2016

Respectfully Submitted,

LAUSON & TARVER LLP

By:/s/ Robert Lauson

Robert J. Lauson, Esq.
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Attorneys for Respondent,
LANGUAGE PEOPLE, INC.

Declaration of Robert J. Lauson

I, Robert J. Lauson, declare as follows:

1. I am a patent attorney admitted to practice in California and before the U.S. Patent & Trademark Office, representing Respondent Language People, Inc. in the above-identified cancellation proceeding. I have personal knowledge of the facts stated herein; if called to testify I would and could competently testify thereto. I offer this declaration in support of Respondent's motion to suspend the proceeding in view of the concurrent litigation presently occurring.

2. Attached hereto as Exhibit A is a true and correct copy of the operative First Amended Complaint now on file in the Texas state court. That litigation was filed in January, 2016 and remains pending and ongoing, and involves the same parties and includes trademark issues intertwined with other issues in that case. As the Board may note, adjudication of the trademark-related claims may require determination of who owns the mark, which is intertwined with the issues of whether the Asset Purchase Agreement (including the DEAFNATION mark) is a valid and enforceable agreement, or should be rescinded or was procured by fraud, etc.

3. By email communications between counsel beginning August 2nd, as well as a telephone conversation with Petitioner's attorney-of-record Jason Whitney on August 12th, the parties met and conferred regarding suspension of the cancellation until determination of the civil action. Petitioner has declined to agree to the suspension.

I declare under penalty of perjury that the forgoing is true and correct, executed on this 15th day of August, 2016 in El Segundo, California.

By:/s/ Robert Lauson
Robert J. Lauson, Esq.

EXHIBIT "A"

CAUSE NO. D-1-GN-16-000042

JOEL BARISH, JED BARISH AND DEAFNATION, INC.	§	**IN THE DISTRICT COURT**
Plaintiffs,	§	
V.	§	**126th JUDICIAL DISTRICT**
LANGUAGE PEOPLE, INC., AND DEAF NATION ENTERPRISES, INC.,	§	
Defendants.	§	**TRAVIS COUNTY, TEXAS**

PLAINTIFFS' FIRST AMENDED PETITION

Plaintiffs Joel Barish ("Joel"), Jed Barish ("Jed") (sometimes referred to collectively as "the brothers"), and DeafNation, Inc. ("DeafNation") file this First Amended Petition seeking declaratory, injunctive, equitable, and other relief against Defendants Language People, Inc. ("LPI") and Deaf Nation Enterprises, Inc. ("DNE"), and respectfully show the Court as follows:

I. DISCOVERY LEVEL

1. Plaintiffs intend to conduct discovery in this case under Level 2 of Texas Rule of Civil Procedure 190.3.

II. THE PARTIES

2. Plaintiff Joel Barish is a natural person and a resident of Hays County, Texas. Plaintiff Jed Barish is a natural person and a resident of Arizona. Plaintiff DeafNation, Inc. is a Texas corporation doing business in Texas with its principle place of business in Austin, Texas.

3. Defendant LPI, a foreign corporation, organized and existing under the laws of the State of California LPI has generally appeared in this suit.

4. Defendant Deaf Nation Enterprises, Inc. ("DNE") is a Texas corporation with its principle place of business in Travis County, Texas. DNE has generally appeared in this suit.

III. JURISDICTION AND VENUE

5. This Court has jurisdiction over Defendant Deaf Nation Enterprises, Inc. because it is a Texas resident.

6. This Court has jurisdiction over Defendant LPI because it is a nonresident that has done business in and that has continuing contacts with Texas and is amenable to service by a Texas court. LPI has purposely undertaken acts and transactions in Texas, and the actions herein arose from or were connected with such acts or transactions. Moreover, the assumption of jurisdiction by this Court will not offend traditional notions of fair play and substantial justice. LPI is the majority shareholder in DNE, the Texas corporation. LPI and its principal and director, Lisa Wrench ("Wrench"), negotiated or entered into some of the agreements at issue in this lawsuit within the State of Texas. LPI's principal, director and legal counsel Thomas S. Gruenbeck ("Gruenbeck"), was DNE's corporate organizer, its temporary chair and secretary, and submitted DNE's governing documents to the Texas Secretary of State. The parties and principals covenanted that Texas state law governs some of the agreements that are the subject of this suit.

7. This Court has subject matter jurisdiction over this case because the amount in controversy is within the Court's jurisdictional limits.

8. Venue in Travis County is proper pursuant to Section 15.002(a)(1) of the Texas Civil Practice & Remedies Code because all or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in Travis County, Texas. Further, the parties agreed that Texas state law would govern the agreements pertinent to this lawsuit.

IV. RESPONDEAT SUPERIOR AND RATIFICATION

9. Whenever this petition alleges that the Defendants did any act or thing, it means: (1) the individual Defendant and/or that Defendant's attorneys, officers, principals, agents, servants, employees, or representatives did such act; (2) at the time such act was done, it was done with the authorization or ratification of the Defendant(s); and/or (3) it was done in the normal and routine course and scope of employment of the Defendant(s)' attorneys, officers, principals, agents, servants, employees, or representatives.

V. STATEMENT OF FACTS

Joel and Jed Barish create DeafNation

10. DeafNation was co-founded in 2003 by brothers Joel and Jed Barish. The business serves the deaf and hard of hearing community. Joel, the company's CEO, and Jed, the COO, are both deaf. They are DeafNation's majority shareholders, directors, and principals.

11. DeafNation produces special events and online video content, including news coverage and social networking. The brothers travel globally to gain content for their show "No Barriers" and seek to inspire young individuals with their personal adventures and accomplishments. Through DeafNation's operations, Joel and Jed have developed close business ties and relationships with the deaf community. They are active, well liked, and highly respected.

12. As part of its portfolio and brand, DeafNation annually produces ten to fifteen "DeafNation Expositions" in the United States. Admission is free to attendees. The company earns revenues from sponsorships, advertisers and booth operators. The most prominent such event is the DeafNation World Expo, which has been held annually since 2003. Before its dealings with the Defendants, DeafNation was financially sound with significant cash holdings and no debt other than routine business expenses.

Defendants induce the Barishes to agree to sell DeafNation's assets.

13. Wrench and Gruenbeck are both hearing individuals. Wrench owns and operates Defendant LPI and affiliated entities (collectively "LP") from California. The companies provide language interpretative services.[1] Gruenbeck is a California lawyer and provides counsel and business services for LP.

14. Defendant LPI recently expanded its operations to target and profit from the deaf community. Although LPI does not appear to have professional auditory training or education, it has created a program that awards certification of restaurants or other small businesses as deaf friendly. To earn the certification, the business must acquire video interpretation equipment from LPI and pay it regular fees.

15. When LPI learned of DeafNation, it immediately recognized the tremendous value it could offer its new business plan. LPI launched a plan to take over DeafNation's corporate assets, including its intellectual property, brand, and goodwill, but without investing appropriate or promised financial resources. LPI's scheme has caused substantial financial harm and damages to Joel, Jed, and DeafNation.

16. To induce Joel and Jed to agree to sell the assets of DeafNation, LPI represented that it would greatly expand the popular services and adventures that DeafNation was providing to its customers, and that it would contribute more capital for producing additional content-related materials. LPI expressed that it was ready and willing to heavily invest in a new company that would be formed for the purpose of acquiring DeafNation's assets. That company would be called Deaf Nation Enterprises, Inc. ("DNE"), one of the Defendants herein.

[1] Language People, Inc. was formerly Bay Area Translations, Inc. Its affiliate, LP Connect, Inc., has no relationship with Language Connect, the highly acclaimed and award-winning language interpretation and translation business based in London.

17. Defendant LPI touted its line of credit and established business dealings with JPMorgan Chase & Co. and Bank of America. LPI also promised to pay DeafNation the lump sum of $60,000 for event sponsorship rights at upcoming DeafNation expositions.

18. LPI claimed that it was well connected and promised to make introductions to individuals prominently supporting the deaf community. It assured Joel and Jed that prominent entertainer Carm Adimando would serve as an independent board member on the DNE board. It otherwise led Joel and Jed to believe that DNE would operate under the same bedrock corporate policies of inclusion and equity for deaf individuals that had always guided DeafNation.

19. LPI represented that Joel and Jed would serve as DNE's top executives and hold the same positions they held at DeafNation, CEO and COO respectively. The brothers would receive annual guaranteed salaries and other job benefits commensurate with their titles.[2]

The parties sign the Asset Purchase Agreement and the Employment Agreements.

20. On January 30, 2015, Joel, Jed, and DeafNation signed a Memorandum of Understanding of Key Terms ("MOU") with LPI that attempted to outline broadly the intended deal.[3] The MOU contemplated LPI would acquire DeafNation assets and convey them into the newly created DNE.

21. On or about April 24, 2015, Joel, Jed, DeafNation and DNE executed the Asset Purchase Agreement (the "APA").[4]

22. Under the APA DeafNation was to convey certain assets to DNE by virtue of a general assignment and bill of sale, in return for a purchase price of $300,000. APA, §§ 1.1(a),

[2] The entity DeafNation, Inc. would continue to exist after the transaction with Defendants and the Barishes would retain their executive positions with DeafNation.

[3] A copy of the MOU is attached as Exhibit 1.

[4] A copy of the APA is attached as Exhibit 2.

(b); 1.3(a); 1.4.[5] DNE was obligated to pay for the assets at the time of closing through a promissory note, payable monthly over a two-year period. APA, §§ 1.1(a); 1.3(a). DNE would also assume two of DeafNation's contractual obligations by means of an Assumption Agreement delivered at closing. APA, § 1.4. The two obligations consisted of a commercial lease covering DeafNation's Austin office, and a loan financing a motor home used by DeafNation in its travels and expositions. APA, § 1.2(a).[6]

23. DNE was also obligated at the time of closing to issue Joel and Jed corporate stock interests described in employment agreements entered into between the brothers and DNE. APA, §§ 1.3(c); 1.4.

24. Joel and Jed duly executed the employment agreements with DNE on April 24, 2015 (the "Employment Agreement" or "Employment Agreements"). As CEO, Joel would be responsible for overseeing DeafNation expo events and other DeafNation content and programming. *Id.* As COO Jed was to oversee DNE's technical operations.

25. DNE was obligated to pay Joel and Jed base salaries of $100,000. Employment Agreement, §§ 1.3, 2.1. Defendants also promised to deliver to the Barishes 10% of the original issued common stock of DNE, and 1% of the original issued common stock of Language People Group, Inc., the latter of which would vest over a 3-year period. Employment Agreements, § 2.1. Joel and Jed would be appointed to DNE's board of directors, and they would be entitled to receive other executive benefits, including insurance coverage and a retirement plan. Employment Agreements, § 2.2.

[5] A copy of the General Assignment and Bill of Sale is attached as Exhibit 3.

[6] A copy of the Assumption Agreement is attached as Exhibit 4.

Defendants fail to perform and fail to provide contractual consideration.

26. The APA and related transactions are incomplete in material respects and have never been consummated or closed.

27. Defendants' legal counsel and business affiliate Gruenbeck drafted both the MOU and the APA. Both documents include vague, indefinite, and incomplete terms upon which Defendants now appear to rely to avoid the very promises and representations they made to induce Plaintiffs to execute the understandings, including the Defendants' obligations to invest substantial working capital and otherwise expand the DeafNation business and concept for the benefit of the deaf community.

28. For instance, the APA is silent or inconsistent on even the most essential and basic terms of the supposed deal. The APA describes the "aggregate purchase price for the Assets" as $300,000.00, "which includes the principal and interest, paid pursuant to a promissory note payable monthly over 2 years [and] the assumption by [DNE] of the Assumed Liabilities..." APA, § 1.3. The APA fails to attach a form of the contemplated promissory note as an exhibit, and otherwise fails to provide a single term that would render any such note enforceable, including the date of the note, the amount of monthly payments, or an interest rate. To this day Defendants have never delivered the promissory note or even a form of the promised obligation.

29. Moreover, the APA suggests that the "aggregate" purchase price of $300,000 includes the Defendants' assumption of DeafNation liabilities, but the dollar amount of the liabilities to be assumed is not reduced to a finite sum. This lack of precision coupled with the absence of terms for the promissory note renders the contemplated transaction completely illusory.

30. Consequently, the parties have had fundamental disagreements regarding the price and other consideration that Defendants were obligated to deliver, and the nature of the assets that

were to be acquired. As above, Defendants have failed to deliver either the $300,000 promissory note or the shares of stock. The Defendants have also failed to comply with other key terms underlying the transaction, including discharge of the two liabilities they assumed from DeafNation.

31. In addition, the implementation of the supposed deal omitted formalities necessary to close the anticipated business transaction. Upon information and belief, LPI and DNE conducted little or no due diligence prior to the signing of the APA. For instance, although the APA requires DNE to assume contracts and obligations that DeafNation held with third parties, Defendants failed to contact those third parties or otherwise obtain consents for the Defendants to assume the obligations prior to the date the parties executed the APA. Also, as late as December 2015, LPI was still requesting basic historical accounting information from DeafNation, items which should have been requested and examined during a due diligence period before any "closing" occurred.

32. Moreover, Defendants failed to pay the $60,000 in event sponsorship fees that LPI promised in inducing Plaintiffs to enter into the MOU, the APA and the Employment Agreements. Defendants in fact have reneged on virtually all material components and promises related to the asset acquisition. Defendants also disparaged the Plaintiffs to third parties, falsely accusing the Barishes of removing promotional content from social media and other misconduct.

33. By refusing to provide working capital for DNE, Defendants made it impossible for the new company to pay its creditors. Wrench, through DNE, instituted policies that made it prohibitive for DNE to earn advertising revenues. Claiming she intended to raise rates for DNE vendors, Wrench ordered the Barishes to terminate all communications with potential new

advertisers or sponsors until new rates were set. Wrench only recently proposed new advertising prices, but not before causing DNE to lose substantial revenues.

34. Besides financially crippling DNE, Defendants also conspired to ruin the Plaintiffs' personal financial standing. Defendants refused to pay Joel and Jed any salary from May to September 2015. Ignoring DNE's contractual obligations, an agent for DNE and LPI told Joel that the separate company DeafNation would "have to cover" Joel's salary. On December 25, 2015, Joel learned that Defendants had taken further actions or omissions that caused DNE's payroll service, ADP, to decline to issue Joel's payroll for a period of time he had already worked. Defendants did not warn Joel beforehand he would not be paid his salary during the holidays, or justify why he would not be paid.

35. Defendants took other action intended to harm the Barishes and eliminate their potential opportunities to compete in future endeavors. For example, even before the parties signed the APA, LPI/LP or its agents and counsel surreptitiously secured the rights to the highly recognizable DeafNation trademark the Barishes originally registered years ago, and was at the core of DeafNation's success.

36. When the Barishes complained of these multiple failures and misconduct, they were told by Defendants they would need to "learn the new rules of corporate governance and procedure," and to "remember one thing:"

> At this level it's not about you or me it's about the company *and how we support Language People and its goals.*

Defendants fabricate documents in order to claim ownership of DeafNation's cash.

37. Plaintiffs remained hopeful that their disputes could be resolved if Defendants just fulfilled their representations and obligations under the APA and the Employment Agreements, including delivering the substantial consideration promised in connection with the contemplated

acquisition of assets. This optimism was quashed in November 2015 when Joel learned that LPI had instituted an internal policy to ignore the Plaintiffs' repeated inquiries about financial resources to pay DNE creditors, to operate the company, or even to establish basic books and records for DNE. Plaintiffs also learned that DNE's sole independent board member and prominent entertainer Carm Adimando had recently disassociated her relationship with the company.

38. When Plaintiffs sought an amicable resolution they were met by the Defendants' demand for DeafNation assets and property that the parties never contemplated would be part of the APA, and were not part of the APA, even if the APA had been consummated. Defendants insisted Plaintiffs hand over DeafNation's "[c]ontracts, cash loans, promissory notes, etc.," (sic), and even all "[a]wards, plaques, other memorabilia" awarded to Joel, Jed and DeafNation over the previous years. When Plaintiffs rebuffed Defendants' demands as plainly beyond the APA (even if enforceable), Defendants fabricated a "new" list of assets that bears little resemblance to the language of the APA.[7] Defendants inexplicably contend the original asset listing attached to the APA could not be located as an excuse for creating this false evidence. [8]

VI. 2016 DEAFNATION EXPO

39. Because the transactions contemplated by the APA were never consummated, DeafNation, Inc. and the Barish brothers continued to operate DeafNation with no support or assistance in any way from LPI. Plaintiffs' worked diligently to plan, market, organize and execute the 2016 DeafNation Expo held in Las Vegas, Nevada from July 5 to 8 2016, including securing exhibitors, securing exhibition space, and entering into all contracts necessary to execute this

[7] A copy of Wrench's concocted asset listing, which she claims may be incomplete, is attached as Exhibit 5.

[8] See Exhibit 2, and its attached listing of assets that were the subject of the APA.

comprehensive event. Defendants, on the other hand, in spite of their unfounded claims that they now own DeafNation and that they are responsible for putting on the DeafNation World Expo did absolutely nothing to plan, administer, or pay for the event.

40. What Defendants did do was to show up at the 2016 DeafNation World Expo, unannounced and uninvited, and pass themselves off as the "real" DeafNation. Defendants sold tee shirts with the DeafNation mark prominently featured, they peddled themselves as the new owners of the DeafNation brand, and they caused substantial confusion in the marketplace over whether they, or their goods or services, were affiliated in any way with DeafNation. Plaintiffs have learned that Defendants also organized an entity on or about June 6, 2016 called the DeafNation World Alliance Foundation, that has the same business address of LPI. Further, sometime in the beginning of July, 2016, Defendants launched a FaceBook page called "DeafNation World Alliance," thereby further diluting the DeafNation brand and misappropriating the intellectual property that rightfully belongs to Plaintiffs.

VII. CAUSES OF ACTION

41. Each allegation contained in the above paragraphs is re-alleged as if fully stated herein.

COUNT 1: DECLARATORY JUDGMENT

42. Justiciable issues exist regarding the rights and status of the Plaintiffs in relation to DNE and LPI, and in connection with the MOU, the APA and the Employment Agreements. Pursuant to Chapter 37 of the Texas Civil Practice & Remedies Code Plaintiffs seek declaratory relief including but not limited to a judgment that the transaction(s) or agreements contemplated by the MOU and APA are void for lack of consideration and illusory promises, void as unconscionable, void because they were procured by fraud, void because of indefiniteness, and

unenforceable for failure of consideration. The parties failed to agree to terms essential to the transaction, including the identification of the assets that were to be conveyed as part of the transaction, and the date and payment terms of the promissory note that Defendants were obligated to (but failed to) deliver at the time of the closing. Consequently, the contemplated agreements and transaction never closed or became final; the asset conveyance contemplated by the APA was never accomplished; and Plaintiffs are entitled to declaratory relief that DeafNation, Inc. remains the lawful owner of all of its assets. In addition, Plaintiffs are entitled to a declaratory judgment that clarifies the exact nature of the relationship between the parties resulting from the void agreements and transaction, namely that the agreements and transaction provide Defendants no contractual or other rights against Plaintiffs, and no rights relating to DeafNation, Inc. or its assets.

COUNT 2: RESCISSION

43. Each allegation contained in the above paragraphs is re-alleged as if fully stated herein.

44. Alternatively, in the event that the court finds that an enforceable contract exists in the APA, Plaintiffs seek the complete rescission of that contract based on principles of equity or otherwise. Plaintiffs signed the APA under the justified but mistaken belief that Defendants intended to comply with the terms of that agreement, including its obligation to deliver a promissory note on agreed terms and to promptly assume third-party liabilities. Defendants made numerous material misrepresentations or omissions to Plaintiffs to induce them to enter into the APA and the Employment Agreements. These representations were false and/or were made recklessly, as positive assertions, and without knowledge of their truth. Defendants made these representations and omissions with the intent that Plaintiffs rely on them, and Plaintiffs did rely on them to their detriment.

45. Plaintiffs have no adequate remedy at law that would compensate them for the harm caused by Defendants' conduct. A failure to grant rescission would result in the complete loss of DeafNation, the deaf servicing business to which Plaintiffs have devoted their lives. The loss of DeafNation would permanently and irreparably harm not only Plaintiffs, but also the deaf community being supported by the services offered by DeafNation. Consequently, Plaintiffs ask for the complete rescission of any agreement found to exist between Plaintiffs and Defendants, and the return of the parties to the positions they held prior to entering into this failed deal. In this regard, Plaintiffs do not believe that Defendants invested any of their own funds in order to implement the supposed deal between the parties. However, to the extent the facts prove otherwise, Plaintiffs offer to compensate Defendants for reasonable and verified expenses that in equity they are due because of this rescission.

COUNT 3: FRAUD

46. Each allegation contained in the above paragraphs is re-alleged as if fully stated herein.

47. Alternatively, Defendants made misrepresentations or omissions of material facts to Plaintiffs to induce them to enter into the MOU, the APA and the Employment Agreements. These representations were false and/or were made recklessly, as positive assertions, and without knowledge of their truth. Defendants made these false representations and omissions with the intent that Plaintiffs rely on them.

48. Plaintiffs had no knowledge of the falsity of Defendants' representations and omissions of material face. Plaintiffs reasonably and justifiably relied upon the representations or omissions in deciding to enter into the relationships and agreements referred to herein, to their detriment.

49. Defendants' misrepresentations and omissions directly and proximately caused Plaintiffs to suffer injuries and substantial damages in an amount in excess of the minimum jurisdictional limits of this Court. Additionally, these acts were committed willfully, wantonly, and were otherwise fraudulent, malicious, and/or grossly negligent, and, accordingly, Plaintiffs are entitled to recover punitive damages in an amount to be determined by a trier of fact. Plaintiffs seek recovery of those damages from Defendants, jointly and severally.

COUNT 4: PROMISSORY ESTOPPEL

50. Each allegation contained in the above paragraphs is re-alleged as if fully stated herein.

51. Pleading further, and in the alternative if necessary, Defendant made specific promises, including assurances regarding investments in company operations and its intention to appoint Plaintiffs to company boards. Plaintiffs relied upon the Defendants' promises to their detriment. As a direct and proximate result of Defendants' breached promises, Plaintiffs have been injured and suffered reliance damages within the jurisdictional limits of this Court.

COUNT 5: FRAUD IN A STOCK TRANSACTION

52. Each allegation contained in the above paragraphs is re-alleged as if fully stated herein.

53. Defendants made material statements concerning the common stock of both DeafNation, Inc. and DeafNation Enterprises, Inc. that Defendants knew were false, or that were made recklessly and without any knowledge of the truth, in order to induce Plaintiffs to enter into the stock transactions at issue in this suit. Plaintiffs relied upon those statements in signing the conveyance documents at issue. Plaintiffs' have been injured and have suffered substantial damages as result of such reliance. Plaintiffs are entitled to recover their reasonable and necessary

attorney's fees, expert witness fees, and other litigation costs by virtue of Chapter 27 of the Texas Business and Commerce Code.

COUNT 6: STATE UNFAIR COMPETITION

54. Defendants acts complained of herein constitute unfair competition under state law. Defendants have and are using plaintiff's distinctive name and mark in a manner that is likely to confuse the public. Such unfair competition has caused Plaintiffs substantial harm for which Plaintiffs seek just compensation.

COUNT 7: COMMON LAW TRADEMARK AND TRADENAME INFRINGEMENT

55. Defendants acts complained of herein constitute common-law trademark and trade name infringement. Plaintiffs are the senior users of the marks in question and Defendants use of the marks are likely to cause confusion in the marketplace. Such infringement has caused Plaintiffs substantial harm for which Plaintiffs seek just compensation.

COUNT 8: COMMON LAW DILUTION

56. Defendants acts complained of herein constitute common law dilution. Such dilution has caused Plaintiffs substantial harm for which Plaintiffs seek just compensation.

COUNT 9: UNJUST ENRICHMENT AND MISAPPROPRIATION

57. Defendants acts complained of herein constitute unjust enrichment and misappropriation under Texas law. Defendants have misappropriated Plaintiffs' intellectual property without legal right or justification, and without reasonable compensation. Such misappropriation has caused Plaintiffs substantial harm for which Plaintiffs seek just compensation.

COUNT 10: SINGLE BUSINESS ENTERPRISE LIABILITY

58. Each allegation contained in the above paragraphs is re-alleged as if fully stated herein.

59. Pleading further, and in the alternative if necessary, Plaintiffs allege that LPI and DNE are liable for the causes of action asserted herein based on their relationship with one another and/or the single business enterprise theory. They operated a single business enterprise. As a result, they should be regarded as the same entity for liability purposes as the resources have been integrated to achieve a common business purpose.

COUNT 11: JOINT ENTERPRISE AND/OR JOINT VENTURE

60. Each allegation contained in the above paragraphs is re-alleged as if fully stated herein.

61. Pleading further, and in the alternative if necessary, Plaintiffs allege that LPI and DNE are engaged in a joint enterprise and/or joint venture: there existed between them all or a combination: (1) an agreement, express or implied, among the members of the group; (2) a common purpose to be carried out by the group; (3) a community of pecuniary interest; and (4) an equal right to a voice in the direction of the enterprise.

62. As a result, the above referenced Defendants are liable to Plaintiffs for the acts and omissions causing the Plaintiffs' damages.

VIII. ATTORNEYS' FEES

63. Each allegation contained in the above paragraphs is re-alleged as if fully stated herein.

64. Plaintiffs are entitled to an award of attorneys' fees against Defendants pursuant to the laws of the State of Texas, including but not limited to TEX. CIV. PRAC. & REM. CODE § § 37.001, *et seq.* and 38.001 *et seq.* and TEX. BUS. & COM. CODE § 27.01.

IX. REPORTER DEMAND

65. Plaintiffs request the Official Court Reporter for this Court perform all the duties of the office, as set forth in Section 52.046 of the Government Code of the State of Texas, and as set forth in Rule 13 of the Rules of Appellate Procedure, including reporting all testimony and trial proceedings, voir dire examination and jury arguments.

X. JURY DEMAND

66. Plaintiffs demand a trial by jury.

XI. CONCLUSION AND PRAYER

67. Plaintiffs respectfully request and pray that the Court grant the following relief:

a. Declaratory judgments as referenced herein, including but not limited to declaratory judgments that the APA and associated agreements are void and unenforceable, provide no conveyance of assets, and provide no rights available to Defendants;

b. an award of compensatory damages against Defendants, including but not limited to consequential and incidental damages, in a sum determined by the trier of fact;

c. equitable remedies, including rescission of any valid or enforceable agreement involving the parties;

d. an award of punitive and/or exemplary damages against Defendants in a sum determined by the trier of fact;

e. prejudgment and postjudgment interest as provided by law;

f. An award of attorneys' fees and legal expenses to the maximum extent permitted by law;

g. costs of court; and

h. all other and further relief, general or special, at law or in equity, to which Plaintiffs may be justly entitled.

Respectfully submitted,

/s/ Lamont A. Jefferson

Lamont A. Jefferson
State Bar No. 10607800
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ATTORNEYS FOR PLAINTIFFS JOEL BARISH, JED BARISH, AND DEAFNATION, INC.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this instrument has been served on the following counsel for Defendants, in accordance with the Texas Rules of Civil Procedure, on this 13th day of July, 2016.

Robert E. Ray
1177 West Loop South, Ste. 1180
Houston, TX 77027
rraytex@aol.com

/s/ Lamont A. Jefferson
Lamont A. Jefferson

CERTIFICATE OF SERVICE

The Undersigned hereby certifies that on this 15th day of August 2016, a true copy of the foregoing **Respondent's Motion To Suspend Pending Determination Of Civil Action** is being served on the following counsel of record via regular mail and email:

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