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2009 MAY 12 PM 3:32
CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA

FILED

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 SOUTHERN DIVISION

14 PLANET COFFEE ROASTERS, INC.,)
15 a California Corporation,)

16 Plaintiff,

17 vs.

18 PLANET COFFEE and DOES 1)
19 through 10, inclusive,)

20 Defendants.)

Case No.: SA09-571 MLG

COMPLAINT FOR:

- (1) FALSE DESIGNATION OF ORIGIN 15 U.S.C. § 1125(a);
- (2) TRADEMARK DILUTION 15 U.S.C. §1125(c);
- (3) FEDERAL UNFAIR COMPETITION;
- (4) COMMON LAW UNFAIR COMPETITION; AND
- (5) CALIFORNIA UNFAIR COMPETITION

DEMAND FOR JURY TRIAL

4/5-20
N/12
T

1 Plaintiff PLANET COFFEE ROASTERS, INC., for its Complaint alleges:
2

3 **JURISDICTION AND VENUE**
4

5 1. Jurisdiction in this court arises under the federal laws arising under
6 the Lanham Trademark Act of 1946 (as amended), 15 U.S.C. §1125, *et seq.* This
7 Court has federal subject matter jurisdiction under the Lanham Act 15 U.S.C.
8 §1125(a) and (c) proscribing false designation of origin, trademark infringement
9 and trademark dilution. Jurisdiction is conferred under 28 U.S.C. §§ 1331, and
10 U.S.C. §1121.

11 2. This action is also based upon state laws protecting against trademark
12 infringement, and unfair competition and deceptive practices. This Court has
13 jurisdiction over the state claims pursuant to 28 U.S.C. §1338(b). This Court also
14 has jurisdiction over the state claims under 28 U.S.C. §1367(a) and the doctrine of
15 pendent jurisdiction.

16 3. The Court has personal jurisdiction over the defendants in that
17 Plaintiff Planet Coffee Roasters (hereby “Planet Coffee”) is informed and believes
18 that Defendant Planet Coffee (herein after “Defendant”) is an entity doing business
19 within the State of California and this judicial district pursuant to Cal. Civ. Proc. §
20 410.10. Upon information and belief, Defendant maintains a business, employs
21 personnel and does substantial business within the State of California and within
22 this judicial district. Defendant has thereby solicited and conducted business within
23 this judicial district

24 **THE PARTIES**

25 4. Planet Coffee is a California Company with its principal place of
26 business in the city of La Puente, California, County of Los Angeles, State of
27 California.

28 5. Upon information and belief, at all times alleged herein, Defendant is

1 a company, whose entity formation is currently unknown, with principal place of
2 business located in the city of Garden Grove, California, County of Orange, State
3 of California.

4 **FACTS**

5
6 6. Since 1993 Planet Coffee has been operating a well known successful
7 business offering services related to coffee, including coffee roasting, coffee beans,
8 coffee flavoring, coffee grinders, coffee equipment and related coffee supplies. In
9 particular, Planet Coffee operates its headquarters in Los Angeles, CA and a
10 majority of its sales of its products and services in and around the California
11 geographic region, including Orange County, California.

12 7. Planet Coffee's products are highly successful and because of the
13 quality of its products, the "Planet Coffee™" and "Planet Coffee Roasters™"
14 (hereby collectively known as "PLANET COFFEE™" marks) have become highly
15 distinctive in the use of coffee based services and products within the industry.
16 Due to its heavy investment of financial resources and time, the "PLANET
17 COFFEE™" marks have acquired secondary meaning and a high level of
18 distinction within the coffee industry.

19 8. Planet Coffee is also the owner of several Federal Trademark
20 Applications on the Planet Coffee mark as depicted in U.S. Serial Nos. 77660525
21 and 77660508. True and correct copies of both applications are attached as Exhibit
22 "A." Planet Coffee anticipates both applications to be registered in due course.

23 9. Upon information and belief, since late 2008, Defendant has been
24 operating a coffee shop that sells coffee related products and services that are
25 similar to Planet Coffee's products and services under the confusingly similar mark
26 "Planet Coffee." A true and correct copy of Defendant's infringing mark is
27 attached as Exhibit "B."

28 10. Defendant has used the PLANET COFFEE™ mark in connection

1 with Defendant's business which are sold in the same channels of trade of products
2 of Planet Coffee described above and has also used Planet Coffee's trademark in
3 its advertising for such products and services, thereby competing unfairly with
4 Planet Coffee, infringing its trademarks, and improperly trading on the goodwill
5 established by Planet Coffee.

6 11. Because of Defendant's infringing use of the "PLANET COFFEE"
7 mark, Planet Coffee's business has been damaged by its customers being confused
8 in regards to the source of Planet Coffee's goods and services. In addition,
9 Defendant's use of the "Planet Coffee" mark has and continues to dilute Planet
10 Coffee's goodwill in its products and business that it has invested significant time
11 and resources.

12 12. Upon learning of Defendant's infringing activities and as a good faith
13 effort to resolve the matter informally, Planet Coffee forwarded Defendant a cease
14 and desist letter on January 21, 2009 providing notice of Planet Coffee's trademark
15 rights and a request that Defendant immediately cease and desist all continued use
16 of the PLANET COFFEE™ mark. A true and correct copy of the cease and desist
17 letter is attached as Exhibit "C"

18 13. However, up to the present date, Defendant has not responded to
19 Planet Coffee's demand and upon information and belief, Defendant has persisted
20 in willfully infringing Planet Coffee's trademark rights by continuing to use an
21 identical mark that is likely to cause confusion in the marketplace between Planet
22 Coffee and Defendant's goods and services.

23
24 **FIRST CAUSE OF ACTION**

25 **(FALSE DESIGNATION OF ORIGIN—15 U.S.C. § 1125(a))**

26 14. Planet Coffee refers to and incorporates in this Cause paragraphs 1-13
27 as though restated herein in full.

28 15. Defendants have used Planet Coffee's distinctive mark, or confusingly

1 similar marks similar thereto, in commerce in connection with its own goods,
2 which use is likely to cause confusion, or to cause mistake, or to deceive as to the
3 origin, sponsorship, association or approval of such goods.

4 16. By utilizing such marks in its advertising for, and in connection with
5 its actual products, Defendant has misrepresented and falsely described to the
6 general public the origin and the source of the products offered for sale and creates
7 a likelihood of confusion, mistake or deception to ultimate purchasers as to the
8 source of the products.

9 17. For example, Defendant markets, conducts business, and publicly
10 represents that the PLANET COFFEE™ trademark is associated or connected to
11 the Defendant's business thereby creating a false designation of origin of Planet
12 Coffee's brand of goods and services.

13 18. The confusion, mistake or deception referred to herein arises out of
14 the aforementioned acts of the Defendant and the acts of the Defendant constitutes
15 false designation of origin and unfair completion in violation of 15 U.S.C. §
16 1125(a), Section 43(a) of the Lanham Act.

17 19. Upon information and belief, the aforesaid acts of the Defendant were
18 undertaken willfully with the intention of causing confusion, mistake or deception.
19 Planet Coffee is entitled, pursuant to 15 U.S.C. § 1117 to recovery of (1)
20 Defendants' profits, (2) Planet Coffee's damages, including lost profits, and (3)
21 costs of the action. Planet Coffee is further entitled to treble damages above the
22 amount of actual damages in a sum not more than three times the amount of actual
23 damages. Defendant's willful and egregious actions make this an exceptional case,
24 entitling Planet Coffee to an award of attorney fees.

25 20. By reason of the aforementioned acts by the Defendant, Planet Coffee
26 has suffered and will continue to suffer irreparable damage, in an amount not yet
27 ascertained but in an amount to be determined, which damage will continue unless
28 and until enjoined by Order of this Court.

SECOND CAUSE OF ACTION

(TRADEMARK DILUTION- 15 U.S.C§1125(c))

21. Planet Coffee repeats and re-alleges each and every allegation contained in paragraphs 1-20 as if set forth fully herein.

22. Planet Coffee’s mark PLANET COFFEE™ marks FIRE ON ICE® are distinctive, well known and famous.

23. Defendant’s are diluting the distinctiveness of Planet Coffee’s PLANET COFFEE™ marks by marketing and selling inferior goods bearing marks virtually identical or confusingly similar to Planet Coffee’s trademarks. Upon information and belief, Defendant has engaged in the conduct alleged in these claims, willfully intending to trade on Planet Coffee’s reputation and/or to cause dilution of the famous and distinctive PLANET COFFEE™ marks owned by Planet Coffee.

24. For example, Defendant markets, conducts business, and publicly represents that the PLANET COFFEE™ trademark is associated or connected to the Defendant’s business thereby creating a false designation of origin of Planet Coffee’s brand of goods and services.

25. The Defendant’s acts violate 15 U.S.C. §1125(c).

26. As a direct and proximate results of Defendant’s trademark dilution, Planet Coffee has and will suffer damages to its business, reputation and good will, and the loss of royalties and profits that Planet Coffee would have made but for Defendant’s acts. Upon information and belief, Defendant’s acts of infringement have also resulted in substantial profits for the Defendant. The amount of these damages will be proven at trial.

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THIRD CAUSE OF ACTION

(FEDERAL UNFAIR COMPETITION UNDER 15 U.S.C §1125(a))

1
2
3 27. Planet Coffee repeats and re-alleges each and every allegation
4 contained in paragraphs 1-26 as if set forth fully herein.

5 28. Since at least 2008, Defendant has infringed Planet Coffee's
6 trademark rights by marketing and selling goods bearing marks virtually identical
7 or confusingly similar to the recognized and distinctive PLANET COFFEE™
8 marks.

9 29. Upon information and belief, Defendant has engaged in the conduct
10 alleged in these claims knowingly and willfully, or alternatively, did not meet their
11 duty of reasonable care.

12 30. Defendant's actions, as alleged herein, were and are likely to deceive
13 the consuming public and therefore constitute unfair and fraudulent business
14 practices in violation of 15 U.S.C. §1125(a).

15 31. Defendant's unlawful, unfair and fraudulent business practices
16 described above present a continuing threat to members of the public in that they
17 are likely to be deceived as to the origin and quality of Planet Coffee's products.

18 32. Upon information and belief, Defendant's acts of unfair competition
19 have resulted in substantial profits for the Defendant in an amount to be proven at
20 trial. Defendant's acts of unfair competition have also resulted in damages to
21 Planet Coffee caused by diversion of sales, and convoyed sales to Defendants, lost
22 royalties and other damages resulting from irreparable harm to Planet Coffee's
23 goodwill. The amount of damages will be proven at trial.

24 33. Planet Coffee has also incurred costs and attorneys' fees to bring this
25 action.

26 34. Defendant's conduct has caused and will continue to cause irreparable
27 injury to Planet Coffee unless preliminary and permanently enjoined.

28 ///

FOURTH CAUSE OF ACTION

(COMMON LAW UNFAIR COMPETITION)

35. Planet Coffee refers to and incorporates in this Cause paragraphs 1-34 above, as though restated herein in full.

36. The Court has jurisdiction over this Cause pursuant to 28 U.S.C. § 1367.

37. By Defendant’s acts complained herein, the Defendant has engaged in unfair competition under the common law of the State of California.

38. For example, Defendant markets, conducts business, and publicly represents that the PLANET COFFEE™ trademark is associated or connected to the Defendant’s business thereby creating a false designation of origin of Planet Coffee’s brand of goods and services and unfairly competing with Planet Coffee’s business.

39. Upon information and belief, the aforesaid acts of the Defendant were undertaken willfully and with the intention of causing confusion, mistake and deception, entitling the Defendant to an award of exemplary damages and attorneys’ fees.

40. The aforesaid acts of the Defendant have caused damage to Planet Coffee, in an amount not yet ascertained but in an amount to be determined.

41. By reason of the acts of the Defendant alleged herein, Planet Coffee has suffered, is suffering and will continue to suffer irreparable damage, which damage will continue unless enjoined by Order of this Court.

FIFTH CAUSE OF ACTION

(UNFAIR COMPETITION-Cal. Bus. Prof. & Code §17200)

42. Planet Coffee refers to and incorporates in this Cause paragraphs 1-41 above, as though restated herein in full.

///

1 43. The Court has jurisdiction over this Cause pursuant to 28 U.S.C. §
2 1367.

3 44. By the acts complained of herein, the Defendant has engaged in unfair
4 competition under Section 17200 of the Business and Professions Code of the State
5 of California.

6 45. Defendant's use of the infringing marks complained of herein
7 constitutes deceptive and misleading advertising and is likely to, and is intended to,
8 cause confusion to the purchasers and potential purchasers of the products.

9 46. For example, Defendant markets, conducts business, and publicly
10 represents that the PLANET COFFEE™ trademark is associated or connected to
11 the Defendant's business thereby creating a false designation of origin of Planet
12 Coffee's brand of goods and services.

13 47. Upon information and belief, the aforesaid acts of the Defendant were
14 undertaken willfully and with the intention of causing confusion, mistake and
15 deception, entitling the Defendant to an award of exemplary damages and
16 attorneys' fees.

17 48. The aforesaid acts of the Defendant have caused damage to Planet
18 Coffee, in an amount not yet ascertained but in an amount to be determined.

19 49. By reason of the acts of the Defendant alleged herein, Planet Coffee
20 has suffered injury in fact and has lost money or property as a result of Defendant's
21 acts of unfair business practices alleged herein, is suffering and will continue to
22 suffer irreparable damage, which damage will continue to suffer irreparable
23 damage unless enjoined by Order of this Court.

24
25 **RELIEF REQUESTED**

26 **WHEREFORE**, Planet Coffee respectfully prays for judgment as follows:

27 ///

28 ///

ALL COUNTS

1
2 1. That Defendant's and their principals, agents, representatives, servants
3 and employees and all persons in active concert or participation with them be
4 preliminary and permanently enjoined and restrained:

- 5 a. from using any Planet Coffee's trademarks, including the
6 PLANET COFFEE™ marks, or any other confusingly similar
7 mark, in connection with the manufacture, sale, advertisement or
8 promotion of any product or any other similar infringement of
9 Planet Coffee trademark rights, for product not originating from
10 Planet Coffee or authorized by Planet Coffee.
- 11 b. from Diluting any Planet Coffee Trademarks, including the
12 PLANET COFFEE™ marks, or any other confusingly similar
13 mark; and
- 14 c. from engaging in unfair competition by making and selling their
15 products or otherwise using confusingly similar marks, in such a
16 way as to misrepresent the origin of any of the Defendant's
17 products;
- 18 d. for an order requiring Defendants to deliver up to be impounded
19 during the pendency of this action all materials in Defendant's
20 possession custody or control that include or incorporate products
21 that infringe Planet Coffee's trademark rights;
- 22 e. for compensatory damages in an amount to be proven at trial;
- 23 f. for all gains, profits and advantages derived by Defendants by their
24 infringement of Planet Coffee's trademark rights;
- 25 g. for punitive damages in an amount sufficient to punish Defendants
26 for their wrongful conduct and to deter others from engaging in
27 similar conduct in the future;
- 28 h. for statutory damages as provided by law;

1 2. That the Defendant and their principals, agents, representatives,
2 servants and employees and all persons in active concert or participation with them
3 be ordered to recall and deliver up for destruction all products that infringe Planet
4 Coffee's trademark rights.

5 3. That the Court order the impounding and destruction of all equipment,
6 design documents, computer programs, websites and/or hard drives and any and all
7 items related to the Infringing Products within the domain and control of the
8 Defendant and their principals, agents, representatives, servants and employees and
9 all persons in active concert or participation with them within seven days of the
10 date of entry of any preliminary or permanent injunction or the final judgment
11 herein; and

12 4. That the Defendant and their principals, agents, representatives,
13 servants and employees and all persons in active concert or participation with them
14 be ordered to engage in corrective advertising to dispel the confusion caused by
15 Defendant's wrongful acts;

16 5. That within thirty days after service of judgment with notice of entry
17 thereof upon it, the Defendant is required to file with the Court and serve upon
18 Planet Coffee's attorneys a written report under oath setting forth in detail the
19 manner in which the Defendant has complied with the foregoing paragraphs;

20 6. That an accounting be ordered and judgment be rendered against
21 the Defendant for all profits wrongfully derived by the Defendant by reason of
22 their trademark infringement, false designation of origin, dilution and unfair
23 competition.

24 7. All damages adequate to compensate Planet Coffee for the
25 Defendant's acts of trademark infringement, false designation of origin, dilution
26 and unfair competition;

27 8. Enhanced damages for Defendant's willful acts and bad faith;

28 9. An assessment of interest on damages so computed, including

1 prejudgment interest;

2 10. Planet Coffee's costs and attorneys' fees in pursuing this action; and

3 11. Such other and further relief as this Court may deem appropriate.

4 12. For a judgment that the Defendant has competed unfairly with
5 Planet Coffee in violation of California Common Law Unfair Competition Laws
6 and in violation of California Business and Professions Code § 17200 *et seq.*

7 13. That the Defendant be enjoined from continuing to engage in the
8 unfair and unlawful business practices alleged in this Complaint; and

9 14. Such other and further relief as this Court may deem appropriate.

10
11 **DEMAND FOR JURY TRIAL**

12
13 Planet Coffee hereby demands trial by jury.

14
15 Respectfully Submitted,

16
17 DATE: May 11, 2009

18 **BUUS, KIM, KUO & TRAN, APC**

19 By 

20 John D. Tran

21 Attorneys for Plaintiff

22 PLANET COFFEE ROASTERS, INC.

Exhibit A



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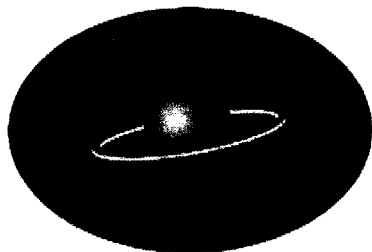
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Word Mark PLANET COFFEE ROASTERS, INC. FRESH COFFEE
Goods and Services IC 011. US 013 021 023 031 034. G & S: Coffee roasters. FIRST USE: 19931001. FIRST USE IN COMMERCE: 19931001
 IC 030. US 046. G & S: Coffee; Coffee; Coffee beans; Ground coffee beans; Roasted coffee beans. FIRST USE: 19931001. FIRST USE IN COMMERCE: 19931001
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design 01.09.01 - Saturn or other planets with rings
Search Code 26.03.08 - Letters, numerals or punctuation forming the perimeter of an oval or bordering the perimeter of an oval; Ovals having letters or numerals as a border; Ovals having punctuation as a border
 26.03.21 - Ovals that are completely or partially shaded
Serial Number 77660525
Filing Date January 30, 2009
Current Filing Basis 1A
Original Filing Basis 1A
Owner (APPLICANT) PLANET COFFEE ROASTERS, INC. CORPORATION CALIFORNIA 217 SOUTH NINTH AVE. LA PUENTE CALIFORNIA 91746
Attorney of JOHN D. TRAN

Record

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INC." APART FROM THE MARK AS SHOWN

Description of Mark The color(s) ORANGE, BLUE, BLACK is/are claimed as a feature of the mark. The mark consists of The stylized terms Planet Coffee Roasters, Inc. placed within an orange oval and above a saturn-like planet in the color blue. The stylized text Fresh Coffee placed within the orange oval and underneath the saturn-like planet. .

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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PLANET COFFEE ROASTERS

Word Mark PLANET COFFEE ROASTERS
Goods and Services IC 011. US 013 021 023 031 034. G & S: Coffee roasters. FIRST USE: 19931001. FIRST USE IN COMMERCE: 19931001

 IC 030. US 046. G & S: Coffee; Coffee; Coffee beans; Roasted coffee beans. FIRST USE: 19931001. FIRST USE IN COMMERCE: 19931001

Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 77660508
Filing Date January 30, 2009
Current Filing Basis 1A
Original Filing Basis 1A
Owner (APPLICANT) Planet Coffee Roasters, Inc. CORPORATION CALIFORNIA 217 South Ninth Ave. La Puente CALIFORNIA 91746
Attorney of Record JOHN D. TRAN
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Exhibit B

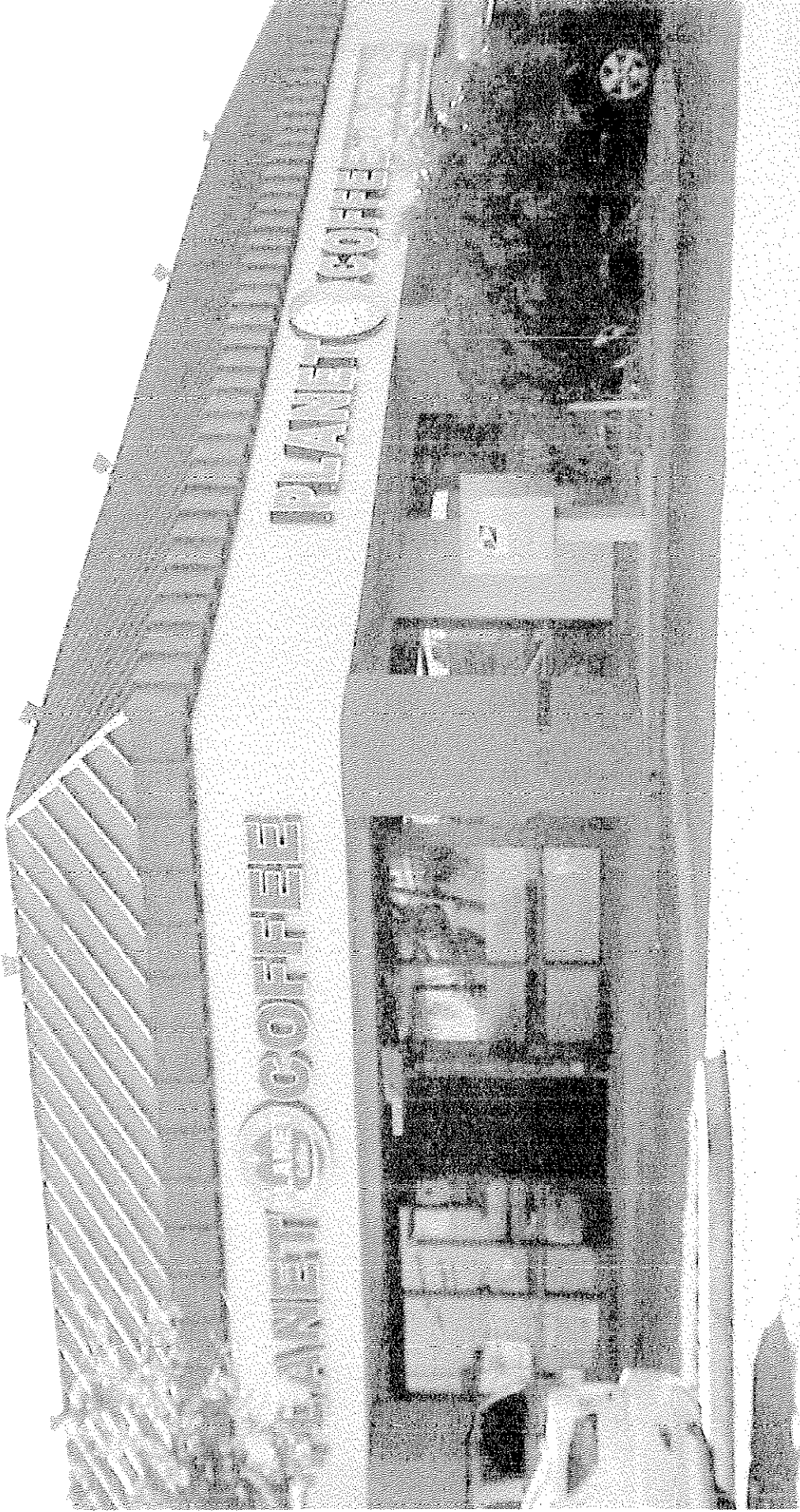


Exhibit C

B·K·K·T
ATTORNEYS AT LAW

BUUS, KIM, KUO & TRAN LLP

NEWPORT BEACH
4675 MacArthur Court, Suite 590
Newport Beach, CA 92660
OFFICE 949 863 9782
FAX 949 863 9783
www.bkktlaw.com

January 21, 2009

VIA CERTIFIED MAIL

Orange County Office
Direct Dial: 949-870-3280
jtran@bkktlaw.com

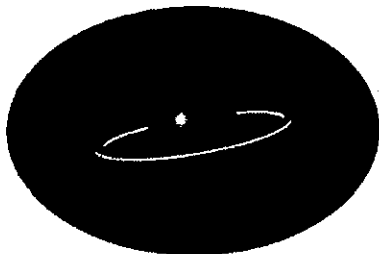
Planet Coffee
13916 Brookhurst St. Suite A
Garden Grove, CA 92843.

Re: Cease and Desist & Notice of Trademark Infringement re: Planet Coffee Roasters
Our File Reference No. 10267.01

TO WHOM IT MAY CONCERN:

Our office represents Planet Coffee Roasters, Inc. ("Planet Coffee") in its legal affairs, including the protection and enforcement of Planet Coffee's intellectual property. Please note that Planet Coffee currently is the rightful owner of the following trademarks:

PLANET COFFEE ROASTERS (Word Mark); and



(Design Mark)

As early as 1993, Planet Coffee has been conducting business using the PLANET COFFEE ROASTERS trademarks in relation to its coffee business, including but not limiting to coffee roasting, coffee products, and service. Planet Coffee has invested significant resources in its marks and has thus built excellent goodwill in its trademarks for quality service and product. Planet Coffee has continuously used its trademarks in commerce all across the United States, including California.

It is our understanding that you are currently using the PLANET COFFEE mark in relation to a coffee/café store, (*See Exhibit A*). Because of the identical usage of the term PLANET COFFEE, there exists a high likelihood of confusion that customers will be confused between the source and association of the goods.

Under the **Section 1125 of the Lanham Act**, your continued use of the term PLANET COFFEE subjects you to liability for trademark infringement and unfair competition of our client's trademark rights.

Planet Coffee
Page 2
January 21, 2009

Based upon the above facts, we hereby demand that you *cease and desist* any and all use of the PLANET COFFEE term on all of your goods/services immediately, including but not limited to the removal and destruction of all signage, marketing materials, and goods bearing the infringing mark.

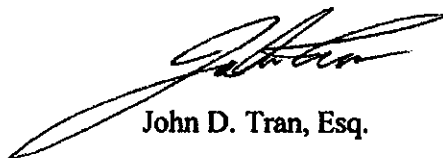
In light of the seriousness of this matter, you must agree in writing by **February 21, 2009** to the above. Should you fail to do so, Planet Coffee will have no choice but to enforce its rights against you for trademark infringement/unfair competition, including seeking a preliminary injunction against your company, seizure of impoundment of any infringing products and the recovery of damages, lost profits and costs, including attorney fees. Be advised that your continued use or display of the infringing PLANET COFFEE term will be considered a willful and deliberate infringement of Planet Coffee's rights.

This letter is made without prejudice to any rights or remedies that may be available to Planet Coffee.

We look forward to your cooperation and resolving this matter amicably.

Sincerely,

BUUS, KIM, KUO & TRAN, APC



John D. Tran, Esq.

JDT/ps
cc: Client File 10267.01

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

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> PLANET COFFEE ROASTERS, INC., a California Corporation	DEFENDANTS PLANET COFFEE and DOES 1 through 10, inclusive
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) John D. Tran (Cal Bar No. 231761), BUUS KIM KUO & TRAN APC 4675 MacArthur Court, Suite 590, Newport Beach, CA 92660 Telephone (949) 863-9782 Facsimile (949) 863-9783	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input 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
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input 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: \$ To Be Determined

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.)

(1) FALSE DESIGNATION OF ORIGIN 15 U.S.C. § 1125(a); (2) TRADEMARK DILUTION 15 U.S.C. §1125(c);

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

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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SACV09-571 MLG

FOR OFFICE USE ONLY: Case Number: _____

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
Orange	

(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
Orange	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

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

* 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): John Y. Z. for Date 05/12/2009

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))

COPY

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Telephone: (949) 863-9783
Facsimile: (949) 863-9782

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

PLANET COFFEE ROASTERS, INC., a California Corporation

PLAINTIFF(S)

v.
PLANET COFFEE and DOES 1 through 10, inclusive,

CASE NUMBER

SACV09 -571 MLG

DEFENDANT(S)

FOR OFFICE USE ONLY
SUMMONS

TO: DEFENDANT(S): PLANET COFFEE

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, John D. Tran, Esquire, whose address is 4675 MacArthur Court; Suite 590, Newport Beach, California 92660. 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.

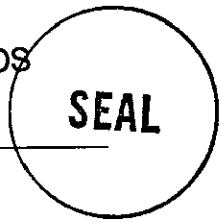
FOR OFFICE USE ONLY

Clerk, U.S. District Court
DODJIE GARGANTOS

Dated: MAY 12 2009

By: _____
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)].