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U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.

6 Attorneys for Plaintiff  
7 TEB CAPITAL MANAGEMENT, LLC

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

\* CV-06 7436 JFW (R2x)

12 TEB CAPITAL MANAGEMENT, LLC, a  
13 Massachusetts limited liability corporation,

14 Plaintiff,

15 v.

16 YAHOO!, INC., a California corporation,

17 Defendant.

Case No.

COMPLAINT; JURY DEMAND

1. False Endorsement Under The Federal Lanham Act
2. Violation of Statutory Rights of Publicity
3. Violation of Common Law Rights of Publicity
4. Unjust Enrichment

J/S  
20

20 INTRODUCTION

21 1. This action is brought by TEB Capital Management, LLC, the  
22 owner of the publicity and endorsement rights to the likeness, image and identity of  
23 Tom Brady. Tom Brady is the starting quarterback for the New England Patriots  
24 who led his team to 3 Super Bowl championships. This action is brought against  
25 Yahoo, Inc! for its knowing and intentional unauthorized use of Tom Brady's  
26 likeness, image and identity in its advertisements and promotions for Yahoo's  
27 Fantasy Football program.

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COMPLAINT; JURY DEMAND



1 Championships. Tom Brady is the youngest quarterback in NFL history to start and  
2 win three Super Bowls.

3 10. Tom Brady has also earned two Super Bowl MVP awards (Pete  
4 Rozelle Awards) and has been selected for three Pro Bowls. Tom Brady was  
5 named *Sports Illustrated's* NFL Player of the Year in 2004 and was named *Sports*  
6 *Illustrated's* Sportsman of the Year in 2005.

7 11. Tom Brady's name, image, likeness and identity are widely  
8 known and recognized and he has become a worldwide celebrity. While he has  
9 become famous for his prowess as an NFL quarterback, his fame is not limited to  
10 the world of sports. In 2005, Tom Brady hosted *Saturday Night Live*.

11 12. TEB owns the rights to Tom Brady's likeness and image by  
12 assignment. TEB actively manages Tom Brady's likeness and image with respect  
13 to rights of publicity and endorsements.

14 **Defendant Yahoo!, Inc.'s Wrongful Use of Tom Brady's Likeness and Image**

15 13. Defendant Yahoo runs a well-known internet service company  
16 offering multiple goods and services mostly through its internet websites, including  
17 Yahoo Fantasy Football products and services.

18 14. Fantasy Football is a fantasy sports game in which individuals  
19 can purchase fantasy teams and compete with other participants. Each team scores  
20 points based on the performance of real-life NFL football players during the  
21 football season.

22 15. Upon information and belief, Plaintiff alleges that Fantasy  
23 Football is big business, especially for internet service companies. Upon  
24 information and belief, Fantasy Football is a \$4 billion industry with over 8 million  
25 consumers; and the industry continues to grow every year. Upon information and  
26 belief, Plaintiff alleges that Fantasy Football is the most popular fantasy sport in the  
27 United States.

1           16. Upon information and belief, Plaintiff alleges that defendant  
2 Yahoo's Fantasy Football website was the most popular Fantasy Football website,  
3 with 4.4 million unique users last year. Upon information and belief, Yahoo's  
4 Fantasy Football website generates over 800 million page views per month during  
5 the Fantasy Football season.

6           17. In addition to the page views of Yahoo's Fantasy Football  
7 website, Plaintiff alleges upon information and belief, that visitors to Yahoo's  
8 Fantasy Football website also view other Yahoo web pages generating millions  
9 more page views (and consequently, more revenue) for Yahoo.

10           18. In September 2006, defendant Yahoo ran a full page color  
11 advertisement for its Fantasy Football goods and services in *Sports Illustrated*  
12 featuring Tom Brady's likeness, image and identity without permission or authority.  
13 The advertisement ran in the September 4, 2006 "NFL Preview" edition of *Sports*  
14 *Illustrated* and prominently features Tom Brady's image and jersey number. Tom  
15 Brady is featured in the top center of the photograph. A true and correct copy of  
16 the *Sports Illustrated* advertisement is attached hereto as Exhibit "A."

17           19. Upon information and belief, Plaintiff alleges that Yahoo! used  
18 Tom Brady's likeness, image and identity, without permission or authorization, to  
19 advertise Fantasy Football goods and services in other editions of *Sports Illustrated*  
20 as well as other sports magazines and publications.

21           20. Also during this time period, Yahoo ran an advertisement web  
22 banner on its Yahoo! Sports webpages, again featuring Tom Brady's likeness,  
23 image and identity without permission or authority.

24           21. At the time Yahoo ran these advertisements and promotions it  
25 knew that it did not have authority or permission to use Tom Brady's likeness,  
26 image or identity. Despite this knowledge, Yahoo intentionally and willfully used  
27 Tom Brady's likeness, image and identity to advertise and promote its Fantasy  
28 Football website and services for the 2006 football season.

COUNT 1

**False Endorsement Under The Federal Lanham Act – 15 U.S.C. § 1125 *et seq.***

22. Plaintiff hereby realleges and incorporates by reference the allegations set forth in Paragraphs 1 through 21, above.

23. Plaintiff has the rights to Tom Brady's likeness, image and identity with respect to commercial endorsements and rights of publicity.

24. Defendant has used the image, likeness and identity of Tom Brady in its advertisements for its Fantasy Football services and products without authorization or permission.

25. Defendant's unauthorized use of the image, likeness and identity of Tom Brady in its Fantasy Football advertisements and promotions constitute a false endorsement and false designation of origin in violation of Section 43(a) of the federal Lanham Act.

26. Defendant's unauthorized use of Tom Brady's image, likeness and identity are false and misleading and tend to falsely describe and represent that Defendant's goods and services are licensed, sponsored, endorsed or otherwise authorized by Tom Brady. Defendant's unauthorized use of Tom Brady's image, likeness and identity in its advertisements and promotional material for Yahoo's Fantasy Football goods and services also represents by implication that Tom Brady endorses, sponsors or is otherwise affiliated with Yahoo's Fantasy Football program.

27. Defendant's unauthorized use of Tom Brady's image, likeness and identity is likely to cause confusion or mistake and to deceive consumers as to the endorsement, sponsorship, affiliation, connection or association of Tom Brady with Defendant's Fantasy Football services and products.

28. As a direct and proximate result of Defendant's wrongful actions, Plaintiff has suffered damages in an amount to be proven at trial, but in excess of the jurisdictional minimum.





1                   WHEREFORE, Plaintiff prays for judgment against Defendant as  
2 follows:

3                   1.     For a preliminary and permanent injunction enjoining  
4 Defendant, and all persons acting in concert or participation with it, from using,  
5 without proper authorization or permission, the likeness, image or identity of Tom  
6 Brady in connection with advertisements and promotional material for its Fantasy  
7 Football products and services;

8                   2.     For compensatory damages in an amount to be proven at trial;

9                   3.     For an accounting of all gross revenues and profits received,  
10 directly and indirectly, by Defendant as a result of the unauthorized use of  
11 Plaintiff's likeness, image and identity;

12                  4.     For restitution in an amount to be proven at trial;

13                  5.     For punitive damages;

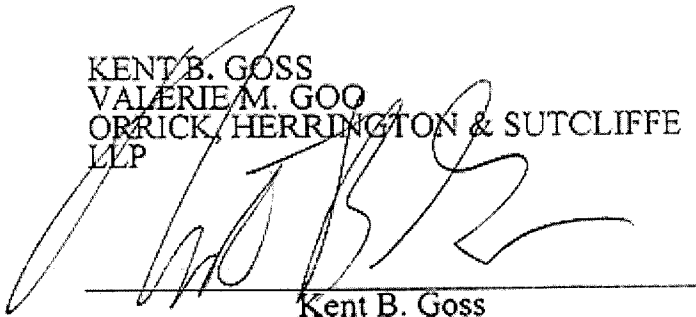
14                  6.     For reasonable attorneys' fees;

15                  7.     For costs;

16                  8.     For such further relief as the Court deems proper.

17  
18 Dated: November 20, 2006

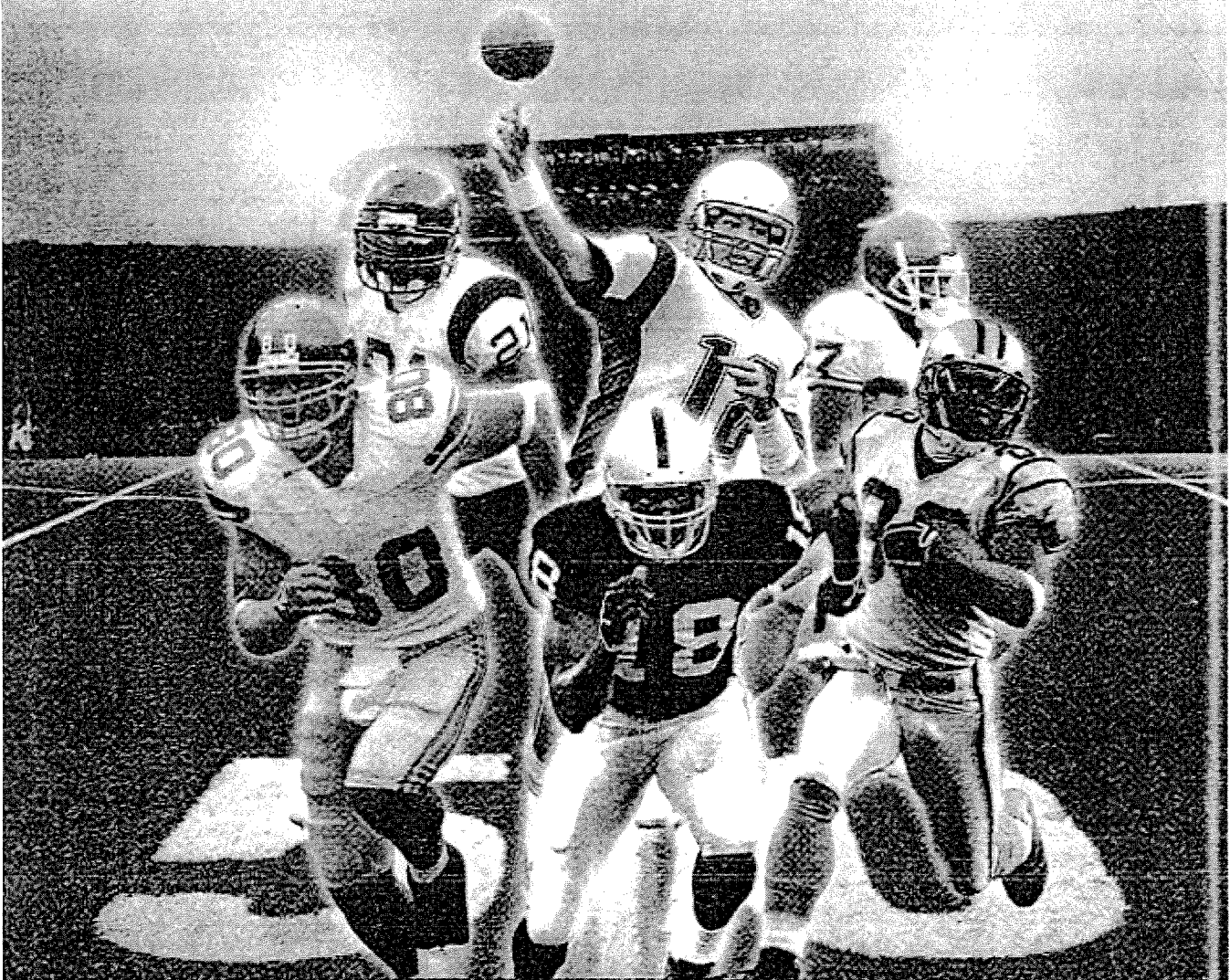
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# FANTASY FOOTBALL '06



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