

FILED
2011 AUG 23 P 3:10
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

1 FRITZ CLAPP (Bar No. 99197)
2 Attorney at Law
3 P.O. Box 2517
4 Beverly Hills, CA 90213
5 Telephone: 888-292-5784
6 Facsimile: 888-467-2341
7 E-mail: <mail@fritzclapp.com>

8 Attorney for Plaintiff
9 HELLS ANGELS MOTORCYCLE CORPORATION

Handwritten mark resembling a stylized '2' or 'C'.

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

PSG

13 HELLS ANGELS MOTORCYCLE CORPORATION,

CV Case No. 11 4141

14 Plaintiff,

COMPLAINT FOR TRADEMARK INFRINGEMENT, UNFAIR COMPETITION AND DILUTION

15 v.

(INJUNCTIVE RELIEF SOUGHT)

16 WILDFOX COUTURE, LLC,
17 AMAZON.COM, INC.,
18 NASTY GAL, INC.,
19 GOSI ENTERPRISES, LTD.,
20 JCL STYLE, INC.,
21 and DOES 1 through 20,

DEMAND FOR JURY TRIAL

22 Defendants.

23 Plaintiff, HELLS ANGELS MOTORCYCLE CORPORATION, by and through its
24 undersigned attorney, hereby complains as follows:

25 JURISDICTION

26 1. This action arises under the Trademark Act of 1946 (the Lanham Act), as
27 amended by the Federal Trademark Dilution Act of 1995 (15 U.S.C. §§ 1051 *et seq.*). This
28 court has jurisdiction over such claims pursuant to 28 U.S.C. § 1331 (federal question), 28
U.S.C. §§ 1338(a) and 1338(b) (trademark and unfair competition), and 15 U.S.C. § 1121(a)
(Lanham Act).

ORIGINAL BY FACSIMILE

1 **VENUE**

2 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a
3 substantial part of the events giving rise to the claims herein occurred in this District, and
4 because the Defendants are found and conduct business within this District.

5 **INTRADISTRICT ASSIGNMENT**

6 3. This is an intellectual property action subject to district-wide assignment
7 pursuant to Civil Local Rule 3-2(c).

8 **PARTIES**

9 4. Plaintiff HELLS ANGELS MOTORCYCLE CORPORATION (“HAMC”) is
10 now, and at all relevant times was, a non-profit mutual benefit corporation organized and
11 existing under the laws of the State of California. Plaintiff HAMC is the owner of the
12 trademarks described herein, which it administers on behalf of, and for the benefit of, the
13 Hells Angels Motorcycle Club.

14 5. Defendant WILDFOX COUTURE, LLC (“WILDFOX”) is, on information
15 and belief, a limited liability company organized and existing under the laws of the State of
16 California. Defendant WILDFOX is a designer fashion house which manufactures,
17 distributes and sells apparel directly to the public and through other retailers. Defendant
18 WILDFOX is located at 7095 Hollywood Blvd, Suite 833, Hollywood, CA 90028.
19 Defendant WILDFOX and its affiliates conduct business within this District and throughout
20 the United States via the Internet website <wildfoxcouture.com>.

21 6. Defendant AMAZON.COM (“AMAZON”) is, on information and belief, a
22 corporation organized and existing under the laws of the State of Delaware. Defendant
23 AMAZON is the world’s largest online retail outlet, conducting its business within this
24 District and throughout the United States and abroad by various Internet-based enterprises,
25 including the website <shopbop.com> which offers and sells designer merchandise
26 including the products of Defendant WILDFOX.

27 7. Defendant NASTY GAL, INC. (“NASTY GAL”) is, on information and
28 belief, a corporation organized and existing under the laws of the State of California.

1 Defendant NASTY GAL is an online retailer of specialty apparel and accessories, located at
2 1309 – 66th Street, Emeryville, CA 94608. Defendant NASTY GAL conducts business
3 within this District and throughout the United States via the Internet website
4 <shopnastygal.com>.

5 8. Defendant GOSI ENTERPRISES, LTD. (“GOSI”) is, on information and
6 belief, a corporation organized and existing under the laws of the State of New York,
7 located at 7 Old Westbury Road, East Hills, NY 11577. Defendant GOSI conducts business
8 within this District and throughout the United States via the Internet website
9 <singer22.com>.

10 9. Defendant JCL STYLE, INC. (“JCL”) is, on information and belief, a
11 corporation organized and existing under the laws of the State of Delaware. Defendant JCL
12 is a distributor and retail seller of designer fashion apparel, with offices at 2949 Randolph
13 Avenue, Suite C, Costa Mesa, CA 92626. Defendant JCL conducts business within this
14 District and throughout the United States via the Internet website <pinkmascara.com>.

15 10. On information and belief, DOES 1 through 20, inclusive, are entities of
16 unknown form which offer and sell the infringing products of Defendant WILDFOX
17 complained of herein, and are legally responsible for injuries and damages to Plaintiff as
18 herein alleged. Plaintiff will amend this complaint when the true names and capacities of
19 said defendants have been ascertained.

20 **PLAINTIFF’S MARKS**

21 11. At least as early as 1948, Plaintiff HAMC and its predecessor in interest, an
22 unincorporated association known as the Hells Angels Motorcycle Club, have continuously
23 employed the word mark HELLS ANGELS and design mark depicting a skull with wings
24 (the “HAMC Death Head”) as collective membership marks, trademarks and service marks
25 used in connection with the promotion, advertising, conduct and expansion of a motorcycle
26 club, including indicia of membership; on authorized items such as patches, jewelry and
27 apparel; and in connection with authorized services such as promotional and entertainment
28 services.

1 12. From more than half a century of continuous and conspicuous usage, both the
2 HELLS ANGELS word mark and the HAMC Death Head design mark (the “HAMC
3 Marks”) are famous. The HAMC Marks are widely known and recognized by the public as
4 indicating the Hells Angels Motorcycle Club. Plaintiff HAMC and its predecessors in
5 interest have exercised legitimate control over the membership, trade and service uses of the
6 HAMC Marks by the duly authorized affiliates and licensees, and have been diligent and
7 successful in abating the use of the HAMC Marks by unauthorized third parties.

8 13. Plaintiff HAMC is the owner of the following United States trademark
9 registrations for the HAMC Marks, further described in Exhibit A attached hereto:

- 10 a. Reg. Nos. 1,214,476, 1,301,050, and 2,588,116 – for HELLS ANGELS and
11 HAMC Death Head as collective membership marks;
12 b. Reg. Nos. 1,294,586, 1,943,341, 3,338,837, and 3,666,915 – for HELLS
13 ANGELS word mark as trademark and service mark;
14 c. Reg. Nos. 3,311,549, 3,311,550, and 3,666,916 – for HAMC Death Head
15 design as trademark and service mark.

16 14. Plaintiff’s registrations for the HAMC Marks have become incontestible under
17 15 U.S.C. §1065. These registrations are, therefore, conclusive evidence of Plaintiff’s
18 exclusive right to use the HAMC Marks.

19 15. From decades of notoriety, the HAMC Marks have acquired very widespread
20 public recognition; consequently they evoke strong and immediate reactions whenever used.
21 The impact of these marks is virtually incomparable, and as a result they have great
22 commercial value. Defendants seek to exploit that value for their own gain.

23 **DEFENDANTS’ INFRINGING PRODUCTS**

24 16. Plaintiff HAMC is informed and believes that Defendants, and each of them,
25 have in the past and continue to manufacture, source, market and/or sell items of apparel
26 that infringe and dilute the HAMC Marks (hereinafter the “infringing products”).

27 17. In particular, Plaintiff HAMC is informed and believes that Defendant
28 WILDFOX manufactures, sources, markets and/or sells t-shirts bearing the text “MY

1 BOYFRIEND'S A HELLS ANGEL" on the front with a wing design on the back.
2 Defendant WILDFOX identifies these items as "Hells Angel Hippie Crewneck T" on its
3 own website. The infringing product of Defendant WILDFOX is shown in Exhibit B,
4 attached hereto and incorporated by this reference.

5 18. Defendants AMAZON, NASTY GAL, GOSI, and JCL, have offered and sold
6 the infringing products to the public, identifying them as "Hells Angel Tee" shirts as shown
7 in Exhibit C, attached hereto and incorporated by this reference.

8 19. Defendants WILDFOX, AMAZON, NASTY GAL, GOSI, JCL, DOES 1
9 through 20, and each of them, have produced, manufactured, designed, marketed, offered for
10 sale and sold substantial quantities of products infringing the HAMC Marks, and have
11 obtained and continue to obtain substantial profits from such sales.

12 20. The actions of Defendants, and each of them, have caused and will cause
13 Plaintiff HAMC irreparable harm for which money damages and other remedies are
14 inadequate. Unless Defendants, and each of them, are restrained by this Court, they will
15 continue and/or expand the illegal activities alleged in this Complaint and otherwise
16 continue to cause great and irreparable damage and injury to Plaintiff. Accordingly, in
17 addition to other relief sought, Plaintiff HAMC is entitled to preliminary and permanent
18 injunctive relief against Defendants WILDFOX, AMAZON, NASTY GAL, GOSI, JCL, and
19 DOES 1 through 20, and all persons acting in concert with them.

20 **FIRST CLAIM**

21 **Federal Trademark Infringement**
22 **(Lanham Act § 32 – 15 U.S.C. §§ 1114-1117)**

23 21. Plaintiff HAMC realleges and incorporates by reference each of the
24 allegations contained in paragraphs 1 through 20 of this Complaint.

25 22. Without consent of Plaintiff HAMC, Defendants WILDFOX, AMAZON,
26 NASTY GAL, GOSI, JCL, and DOES 1 through 20, and each of them, have used, in
27 connection with the sale, offering for sale, distribution or advertising of the infringing
28 products, designs that infringe upon the HAMC Marks.

23. These acts of infringement have been committed with the intent to cause

1 confusion, mistake or deception, and are in violation of 15 U.S.C. § 1114.

2 24. As a direct and proximate result of the infringing activities of Defendants
3 WILDFOX, AMAZON, NASTY GAL, GOSI, JCL, and DOES 1 through 20, and each of
4 them, Plaintiff HAMC has suffered substantial damage.

5 25. Defendants' infringement of the HAMC Marks as alleged herein is an
6 exceptional case and was intentional, entitling Plaintiff HAMC to treble the actual damages
7 and to an award of attorneys' fees under 15 U.S.C. §§ 1117(a) and 1117(b).

8 **SECOND CLAIM**

9 **Federal Unfair Competition
(Lanham Act § 43(a) – 15 U.S.C. § 1125(a))**

10 26. Plaintiff HAMC realleges and incorporates by reference each of the
11 allegations contained in paragraphs 1 through 25 of this Complaint.

12 27. Defendants' conduct constitutes the use of words, symbols or devices tending
13 falsely to describe the infringing products, within the meaning of 15 U.S.C. § 1125(a)(1).
14 Defendants' conduct is likely to cause confusion, mistake, or deception by or in the public as
15 to the affiliation, connection, association, origin, sponsorship or approval of the infringing
16 products to the detriment of Plaintiff HAMC and in violation of 15 U.S.C. § 1125(a)(1).

17 28. As a direct and proximate result of the infringing activities of Defendants
18 WILDFOX, AMAZON, NASTY GAL, GOSI, JCL, and DOES 1 through 20, and each of
19 them, Plaintiff HAMC has suffered substantial damage.

20 **THIRD CLAIM**

21 **Federal Dilution of Famous Mark
(Federal Trademark Dilution Act of 1995)
(Lanham Act § 43(c) – 15 U.S.C. § 1125(c))**

22
23 29. Plaintiff HAMC realleges and incorporates by reference each of the
24 allegations contained in paragraphs 1 through 28 of this Complaint.

25 30. The HAMC Marks are distinctive and famous within the meaning of the
26 Federal Trademark Dilution Act of 1995, 15 U.S.C. § 1125(c), as amended.

27 31. Defendants' activities have diluted or are likely to dilute the distinctive quality
28 of the HAMC Marks in violation of 15 U.S.C. § 1125(c), as amended.

1 32. Plaintiff HAMC is entitled to injunctive relief pursuant to 15 U.S.C. § 1125(c).

2 33. Because Defendants willfully intended to trade on Plaintiff HAMC's
3 reputation or to cause dilution of the HAMC Marks, Plaintiff HAMC is entitled to damages,
4 extraordinary damages, fees and costs pursuant to 15 U.S.C. § 1125(c)(2).

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff HAMC prays that this Court grant it the following relief:

7 a.) Adjudge that the HAMC Marks have been infringed by Defendants in
8 violation of the rights of Plaintiff HAMC under 15 U.S.C. § 1114;

9 b.) Adjudge that Defendants have competed unfairly with Plaintiff HAMC in
10 violation of its rights under 15 U.S.C. § 1125(a);

11 c.) Adjudge that Defendants' activities are likely to, or have, diluted the famous
12 HAMC Marks in violation of the rights of Plaintiff HAMC under 15 U.S.C. § 1125(c);

13 d.) Adjudge that Defendants, their subsidiaries, parent and affiliated companies,
14 successors, assigns, agents, and employees, and all others acting for, with, by, through or in
15 concert with Defendants, shall be enjoined and restrained at first during the pendency of
16 this action and thereafter permanently from using the HELLS ANGELS word mark, the
17 HAMC Death Head design mark, and any other mark, word, name or symbol that is likely to
18 cause confusion with, or cause dilution of, the HAMC Marks;

19 e.) Adjudge that Defendants be required immediately to recall and sequester their
20 inventories of the infringing products, and to supply an accounting of such inventories to
21 Plaintiff HAMC's counsel;

22 f.) Adjudge that Defendants be required to deliver their entire inventories of the
23 infringing products to a mutually selected third party for supervised destruction;

24 g.) Adjudge that Defendants, within thirty (30) days after service of the judgment
25 demanded herein, be required to file with this Court and serve upon counsel for Plaintiff
26 HAMC a written report under oath setting forth in detail the manner in which they have
27 complied with the judgment;

28 h.) Adjudge that Plaintiff HAMC recover from Defendants its damages in an

1 amount to be proven at trial;

2 i.) Adjudge that Defendants be required to account for any profits that are
3 attributable to its illegal acts, and that Plaintiff HAMC be awarded three times Defendants'
4 profits under 15 U.S.C. § 1117, plus prejudgment interest;

5 j.) Order an accounting of and impose a constructive trust on all of Defendants'
6 funds and assets that arise out of Defendants' infringing activities;

7 k.) Adjudge that Defendants be required to pay exemplary damages for fraud,
8 malice and gross negligence, whether grounded on proof of actual damages or on proof of
9 unjust enrichment;

10 l.) Adjudge that Plaintiff HAMC be awarded the costs of this action, together
11 with reasonable attorney's fees and disbursements; and

12 m.) Adjudge that all such other and further relief be awarded to Plaintiff HAMC as
13 the Court deems just and equitable.

14 Dated: August 22, 2011

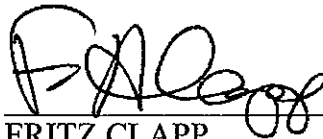
15 

16 _____
17 FRITZ CLAPP
18 Attorney for Plaintiff HELLS ANGELS
19 MOTORCYCLE CORPORATION

20 **JURY DEMAND**

21 Plaintiff hereby demands trial by jury of all issues triable herein, pursuant to Fed. R.
22 Civ. P. §38(b).

23 Dated: August 22, 2011

24 

25 _____
26 FRITZ CLAPP
27 Attorney for Plaintiff HELLS ANGELS
28 MOTORCYCLE CORPORATION

HAMC MARKS



<i>Mark</i>	<i>Goods/Services [Int. Class]</i>	<i>Reg. No.</i>
HELLS ANGELS	Membership in an association of motorcyclists [200]	1,214,476
	T-shirts; entertainment services, namely, arranging and conducting concerts for the benefit of others [025, 041]	1,294,586
	Posters, calendars and adhesive labels [016]	1,943,341
	Belt buckles, embroidered and cloth patches [026]	3,338,837
	Jewelry, jewelry pins, clocks and watches, earrings, key rings made of precious metal, badges made of precious metal, and chains made of precious metal [014]; Books, booklets and newspapers concerning motorcycle clubs; posters, calendars and adhesive labels [016]; Shirts, t-shirts, pullovers, jackets, sweaters, sweat pants, trousers, vests, caps with visors, headwear and footwear [025]; Belt buckles, ornamental novelty badges, ornamental cloth patches and embroidered patches for clothing [026]; Entertainment services, namely, arranging and conducting concerts, parties, rallies and special events [041]	3,666,915
	Membership in a motorcycle club [200]	2,588,116
	Embroidered patches for clothing; ornamental cloth patches; belt buckles [026]	3,311,549
	Clocks; pins and rings [014]	3,311,550
	Jewelry, jewelry pins, clocks and watches, earrings, key rings made of precious metal, badges made of precious metal, and chains made of precious metal [014]; Books, booklets and newspapers concerning motorcycle clubs; posters, calendars and adhesive labels [016]; Shirts, t-shirts, pullovers, jackets, sweaters, sweat pants, trousers, vests, caps with visors, headwear and footwear [025]; Belt buckles, ornamental novelty badges, ornamental cloth patches and embroidered patches for clothing [026]; Entertainment services, namely, arranging and conducting concerts, parties, rallies and special events [041]	3,666,916
	Membership in a motorcycle club [200]	1,301,050

EXHIBIT A



EXHIBIT B

HOME > CLOTHES > TOPS > HELLS ANGEL TEE



**Wildfox
Hells Angel Tee**

\$65.00

Like **138**

Insanely soft cream tee featuring a black "My Boyfriend's A Hells Angel" print at front with angel wings at back. Distressed scoop neckline and sleeves, vintage fit. Looks badass with cutoffs and lace-up boots! By Wildfox.

Size:

Quantity:

ADD TO TOTE >>

The Details

- *100% Cotton
- *27" length
- *Model is wearing size small
- *Runs true to size
- *Made in U.S.A.

- + Fit Guide
- + Tell a Friend
- + Add To Wishlist

EXHIBIT C

CIVIL COVER SHEET

JS 44 (Rev. 12/07) (CAND Rev 1/10)

The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

<p>I. (a) PLAINTIFFS</p> <p>HELLS ANGELS MOTORCYCLE CORPORATION</p>	<p>DEFENDANTS</p> <p>WILDFOX COUTURE, LLC; AMAZON.COM, INC.; NASTY GAL, INC.; GOSI ENTERPRISES, LTD.; JCL STYLE, INC.</p>
<p>(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p>
<p>(c) Attorney's (Firm Name, Address, and Telephone Number)</p> <p>FRITZ CLAPP, ESQ. PO Box 2517 Beverly Hills, CA 92013 Telephone 888-292-5784</p>	<p>Attorneys (If Known)</p> <p style="text-align: center; font-size: 2em;">9</p> <p style="font-size: 1.5em;">11-4141PSG</p>

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%;"> <tr> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">Incorporated or Principal Place of Business In This State</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Citizen of 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></td> <td></td> <td style="text-align: center;">Incorporated and Principal Place of Business In Another State</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">Foreign Nation</td> <td></td> <td></td> </tr> </table>	PTF	DEF		PTF	DEF	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Citizen of This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4			Incorporated or Principal Place of Business In This State			<input type="checkbox"/> 2	<input type="checkbox"/> 2	Citizen of Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5			Incorporated and Principal Place of Business In Another State			<input type="checkbox"/> 3	<input type="checkbox"/> 3	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 6	<input type="checkbox"/> 6			Foreign Nation		
PTF	DEF		PTF	DEF																																
<input type="checkbox"/> 1	<input type="checkbox"/> 1	Citizen of This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																																
		Incorporated or Principal Place of Business In This State																																		
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Citizen of Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																																
		Incorporated and Principal Place of Business In Another State																																		
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 6	<input type="checkbox"/> 6																																
		Foreign Nation																																		

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 362 Personal Injury—Med. Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury—Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. & Truck</p> <p><input type="checkbox"/> 650 Airline Regs.</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl Ret. Inc. Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 463 Habeas Corpus—Alien Detainee</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input checked="" type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 FIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 895 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
--	---	---	--	--

V. 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 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC 1114, 1125

Brief description of cause:

Trademark infringement, unfair competition and dilution

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

SAN FRANCISCO/OAKLAND SAN JOSE EUREKA

DATE: 8/22/11

SIGNATURE OF ATTORNEY OF RECORD: *[Signature]*

ORIGINAL BY FACSIMILE

JS 44 Reverse (Rev. 12/07)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.