

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

KIRCHNER CORPORATION,

Plaintiff,

v.

BJW GROUP, INC. D/B/A
AUSTIN & WARBURTON,

Defendant.

Civil Action No. _____

TM Reg. # 1,216,638
3,204,424
1,674,165

COMPLAINT AND DEMAND FOR JURY TRIAL

The Plaintiff, Kirchner Corporation ("Kirchner" or "Plaintiff"), by way of its Complaint against Defendant BJW Group, Inc. d/b/a Austin & Warburton ("Defendant"), states and alleges as follows:

THE PARTIES

1. Plaintiff Kirchner Corporation is a corporation duly organized and existing under the laws of the state of Minnesota with its principal place of business at 1000 Boone Avenue North, #900, Minneapolis, Minncsota 55427.

2. Upon information and belief, Defendant is organized and existing under the laws of the state of Michigan with its principal place of business at 704 South Main Street, Ann Arbor, Michigan 48104-2925.

NATURE OF THE ACTION

3. This is an action by Kirchner for trademark infringement, trademark dilution, and unfair competition in violation of the Lanham Act, 15 U.S.C. §§ 1114 and 1125, trademark

dilution in violation of Minn. Stat. § 333.285, and deceptive trade practices in violation of the Minnesota Deceptive Trade Practices Act, Minn. Stat. § 325D.44. Kirchner manufactures and sells high quality, well-respected jewelry products under the federally registered trademarks MOTHER AND CHILD and FATHER AND CHILD. Defendant is using Kirchner's MOTHER AND CHILD trademark as an Internet keyword to generate advertisements on the Google search engine. Defendant's advertisements prominently display Kirchner's MOTHER AND CHILD trademark in bold text. Defendant's advertisements also contain a link to Defendant's website located at www.theparentandchild.com on which Defendant sells jewelry under the confusingly similar PARENT & CHILD trademark. Defendant's use of Kirchner's MOTHER AND CHILD trademark in advertisements for Defendant's jewelry, and its use of the PARENT & CHILD trademark in connection with jewelry, violate Kirchner's longstanding and federally protected rights in its well-known, distinctive, and federally registered MOTHER AND CHILD and FATHER AND CHILD trademarks. Defendant is being unjustly enriched by its infringing and diluting conduct, while Kirchner and its MOTHER AND CHILD and FATHER AND CHILD brands are being damaged.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338, and has supplemental jurisdiction under 28 U.S.C. §§ 1338 and 1367 over claims arising under Minnesota law.

5. The Court has personal jurisdiction over the Defendant for at least the following reasons:

- a. Defendant has shipped jewelry to Minnesota;
- b. Defendant offers to sell jewelry to residents of Minnesota;

- c. Defendant advertises its jewelry in, and to residents of, Minnesota; and
- d. Defendant has engaged in acts that have caused injury or property damage to Kirchner within Minnesota.

6. Venue is proper in this district under 28 U.S.C. §§ 1391 (b) and (c). Upon information and belief, Defendant is doing business, directly or indirectly, in Minnesota and acts of infringement have taken place in Minnesota.

FACTS

7. Kirchner is a local company that has been in the jewelry business since 1902. Kirchner manufactures, promotes, and sells high-quality jewelry to retail jewelers.

8. Kirchner has continuously used the trademark MOTHER AND CHILD for jewelry since at least as early as April 24, 1981.

9. In addition to its common law rights in the trademark MOTHER AND CHILD, Kirchner owns United States Trademark Registration No. 1,216,638 for the mark MOTHER AND CHILD in connection with jewelry. Kirchner's Registration No. 1,216,638 achieved incontestable status in 1988. Kirchner also owns United States Trademark Registration No. 3,204,424 for its MOTHER AND CHILD mark in connection with "jewelry, namely, diamonds." True and correct copies of Kirchner's Registrations Nos. 1,216,638 and 3,204,424 are attached hereto as Exhibit 1.

10. Kirchner manufactures, promotes, and sells an extensive collection of jewelry under its MOTHER AND CHILD trademark, including pendants, rings, bracelets, and earrings. Kirchner's MOTHER AND CHILD® brand jewelry is sold throughout the United States in retail jewelry stores and on the Internet.

11. Kirchner uses its federally registered MOTHER AND CHILD trademark to identify its jewelry products and to distinguish them from those made, offered, and sold by others, by, among other things, prominently displaying the federally registered MOTHER AND CHILD trademark in association with its products.

12. Kirchner has used the ® registration notice in association with its MOTHER AND CHILD trademark on packaging and displays directly associated with its goods, as well as in advertising and promotional materials.

13. Kirchner has expended considerable effort and sums of money in the development, advertisement, promotion, and sale of its MOTHER AND CHILD® brand jewelry products. For example, Kirchner's MOTHER AND CHILD® jewelry has been advertised extensively in magazines and on the radio. MOTHER AND CHILD® brand jewelry has been featured on television shows including the *Price Is Right* game show and *KARE11* news in the Twin Cities. Earlier this year, Kirchner's MOTHER AND CHILD® brand jewelry was included in the storyline of the television show *The Young and the Restless*. Kirchner manufactures and sells a special MOTHER AND CHILD® brand pendant featuring a pink sapphire in honor of the Susan G. Komen Race for the Cure, and donates ten percent of the sale price of all such pendants to the Susan G. Komen Race for the Cure.

14. To ensure that its MOTHER AND CHILD trademark continues to exclusively identify Kirchner and its products and to distinguish them from the products of others, Kirchner has consistently and extensively enforced its exclusive rights in the MOTHER AND CHILD trademark in connection with jewelry.

15. Kirchner's MOTHER AND CHILD trademark is distinctive, well known, and famous.

16. In 1990, Kirchner introduced its FATHER AND CHILD jewelry collection, and began continuous use of its FATHER AND CHILD trademark for jewelry.

17. In addition to its common law rights in its FATHER AND CHILD trademark, Kirchner owns United States Trademark Registration No. 1,674,165 for its FATHER AND CHILD trademark in connection with "jewelry." Kirchner's Registration No. 1,674,165 achieved incontestable status in 1997. A true and correct copy of Kirchner's Registration No. 1,674,165 for its FATHER AND CHILD mark is attached hereto as Exhibit 2.

18. Kirchner manufactures, promotes, and sells a number of jewelry products under its FATHER AND CHILD trademark including rings, bracelets, money clips, tie tacks, and key chains. Kirchner's FATHER AND CHILD® brand jewelry is sold throughout the United States in retail jewelry stores and on the Internet.

19. Kirchner has used its federally registered FATHER AND CHILD trademark to identify its jewelry products and to distinguish them from those made, offered, and sold by others. Kirchner uses the ® registration notice in association with its FATHER AND CHILD trademark on packaging and displays directly associated with its goods, as well as in advertising and promotional materials.

20. Kirchner has expended considerable effort and sums of money in developing, advertising, promoting, and selling its FATHER AND CHILD® brand jewelry products. Like its MOTHER AND CHILD trademark, Kirchner's FATHER AND CHILD trademark symbolizes high-quality jewelry products manufactured by Kirchner. Kirchner's FATHER AND CHILD trademark is distinctive and well known.

DEFENDANT'S UNLAWFUL CONDUCT

21. Upon information and belief, Defendant sells jewelry online on the www.theparentandchild.com website.

22. Defendant purchased Kirchner's MOTHER AND CHILD trademark as a keyword through Google's AdWord program. As a result, when an Internet user conducts an Internet search for Kirchner's MOTHER AND CHILD jewelry by inserting the MOTHER AND CHILD trademark in the search field, Defendant's sponsored link advertisements appear on the resulting web page.

23. Defendant's sponsored link advertisements prominently feature Kirchner's MOTHER AND CHILD trademark in bold text, as shown below.

Mother And Child
Represent The Bond Between A Mother
& A Child, Free Shipping
www.TheParentAndChild.com

Defendant's advertisements also contain a link to Defendant's www.theparentandchild.com website, on which Defendant offers for sale jewelry products under the PARENT & CHILD trademark.

24. Defendant's purchase of Kirchner's MOTHER AND CHILD trademark as a keyword and its prominent display of Kirchner's MOTHER AND CHILD trademark in its advertisement is likely to cause consumers to believe, mistakenly, that Kirchner is the source of the jewelry products offered for sale by Defendant, that Kirchner has sponsored or endorsed Defendant's jewelry products, or that Defendant's jewelry products are somehow affiliated or connected with MOTHER AND CHILD® brand jewelry.

25. Defendant's use of the PARENT & CHILD trademark in connection with jewelry is likely to cause consumers to believe, mistakenly, that Kirchner is the source of such jewelry, that Kirchner has sponsored or endorsed Defendant's jewelry products, or that Defendant's jewelry products are somehow affiliated or connected with Kirchner's MOTHER AND CHILD® and FATHER AND CHILD® brand jewelry.

26. The likelihood of confusion caused by Defendant's PARENT & CHILD trademark is enhanced by Defendant's use of Kirchner's MOTHER AND CHILD trademark as a keyword to trigger Defendant's advertisements and in the text of Defendant's advertisements that include a link to Defendant's www.theparentandchild.com website.

27. By letter dated April 15, 2008, Kirchner objected to Defendant's unlawful conduct. Defendant did not respond to Kirchner's letter, nor did Defendant discontinue its infringing conduct. Counsel for Kirchner sent a follow-up letter to Defendant on June 30, 2008. Again, Defendant did not respond. Meanwhile, Defendant continues to unfairly take advantage of and trade on Kirchner's distinctive and well-known MOTHER AND CHILD and FATHER AND CHILD trademarks.

28. Defendant has used and is using the identical MOTHER AND CHILD trademark, without Kirchner's authorization, to advertise, and in connection with, jewelry not manufactured or licensed by Kirchner.

29. Defendant has used and is using the confusingly similar PARENT & CHILD trademark, without Kirchner's authorization, to advertise, and in connection with, jewelry not manufactured or licensed by Kirchner.

30. Upon information and belief, Defendant is using Kirchner's MOTHER AND CHILD trademark and the confusingly similar PARENT & CHILD trademark with actual

knowledge that doing so is infringing and to trade on the goodwill associated with Kirchner's MOTHER AND CHILD and FATHER AND CHILD trademarks.

31. Upon information and belief, Defendant is using the trademarks MOTHER AND CHILD and PARENT & CHILD with an intent to confuse and deceive consumers and to unjustly enrich Defendant at the expense of the public and Kirchner.

32. Defendant's use of the MOTHER AND CHILD trademark in connection with jewelry is without license, approval, or consent of Kirchner.

33. Defendant's use of the PARENT & CHILD trademark in connection with jewelry is without license, approval, or consent of Kirchner.

34. Defendant's unlawful activities have resulted in unjust enrichment to Defendant and serious, irreparable harm to Kirchner. If Defendant's unlawful activities are not enjoined, Defendant will continue to be unjustly enriched and will continue to irreparably harm Kirchner. Kirchner has no adequate remedy at law.

COUNT I
(Federal Trademark Infringement)

35. Kirchner restates and realleges paragraphs 1 through 34 of this Complaint.

36. Kirchner is and has been the owner of United States Trademark Registration No. 1,216,638 for the mark MOTHER AND CHILD in connection with "jewelry" since its registration on the Principal Register on November 16, 1982.

37. United States Trademark Registration No. 1,216,638 is now incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b).

38. Kirchner is and has been the owner of United States Trademark Registration No. 3,204,424.

39. Kirchner is and has been the owner of United States Trademark Registration No. 1,674,165 for the mark FATHER AND CHILD in connection with "jewelry" since its registration on the Principal Register on February 4, 1992.

40. United States Trademark Registration No. 1,674,165 is now incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b).

41. Defendant's unauthorized use in commerce of reproductions, copies, and/or colorable imitations of Kirchner's federally registered MOTHER AND CHILD and FATHER AND CHILD trademarks in connection with the sale, offering for sale, distribution, and advertising of jewelry is likely to confuse consumers into believing that Kirchner is the source of the jewelry products Defendant sells under and in connection with the MOTHER AND CHILD and PARENT & CHILD trademarks or that such products are sponsored by, affiliated with or otherwise approved or endorsed by Kirchner, all to the detriment of Kirchner and the public.

42. Defendant's unauthorized use of the MOTHER AND CHILD trademark as an Internet keyword to trigger Internet advertisements and in Internet advertisements constitutes a commercial use in interstate commerce.

43. Defendant's unauthorized use of the PARENT & CHILD trademark in connection with jewelry constitutes a commercial use in interstate commerce.

44. Defendant's use of the trademarks MOTHER AND CHILD and PARENT & CHILD in connection with jewelry constitutes trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

45. Defendant's unlawful acts have been committed with constructive and/or actual knowledge of Kirchner's rights in the MOTHER AND CHILD and FATHER AND CHILD

trademarks. Upon information and belief, Defendant's unlawful acts have been committed willfully, with the intention to cause confusion, mistake, and deception.

46. Defendant's unlawful acts have caused great and irreparable injury to Kirchner, and will continue to irreparably harm Kirchner unless enjoined.

47. Upon information and belief, Defendant has profited from its unlawful actions and has been unjustly enriched to the detriment of Kirchner. Defendant's unlawful actions have caused Kirchner monetary damage in an amount presently unknown, but in an amount to be determined at trial.

COUNT II
(Federal Unfair Competition)

48. Kirchner repeats and realleges paragraphs 1 through 47 of this Complaint.

49. Kirchner owns common law rights in the MOTHER AND CHILD and FATHER AND CHILD trademarks identified above.

50. The acts of Defendant complained of herein are likely to cause confusion, to cause mistake, or to deceive, as to the origin of the jewelry products Defendant sells under and in connection with the MOTHER AND CHILD and PARENT & CHILD trademarks, as to an affiliation, connection, or association of Defendant and such products with Kirchner and the MOTHER AND CHILD and FATHER AND CHILD brands, and as to sponsorship or approval by Kirchner of the jewelry products Defendant sells under and in connection with the MOTHER AND CHILD and PARENT & CHILD trademarks.

51. Defendant's unauthorized use of the MOTHER AND CHILD and PARENT & CHILD trademarks in connection with jewelry and advertisements for jewelry constitutes a commercial use in interstate commerce.

52. Defendant's actions constitute unfair competition, false designation of origin, palming off, and false description or representation in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

53. Defendant's unlawful acts have caused Kirchner irreparable harm and will continue to irreparably harm Kirchner unless enjoined.

54. Upon information and belief, Defendant has profited from its unlawful actions and has been unjustly enriched to the detriment of Kirchner. Defendant's unlawful actions have caused Kirchner monetary damage in an amount presently unknown, but in an amount to be determined at trial.

COUNT III
(Federal Dilution)

55. Kirchner restates and realleges paragraphs 1-54 of this Complaint.

56. Kirchner's MOTHER AND CHILD trademark is distinctive and famous, and has been so since well prior to Defendant's first use of the PARENT & CHILD trademark and the MOTHER AND CHILD trademark.

57. Defendant's actions are likely to dilute the distinctiveness of the famous MOTHER AND CHILD trademark in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

58. Defendant's unlawful actions have caused, and will continue to cause, Kirchner irreparable harm unless enjoined.

59. Upon information and belief, Defendant has profited from its unlawful actions and has been unjustly enriched to the detriment of Kirchner. Defendant's unlawful actions have caused Kirchner monetary damage in an amount presently unknown, but in an amount to be determined at trial.

COUNT IV
(Minnesota Trademark Dilution)

60. Kirchner restates and realleges paragraphs 1-59 of this Complaint.

61. Defendant's actions in Minnesota constitute dilution of Kirchner's famous MOTHER AND CHILD trademark in violation of Minn. Stat. § 333.285.

62. Defendant's actions have caused, and will continue to cause, irreparable harm to Kirchner unless enjoined.

63. Upon information and belief, Defendant has profited from its unlawful actions and has been unjustly enriched to the detriment of Kirchner. Defendant's unlawful actions have caused Kirchner monetary damage in an amount presently unknown, but in an amount to be determined at trial.

COUNT V
(Minnesota Deceptive Trade Practices)

64. Kirchner restates and realleges paragraphs 1-63 of this Complaint.

65. Defendant's actions in Minnesota constitute willful and knowing deceptive trade practices, in violation of Minn. Stat. § 325D.44.

66. Defendant's actions have caused, and will continue to cause, irreparable harm to Kirchner unless enjoined.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Kirchner Corporation prays that the Court enter judgment:

1. In favor of Plaintiff and against Defendant on all of Plaintiff's claims;

2. Enjoining and restraining Defendant, its officers, agents, servants, employees, attorneys and all others in active concert or participation with Defendant, during the pendency of this action and thereafter permanently from:

- a. Using the marks MOTHER AND CHILD, MOTHER & CHILD, FATHER AND CHILD, FATHER & CHILD, PARENT AND CHILD, and PARENT & CHILD, and any confusingly similar designations, alone or in combination with other words or designs, as a trademark, trade name component, title, Internet domain name, keyword, sponsored link, or otherwise, to market, advertise, or identify products and services not produced or authorized by Plaintiff;
- c. Otherwise infringing or diluting Plaintiff's MOTHER AND CHILD and FATHER AND CHILD trademarks;
- d. Unfairly competing with Plaintiff in any manner whatsoever;
- e. Causing likelihood of confusion with Plaintiff's marks, symbols, labels, or forms of advertisement;
- f. Causing likelihood of injury to business reputation or dilution of the distinctiveness of Plaintiff's MOTHER AND CHILD trademark, symbols, labels, or forms of advertisement;
- g. Using in any trademark or service mark manner the wording "PARENT AND CHILD," PARENT & CHILD," "FATHER AND CHILD," "FATHER & CHILD," "MOTHER AND CHILD" and "MOTHER & CHILD," or any variation thereof including but not limited to "MOM &

CHILD,” “MOTHER-CHILD,” and “CHILD AND MOTHER” in connection with any advertisement or promotion; and

- h. Committing any other act or making any other statement which infringes Plaintiff’s trademark or constitutes an act of trademark infringement, trademark dilution, unfair competition, or deceptive trade practices under federal common law or the common law of the State of Minnesota;
3. Requiring Defendant to deliver up for destruction all labels, signs, prints, packages, wrappers, receptacles, advertisements, catalogs, and all other materials in the possession or control of Defendant that infringe and/or dilute Plaintiff’s MOTHER AND CHILD and FATHER AND CHILD trademarks;
4. Requiring Defendant to account for and pay over to Plaintiff the Defendant’s profits and all damages sustained by Plaintiff;
5. Trebling the amount of damages awarded Plaintiff pursuant to 15 U.S.C. §§ 1114 and 1117 and Minn. Stat. § 333.29 Subd. 1;
6. Awarding Plaintiff its attorney’s fees, costs and expenses pursuant to 15 U.S.C. §§ 1114 and 1117 and Minn. Stat. §§ 325D.45 Subd. 2 and 333.29; and

7. Awarding Plaintiff such other relief as the Court may deem just and proper.

Dated: August 20, 2008

FISH & RICHARDSON P.C.

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CIVIL COVER SHEET

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
KIRCHNER CORPORATION
 (b) County of Residence of First Listed Plaintiff Hennepin
 (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS
BJW Group, Inc. d/b/a Austin & Warburton
 County of Residence of First Listed Defendant Washnetaw
 (IN U.S. PLAINTIFF CASES ONLY)
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Greg A. Madera
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 Joel D. Leviton
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 60 South Sixth Street
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 (612) 335-5070

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1. U.S. Government Plaintiff
 2. U.S. Government Defendant
 3. Federal Question (U.S. Government Not a Party)
 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input 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. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<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 checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (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"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal 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 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	<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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 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(z)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<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"/> 816 Selective Service <input type="checkbox"/> 850 Securities/ Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <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 Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<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		

V. ORIGIN (PLACE "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 (Check the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 15 U.S.C. Sections 1114 and 1125: Trademark Infringement and Trademark Dilution

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 Demand: \$ Injunctive relief and monetary damages CHECK YES only if demanded in Complaint **JURY DEMAND** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions) JUDGE S DOCKET NUMBER

DATE 8/20/08 SIGNATURE OF ATTORNEY OF RECORD TYPE NAME OF ATTORNEY Joel D. Leviton

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING FPP JUDGE MAG. JUDGE