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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SACRAMENTO, CALIF.
FILED
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6 Attorneys for Plaintiff A.G. KAWAMURA, in his official
 capacity as Secretary of the California Department of Food and
 7 Agriculture.

8
 9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

11
 12 A.G. Kawamura, in his official capacity as
 Secretary of the California Department of
 13 Food and Agriculture,

Case No.

SACV09-0123 5 JVS (ANx)
 COMPLAINT FOR:

14 Plaintiff,

15 vs.

- 1) Federal Trademark Infringement
- 2) False Designation of Origin
- 3) Federal Trademark Dilution
- 4) California Common Law Trademark Infringement
- 5) Declaratory Judgment
- 6) Injunctive Relief

16 DEEZ DESIGNS, LLC, a California limited
 liability company; JAMES FARINARO, an
 17 individual; and DOES 1 through 10,
 18 inclusive

19 Defendants

DEMAND FOR JURY TRIAL

20
 21
 22 Plaintiff A.G. KAWAMURA, in his official capacity as Secretary of the California
 23 Department of Food and Agriculture, and thereby pursuing the rights of the California Milk
 24 Processor Board, an instrumentality existing under the laws of the state of California and the
 25 regulations promulgated by the California Department of Food and Agriculture ("Plaintiff"), for his
 26 causes of action, alleges as follows:

27 ///

28 ///

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J/S
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JURISDICTION AND VENUE

1
2 1. This Court has original subject matter jurisdiction of the present action pursuant to
3 the provisions of the Lanham Act, 15 U.S.C. sections 1051, et seq., 28 U.S.C. section 1338 and 28
4 U.S.C. section 1331.

5 2. Defendants' acts of trademark infringement, false designation of origin, trademark
6 dilution and unfair competition against Plaintiff have been committed in the Central District of
7 California within the jurisdiction of this Court. Defendants are advertising t-shirts with the phrase
8 "got milf?" printed on them ("Defendants' 'got milf' t-shirt") in the state of California and in
9 interstate commerce by maintaining the internet website located at
10 <http://www.superdupertshirts.com> ("Defendants' Website") to solicit purchases by consumers
11 nationwide, including in the state of California. Defendants have sold or offered for sale in the state
12 of California and in interstate commerce Defendants' "got milf?" t-shirt, thus creating a likelihood
13 of confusion, deception and mistake. Defendants are subject to California jurisdiction pursuant to
14 California Code of Civil Procedure section 410.10. Defendant DEEZ DESIGN, LLC is subject to
15 California jurisdiction because it is a California limited liability company with a place of business
16 in Alameda County, California. Plaintiff is informed and believes, and based thereon alleges, that
17 Defendant JAMES FARINARO is subject to California jurisdiction because he is a resident of
18 Alameda County, California.

19 3. Venue is proper in this judicial district pursuant to 28 U.S.C. section 1391(b).
20 Defendants offered and sold products that are the subject of this litigation in the Central District of
21 California. A substantial part of the events alleged in this action arose in the Central District of
22 California.

GENERAL ALLEGATIONS

24 4. Plaintiff A.G. KAWAMURA is the Secretary of the California Department of Food
25 and Agriculture.

26 5. The California Department of Food and Agriculture is an agency of the state of
27 California.

28 6. The California Milk Processor Board was created in 1993 and is an instrumentality

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1 existing under the laws of the state of California and the regulations promulgated by the California
2 Department of Food and Agriculture to market and promote the consumption of fluid milk in the
3 state of California. The California Milk Processor Board created the well known "got milk?"
4 advertising campaign and is the registered owner of the "got milk?" service mark and trademark
5 (collectively, "the 'got milk?' Marks").

6 7. Defendant DEEZ DESIGN, LLC, at all times relevant herein was, a California
7 limited liability company with a place of business in Alameda County, California.

8 8. Plaintiff is informed and believes, and based thereon alleges, that Defendant DEEZ
9 DESIGN, LLC is doing business as Super Duper T-Shirts and Deez Brand.

10 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant JAMES
11 FARINARO, at all times relevant herein was, an individual and a resident of Alameda County,
12 California. Plaintiff is informed and believes, and based thereon alleges, that Defendant JAMES
13 FARINARO, at all times relevant herein was, a member of Defendant DEEZ DESIGN, LLC.

14 10. Defendants DEEZ DESIGN, LLC and JAMES FARINARO engage in the
15 marketing, solicitation and sale of t-shirts nationwide, including in the state of California, by use of
16 both the internet and mailing services.

17 11. The true names and capacities, whether individual, corporate, associate, co-
18 conspirator, partner or alter-ego of those Defendants sued herein under the fictitious names of
19 DOES 1 through 10, inclusive, are unknown to Plaintiff, who therefore sues those Defendants by
20 such fictitious names. Plaintiff will ask leave of the Court to amend this Complaint and insert the
21 true names and capacities of these Defendants if and when the same have been ascertained.
22 Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated
23 herein as a DOE defendant is legally responsible in some manner for the events and happenings
24 alleged in this Complaint, and that Plaintiff's alleged damages and injuries were proximately caused
25 by Defendants' conduct.

26 12. Plaintiff is informed and believes, and based thereon alleges that, at all relevant
27 times herein, each named DOE defendant was and is the alter-ego, agent, servant, employee, co-
28 conspirator or aider and abettor of each of the remaining named DOE defendants, and acting within

1 the purpose and scope of that relationship with the express or implied knowledge, permission and
2 consent of the remaining named DOE defendants, and each of them, and each of said Defendants
3 ratified and approved the acts of the other Defendants.

4 **BACKGROUND**

5 13. Plaintiff regularly launches new and innovative advertising campaigns designed to
6 promote the purchase and consumption of fluid milk in the state of California. Plaintiff's most
7 successful program to date is the widely recognized "got milk?" campaign which was so popular
8 and effective that it was quickly licensed to numerous retailers throughout the United States.

9 14. In conjunction with print and television advertising, Plaintiff's efforts also extend to
10 maintaining internet websites, including, but not limited to, <http://www.gotmilk.com>, devoted to
11 marketing campaigns and the licensing of producers and sellers of products including, but not
12 limited to, shirts that bear the "got milk?" trademark throughout the United States. A true and
13 correct copy of a printout from <http://www.gotmilk.com> showing a t-shirt sold by the California
14 Milk Processor Board is attached hereto as "Exhibit 1."

15 15. Plaintiff is informed and believes, and based thereon alleges, that Defendants DEEZ
16 DESIGN, LLC and JAMES FARINARO (collectively, "Defendants") use Defendants' Website to
17 market for sale, solicit and sell t-shirts, including Defendants' "got milf?" t-shirt, to consumers in
18 the state of California.

19 16. Defendants' Website displays an image of Defendants' "got milf?" t-shirt with the
20 following description: "Sexy girly tee for you hot moms out there. Mom I'd like to..."
21 Defendants identify their "got milf?" t-shirt as "Got MILF? Girly T-Shirt" and list it as Item #19 on
22 Defendants' Website. The phrase "got milf?" on Defendants' "got milf?" t-shirt is printed in all
23 lower case letters in Phenix American font, the same distinctive font used by the California Milk
24 Processor Board to print the "got milk?" Marks. A true and correct copy of a printout from
25 Defendants' Website showing Defendants' "got milf?" t-shirt is attached hereto as "Exhibit 2."

26 17. Plaintiff is informed and believes, and based thereon alleges, that Defendants market
27 their products, including Defendants' "got milf?" t-shirt, to consumers, including those in the state
28 of California, on Defendants' Website. Defendants' Website includes a "FAQ" link. When a user

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1 clicks on that link he or she is directed to the following website
2 <http://www.deezbrand.com/faqpopup/php>. The "Frequently Asked Questions & Policies" page lists
3 the address for DeezBrand as "P.O. Box 2391, San Leandro, CA 94577." A true and correct copy
4 of the "Frequently Asked Questions & Policies" page from Defendants' Website containing these
5 statements is attached hereto as "**Exhibit 3.**"

6 18. Defendants' Website is highly commercial in nature. For example, Defendants'
7 Website contains a link to a "Contact Us" page which allows consumers to send an e-mail to
8 Defendants' at info@deezbrand.com.

9 19. Defendants' Website is also dedicated to allowing consumers to purchase
10 Defendants' products, including Defendants' "got milk?" t-shirt, online. True and correct copies of
11 printouts from Defendant's Website showing an electronic shopping cart and billing information for
12 the purchase of Defendants' "got milk?" t-shirt are attached hereto as "**Exhibit 4.**"

13 **FIRST CAUSE OF ACTION – AS AGAINST ALL DEFENDANTS**

14 **FEDERAL TRADEMARK INFRINGEMENT**

15 20. Plaintiff re-alleges and fully incorporates by reference herein paragraphs 1 through
16 19 of this Complaint.

17 21. On July 4, 1995, the United States Patent and Trademark Office granted federal
18 registration to Plaintiff's "got milk?" service mark and assigned it registration number 1,903,870.
19 A true and correct copy of the registration certificate is attached hereto as "**Exhibit 5.**" This
20 registration is in full force and effect, is owned by the California Milk Processor Board on behalf of
21 Plaintiff and has become incontestable pursuant to 15 U.S.C. section 1065. Plaintiff uses the
22 registration symbol ® in advertising in association with said service mark. Plaintiff's "got milk?"
23 service mark qualifies as a famous mark pursuant to 15 U.S.C. section 1125.

24 22. On February 25, 2003, the United States Patent and Trademark Office granted
25 federal registration to Plaintiff's "got milk?" trademark and assigned it registration number
26 2,689,741. A true and correct copy of the registration certificate is attached hereto as "**Exhibit 6.**"
27 Said registration is in full force and effect and is owned by the California Milk Processor Board on
28 behalf of Plaintiff and has become incontestable pursuant to 15 U.S.C. section 1065. Plaintiff uses

1 the registration symbol ® on its goods in association with said trademark. Plaintiff's "got milk?"
2 trademark qualifies as a famous mark pursuant to 15 U.S.C. section 1125.

3 23. The United States Patent and Trademark Office has previously refused to register, as
4 trademarks, the phrases "GOT MILF" and "GOT MILF?" (Serial Nos. 78223801, 78840760 and
5 78700246). The United States Patent and Trademark Office denied the applications on the grounds
6 that the phrases "GOT MILF" and "GOT MILF?" consist of immoral or scandalous matter.

7 24. Plaintiff is informed and believes, and based thereon alleges, that the term "milf" is
8 an acronym for "mother i'd like to fuck" and is commonly associated with pornography.

9 25. Through widespread public acceptance and recognition, the "got milk?" Marks have
10 become an asset of substantial value as a symbol of Plaintiff, Plaintiff's quality products and
11 goodwill.

12 26. Notwithstanding Plaintiff's well-known and prior common law and statutory rights
13 in the "got milk?" Marks, Defendants, with at least constructive notice of Plaintiff's federal
14 registration rights under 15 U.S.C. section 1072, and long after Plaintiff established its rights in
15 "got milk?", adopted and used a confusingly similar variation of the "got milk?" Marks in the state
16 of California and in interstate commerce by printing the phrase "got milf?" on t-shirts and selling
17 them to consumers in the state of California. This use of a confusingly similar variation of the "got
18 milk?" Marks constitutes trademark infringement and causes likelihood of confusion, deception and
19 mistake.

20 27. By letter dated August 1, 2008, Plaintiff, through counsel, demanded that Defendants
21 cease and desist from infringing the "got milk?" Marks. Defendants failed to respond to the cease
22 and desist demand. Defendants' acts of infringement will cause further irreparable injury to
23 Plaintiff if Defendants are not restrained by this Court from further violation of Plaintiff's rights.
24 Furthermore, Plaintiff has no adequate remedy at law.

25 28. On September 1, 2009, Plaintiff, through counsel, sent an e-mail to Defendants to
26 inform them that a complaint would be prepared and filed against Defendants due to their failure to
27 comply with the demands in the August 1, 2008 cease and desist letter. Plaintiff's counsel received
28 no response to this e-mail from Defendants.

1 29. Defendants' acts amount to trademark infringement in violation of 15 U.S.C. section
2 1114.

3 **SECOND CAUSE OF ACTION – AS AGAINST ALL DEFENDANTS**

4 **FALSE DESIGNATION OF ORIGIN**

5 30. Plaintiff re-alleges and fully incorporates by reference herein paragraphs 1 through
6 29 of this Complaint.

7 31. The "got milk?" Marks have become uniquely associated with the California Milk
8 Processor Board and hence identify the California Milk Processor Board. Defendants' use in
9 interstate commerce of "got milf?" on t-shirts is a use of a false designation of origin because it is
10 likely to cause confusion as to the origin, sponsorship, connection, association or approval of
11 Defendants' products.

12 32. Defendants' acts amount to a false designation of origin in violation of 15 U.S.C.
13 section 1125(a).

14 **THIRD CAUSE OF ACTION – AS AGAINST ALL DEFENDANTS**

15 **FEDERAL TRADEMARK DILUTION OF A FAMOUS MARK**

16 33. Plaintiff re-alleges and fully incorporates by reference herein paragraphs 1 through
17 32 of this Complaint.

18 34. As a result of Plaintiff's continuous promotion of its services and products in
19 conjunction with the "got milk?" Marks, the "got milk?" Marks have become recognized as
20 distinctive and famous marks. Furthermore, the tagline "got milk?" has been named the most
21 culturally influential tagline since the advent of broadcast television.

22 35. Defendants use in commerce of a confusingly similar variation of the "got milk?"
23 Marks began after the "got milk?" Marks had become famous and has caused dilution of the
24 distinctive quality of the "got milk?" Marks. Such conduct has caused injury to Plaintiff pursuant to
25 15 U.S.C. section 1125(c).

26 36. Such dilution has occurred as a direct result of Defendants' display, advertising and
27 promotion of Defendants' "got milf?" t-shirt.

28

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1 37. Defendants willfully intended to trade on Plaintiff's reputation and/or to cause
2 dilution of the famous "got milk?" Marks. Accordingly, Plaintiff is entitled to recover its damages,
3 as well as Defendants' profits received as a result of the infringement, pursuant to 15 U.S.C. section
4 1117(a).

5 38. Defendants' acts amount to trademark dilution in violation of 15 U.S.C. section
6 1125(c).

7 **FOURTH CAUSE OF ACTION – AS AGAINST ALL DEFENDANTS**
8 **CALIFORNIA COMMON LAW TRADEMARK INFRINGEMENT**

9 39. Plaintiff re-alleges and fully incorporates by reference herein paragraphs 1 through
10 38 of this Complaint.

11 40. Notwithstanding Plaintiff's well-known and prior use of the "got milk?" Marks,
12 Defendants adopted and used a confusingly similar variation of the "got milk?" Marks in the state
13 of California and in interstate commerce by printing the phrase "got milf?" on t-shirts and selling
14 them to consumers in the state of California. This use of a confusingly similar variation of the "got
15 milk?" Marks constitutes common law trademark infringement and causes likelihood of confusion,
16 deception and mistake.

17 41. Defendants' acts amount to trademark infringement in violation of California
18 common law.

19 **WHEREFORE, PLAINTIFF prays for relief as follows:**

20 1. That Defendants, their officers, agents, servants, employees and attorneys and all
21 those persons in active concert or participation with them be preliminarily and thereafter
22 permanently enjoined and restrained from:

- 23 a. Using the "got milk?" service mark and trademark or any confusingly similar
24 designation alone or in combination with other words, as a trademark, service
25 mark, trade name component or otherwise, to market, advertise or identify
26 Defendants' products, including but not limited to Defendants' t-shirts;
- 27 b. Otherwise infringing Plaintiff's "got milk?" service mark and trademark;
- 28 c. Unfairly competing with Plaintiff in any manner whatsoever;

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- d. Causing likelihood of confusion, injury to business reputation, or dilution of the distinctiveness of Plaintiff's symbols, labels or forms of advertisement; and
- e. Using the "got milk?" service mark and trademark in Defendants' print and online catalogues, on Defendants' Website, or in any of Defendants' marketing and promotional activities.

2. That Defendants be directed to file with this Court and serve on Plaintiff within thirty (30) days after the service of an injunction, a report in writing under oath, setting forth in detail the manner and form in which Defendants have complied with the injunction.

3. That Defendants be required to deliver up and destroy all shirts, literature, advertising and other material bearing the phrases "got milk?" and "got milf?".

4. That this Court declare that Defendants have infringed and diluted the "got milk?" service mark and trademark.


5. That Plaintiff be awarded Defendants' trademark infringement profits after an accounting.

6. That Plaintiff have and recover costs of this suit.

7. That Plaintiff have such other and further relief as the Court may deem just and proper.

Dated: October 22, 2009

KNOX, LEMMON, ANAPOLSKY & SCHRIMP, LLP

By: 
STEPHEN J. BYERS, Attorneys for Plaintiff
A.G. KAWAMURA, in his official capacity as
Secretary of the California Department of Food
and Agriculture

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: October 22, 2009

KNOX, LEMMON, ANAPOLSKY & SCHRIMP, LLP

By: Stephen J. Byers
STEPHEN J. BYERS, Attorney for Plaintiff A.G.
KAWAMURA, in his official capacity as Secretary of
the California Department of Food and Agriculture

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COMPLAINT
EXHIBIT 1

COMPLAINT
EXHIBIT 1

APPAREL | KID STUFF | KITCHENWARE | MISCELLANEOUS | SHOPPING CART | TOMA LECHE® STORE

SHOPPING CART

Your cart is empty.



Black T-Shirt

Got Milk? T-Shirt, 100% cotton. Heavyweight. The shirt that started the got milk? revolution. Available in white and black.

Sizes: [Select Sizes](#)

\$6.95

Quantity:

[Add to Cart](#)

APPAREL | KID STUFF | KITCHENWARE | MISCELLANEOUS | SHOPPING CART | TOMALECHE® STORE
GOTMILK.COM | PAYMENT POLICY | PRIVACY POLICY | SHIPPING POLICY | RETURN POLICY | CONTACT US

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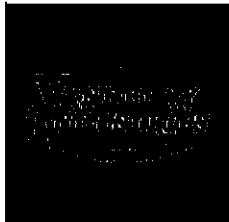
COMPLAINT
EXHIBIT 2

COMPLAINT
EXHIBIT 2



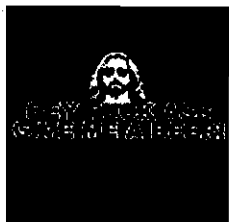
Darth Vader had way too many kids. Cool Star Wars tee.

Select Size
Add To Cart



George Costanza's made-up company. Latex Importer/exporter.

Select Size
Add To Cart



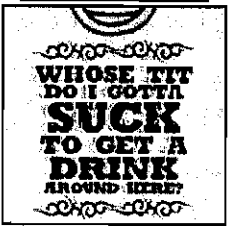
Insane Boondock Saints t-shirt. Some think it's Jesus.

Select Size
Add To Cart



A great white... great to be white. Classic tee for men & women.

Select Size
Add To Cart



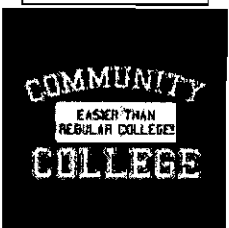
Offensive baby t-shirt sure to make you and friends laugh.

Select Size
Add To Cart



Funny shirt for toddlers! How much can they get for you?

Select Size
Add To Cart



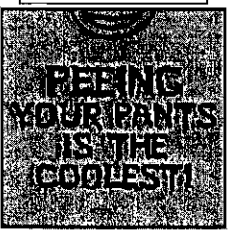
You know you went to JC for the easier classes.

Select Size
Add To Cart



The best titty bar tee ever! Have a seat on my lap!

Select Size
Add To Cart



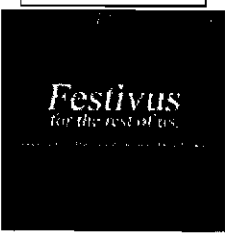
Funny tee for KIDS! It is cool to pee your pants!

Select Size
Add To Cart



Cool vintage fireman tee. Where my hose at? Men & women tee.

Select Size
Add To Cart



Hilarious holiday tee with the 3 rules of Festivus!

Select Size
Add To Cart



Our best selling girly tee. Ladies, brush yo' shoulders off!

Select Size
Add To Cart



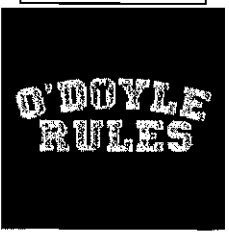
The perfect kegger party tshirt. Keg stand in style.

Select Size
Add To Cart



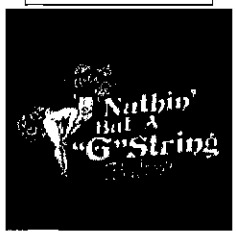
Who Wants A Mustache Ride? I do! Super Troopers tee.

Select Size
Add To Cart



Billy Madison was a kick ass movie. T-shirt for bullies.

Select Size
Add To Cart



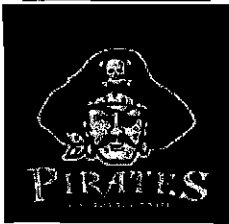
Sexy womens tee for you tiny panty wearing ladies.

Select Size
Add To Cart



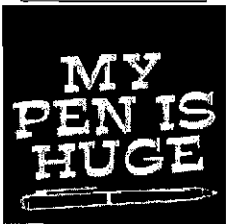
Sexy girly tee for you hot moms out there. Mom I'd Like to...

Select Size
Add To Cart



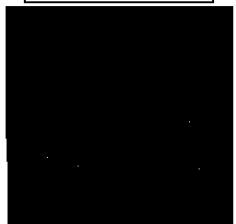
Pirates only have one thing on their mind, the booty!

Select Size
Add To Cart



Your what is huge? This t-shirt gets alot of attention.

Select Size
Add To Cart



Donkey Shows rule! It's not gross, it's inter species erotica.

Select Size
Add To Cart

COMPLAINT
EXHIBIT 3

COMPLAINT
EXHIBIT 3



Frequently Asked Questions & Policies Department

E-mail T-Shirt

BUY 3 OR MORE TEES, GET A RANDOM TEE FREE!!

Buy 3 or more t-shirts and receive an additional RANDOM t-shirt for FREE. A \$14.99 value! **The FREE Shirt is chosen by us**, randomly (we choose the size according to your order). 1 FREE shirt per order. You will NOT see the FREE Shirt on your receipt. If you have any questions, please feel free to contact us.

Who is DeezBrand???

DeezBrand prints and ships the shirts for the site you are visiting. We have a lot of experience in the business and have teamed up with your favorite site to bring you funny, quality t-shirts!

Who do I contact if I have a question???

You may contact us anytime at info@deezbrand.com. We handle all t-shirt store questions.

How much is shipping???

| US/Domestic | International |
|-------------------|-------------------|
| 1 shirt \$5.50 | 1 shirt \$9.00 |
| 2 shirts \$7.50 | 2 shirts \$13.00 |
| 3 shirts \$12.50 | 3 shirts \$19.00 |
| 4 shirts \$13.00 | 4 shirts \$25.00 |
| 5 shirts+ \$14.00 | 5 shirts+ \$30.00 |

WE SHIP TO THE UNITED STATES AND INTERNATIONALLY!!!

NOTE: INTERNATIONAL ORDERS PLEASE ALLOW UP TO TWO WEEKS FOR DELIVERY.

How long will my order take to arrive???

We ship our shirts via Priority Mail through United States Postal Service (USPS.) Please allow 5-7 days for delivery. All our packages are sent with Delivery Confirmation numbers to ensure that your package is not lost.

What type of payment do you accept???

We accept Visa, MasterCard, Discover, American Express and PayPal using the Internet's best processing tool, PayPal!

How long does it take if I pay with a PayPal eCheck???

eChecks do take a few extra business days to clear. Once the eCheck clears, we will ship your order out 'that morning'. Then your order will take the normal 5-7 days to be delivered. Usually much faster.

Is your online store credit card processing secure???

Yes, our store is secure for your privacy and safety. That is why we chose to go with PayPal! They have the very best online security money can buy!

Any special directions for washing/drying?

We recommend turning all shirts inside out to preserve the color of all t-shirt designs. They are 100% screen printed. As for shrinking, follow the directions on the tag of the shirt.

Return Policy:

We will replace your shirt if it's defective in anyway or if you were shipped the wrong item by mistake. Just e-mail us once you receive your order at info@deezbrand.com with a note of what is defective on the shirt. We will also replace your Unworn/unwashed shirt if you need a different size - however please, please, please consider shrinking (our shirts are NOT preshrunk.) All sales are final!!! Store credit will be given in any situation.

Send your item to:

DeezBrand

P.O. Box 2391

San Leandro, CA 94577

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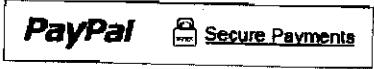
COMPLAINT
EXHIBIT 4

COMPLAINT
EXHIBIT 4

FUNNY T-SHIRTS by SEIZEBRAND

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YOUR ORDER WILL SHIP IMMEDIATELY. THANK YOU FOR ORDERING!**

Your Shopping Cart



| Item | Options | Quantity | Remove | Amount |
|--------------------------------------|----------------------------------|--------------------------------|--------------------------|-------------|
| Got MILF? Girly T-Shirt Item # 19 | affid: 257 size: Womens Small | <input type="text" value="1"/> | <input type="checkbox"/> | \$13.99 |
| Item total: | | | | \$13.99 USD |

Ship to (optional)

Ship outside U.S.?



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FUNNY T-SHIRTS by

**YOUR ORDER IS ALMOST COMPLETE. FINISH YOUR *PayPal* PAYMENT BELOW.
YOUR ORDER WILL SHIP IMMEDIATELY. THANK YOU FOR ORDERING!**


| Description | Unit Price | Quantity | Amount |
|--|------------|--------------------------------|--------------------------------|
| Got MILF? Girly T-Shirt Item # 19 affid: 257, size: Womens Small | \$13.99 | <input type="text" value="1"/> | \$13.99 Remove |
| Item total: | | | \$13.99 |
| Enter ship-to ZIP Code to calculate total order amount | | | |
| Total: | | | \$13.99 USD |
| <input type="button" value="Update Totals"/> | | | |
| Total: | | | \$13.99 USD |
| Enter ship-to ZIP Code to calculate total order amount | | | |

Got MILF? Girly T-Shirt

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Payment Type

Expiration Date: / CSC: [What's this?](#)

First Name:

Last Name:

Billing Address Line 1:

Billing Address Line 2: (optional)

City:

State:

ZIP Code:

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COMPLAINT
EXHIBIT 5

COMPLAINT
EXHIBIT 5

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Amended

Reg. No. 1,903,870

Registered July 4, 1995

OG Date June 3, 2008

**SERVICE MARK
PRINCIPAL REGISTER**

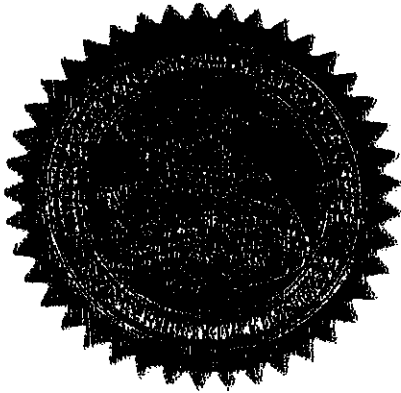
GOT MILK?

CALIFORNIA MILK PROCESSOR BOARD (CALIFORNIA STATE AGENCY), DBA /AKA/ TA: AKA CALIFORNIA FLUID MILK PROCESSOR ADVISORY BOARD,
101 SOUTH EL CAMINO REAL
SUITE 202
SAN CLEMENTE, CA 92672
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MILK", APART FROM THE MARK AS SHOWN.

FOR: ASSOCIATION SERVICES PROVIDED TO FLUID MILK PRODUCERS IN THE STATE OF CALIFORNIA; NAMELY, THE ADVERTISING AND PROMOTION OF THE SALE AND USE OF FLUID MILK, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 11-15-1993; IN COMMERCE 11-15-1993.

SER. NO. 74-452,556, FILED 10-29-1993.



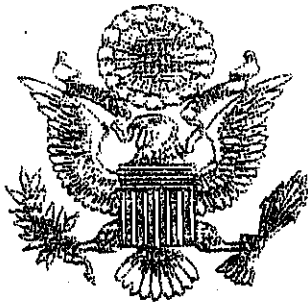
In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on June 3, 2008.

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

COMPLAINT
EXHIBIT 6

COMPLAINT
EXHIBIT 6

The United States of America



CERTIFICATE OF REGISTRATION PRINCIPAL REGISTER

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.



James Profane

Int. Cls.: 9, 16, 21 and 28

Prior U.S. Cls.: 2, 5, 13, 21, 22, 23, 26, 29, 30, 33, 36,
37, 38, 40 and 50

Reg. No. 2,689,741

Registered Feb. 25, 2003

United States Patent and Trademark Office

**TRADEMARK
PRINCIPAL REGISTER**

GOT MILK?

CALIFORNIA FLUID MILK PROCESSOR ADVISORY BOARD (CALIFORNIA STATE AGENCY)
1801A FOURTH ST.
BERKELEY, CA 94710

FOR: ORNAMENTAL NOVELTY MAGNETS, SUNGLASSES, EYEGLOSS CASES, AND HOLDERS FOR COMPACT DISCS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 12-0-1994; IN COMMERCE 12-0-1994.

FOR: PRINTED MATTER, NAMELY POSTERS, PRINTED PAPER SIGNS, PAPER BANNERS, BUMPER STICKERS, FOLDERS, STICKERS, NOTE PADS, PAPER TABLE CLOTHS; AND PENCILS, ERASERS AND PENS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 12-0-1994; IN COMMERCE 12-0-1994.

FOR: COFFEE CUPS, PLASTIC CUPS, DRINKING GLASSES, AND INSULATED THERMAL CONTAINERS FOR FOOD OR BEVERAGES, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 5-19-0096; IN COMMERCE 6-0-1996.

FOR: GOLF BALLS AND STUFFED TOY ANIMALS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 6-0-1996; IN COMMERCE 6-0-1996.

OWNER OF U.S. REG. NO. 1,903,870.

SER. NO. 76-047,435, FILED 5-12-2000.

JAMES MARCUS, EXAMINING ATTORNEY

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

I (a) PLAINTIFFS (Check box if you are representing yourself)
A.G. Kawamura, in his official capacity as Secretary of the California
Department of Food and Agriculture

DEFENDANTS
DEEZ DESIGNS, LLC, a California limited liability company; JAMES
FARINARO, an individual; and DOES 1 through 10, inclusive

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing
yourself, provide same.)

Knox, Lemmon, Anapolsky & Schrimp, LLP
300 Capitol Mall, Suite 1125, Sacramento, CA 95814
(916) 498-9911

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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.)

| | 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. 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: \$ Injunction+unknown monetary amt

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.)

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

| OTHER STATUTES | CONTRACT | TORTS | TORTS | PRISONER PETITIONS | LABOR |
|--|---|--|---|---|--|
| <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 | <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 <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 | 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 | 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 | <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 | <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 |

SACV09-01235

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

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

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 County | |

- (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 |
| | Alameda County |

- (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 County Alameda County | |

* 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): _____ **Date** October 23, 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)) |