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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA, HAMMOND DIVISION

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UNION OF ORTHODOX JEWISH
CONGREGATIONS OF AMERICA
11 Broadway
New York, New York 10004

Plaintiff,


v.

LUKE OIL CO., INC.
3592 North Hobart Road
Hobart, IN 46342

Defendant.

CIVIL ACTION NO. 2 09 C V 331

**COMPLAINT
FOR DAMAGES AND
INJUNCTIVE RELIEF**

Plaintiff Union of Orthodox Jewish Congregations of America (the "Orthodox Union") seeks injunctive and monetary relief against Defendant Luke Oil Co., Inc., ("Luke Oil") for acts of trademark infringement, false designation of origin, dilution, unfair competition and deceptive trade practices, arising out of Luke Oil's unauthorized use of the Orthodox Union's registered certification mark  at Luke Oil's business locations and on Luke Oil's products. Plaintiff alleges as follows:

PARTIES

1. Plaintiff Orthodox Union is a New York State not-for-profit corporation, with its principal place of business at 11 Broadway, New York, New York, 10004.

2. Upon information and belief, Defendant Luke Oil Co. Inc. is an Indiana corporation with its principal place of business at 3592 N Hobart Rd., Hobart, IN 46342-1442. Luke Oil is in the business of, among other things, owning and operating a chain of gasoline service stations and associated convenience stores, which sell food and beverage products and other items.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 in that this dispute arises under the laws of the United States. This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a) and (b), in that this dispute arises under the Lanham Act. This Court also has jurisdiction pursuant to 28 U.S.C. § 1332 in that there is complete diversity among the parties and the amount in controversy exceeds \$75,000.

4. This Court may exercise personal jurisdiction over Luke Oil because Luke Oil operates businesses, and markets and distributes its products, within state of Indiana.


5. Venue is proper in this District pursuant to 28 U.S.C. §1391, because Luke Oil is subject to personal jurisdiction in this Judicial District and a substantial part of the events giving rise to Plaintiff's claims occurred in this District.

BACKGROUND OF THE OU MARK

6. The Orthodox Union provides kosher product certifications that are recognized and trusted throughout the world. The word "kosher," in Hebrew, means fit or proper, and is used to describe food items that are prepared in accordance with Jewish dietary laws. The market for kosher foods is sizeable and reaches far beyond those who adhere to the Jewish faith. For example, many Seventh-day Adventists, vegetarians and health-conscious consumers purchase only kosher foods due to the high standards of quality under which they are produced and manufactured. Recently, the kosher consumer market was estimated to include more than 8.5 million consumers.

7. Due to the complexity of kosher laws, and the inability of consumers and other purchasers to determine whether a food product is kosher, consumers and other

purchasers rely upon the certification of agencies like the Orthodox Union, which provide kosher supervision and guidance.

8. The Orthodox Union is the sole and exclusive owner of the kosher certification mark  (the "OU mark"). Since at least 1925, the OU mark has been used on hundreds of thousands of food and food-related products as an indicator that such products have been certified as kosher by the Orthodox Union. The Orthodox Union has spent considerable money, time and energy promoting its certification services and its OU mark. The OU mark is the central feature of the Orthodox Union's promotional efforts and has received extensive coverage in print and on television and radio, in religious and dietary-conscious media sources, and also in the general interest media.

9. The OU mark has achieved a high degree of consumer recognition and has become famous as the most widely recognized indicator of kosher foods throughout the world.

10. The OU mark is federally registered, Registration Nos. 636,593 and 1,087,891, and has become incontestable. True and correct copies of the Certificates of Registration for the OU mark are attached hereto as Exhibit A.

11. For many consumers, the OU mark is synonymous with the Orthodox Union and its certification activities. Accordingly, the Orthodox Union vigilantly monitors the authorized and unauthorized use of the OU mark in commerce, in connection with food products and other products and services.

LUKE OIL'S USE OF THE OU MARK

12. Upon information and belief, Luke Oil currently operates at least 23 convenience stores and gasoline service stations in northwest Indiana and the Chicago area. Luke Oil markets and sells food and drink products at its convenience store chain which is affiliated with its gasoline service activities.

13. Luke Oil is also a petroleum wholesaler, selling fuel to 100 gas stations throughout northwest Indiana and Chicago and is a fuel distributor for Shell, Mobil, Citgo, Marathon, and Phillips. Luke Oil is also a petroleum hauler, delivering fuel to approximately 100 gas stations throughout Northwest Indiana and Chicago.

14. On or about August 16, 2009, the Orthodox Union learned that Luke Oil was using the OU mark without the Orthodox Union's knowledge or authorization as part of the Luke Oil corporate branding for at least 10 of its convenience store and gas station locations, and in connection with the marketing and sale of food and drink products. *See* Exhibits B through G attached hereto.

15. On September 10, 2009 the Orthodox Union informed Luke Oil by letter (sent by e-mail and US mail) that its use of the OU mark was unauthorized and constituted trademark infringement. *See* Exhibit H attached hereto. Orthodox Union informed Luke Oil that it was "willing to work with Luke Oil on the development of a prompt timetable for necessary corrective action and cessation by Luke Oil of any further unauthorized uses of the OU mark." Exhibit H.

16. On September 10, 2009, Tom Collins, Vice President of Luke Oil, responded by e-mail to the Orthodox Union's letter and informed counsel that the letter "was fair" and that either he or his counsel would contact Orthodox Union's counsel by

the September 15 deadline set in Orthodox Union's notification letter. *See* Exhibit I attached hereto.

17. On September 15, 2009, counsel for Orthodox Union contacted Mr. Collins by e-mail and informed him that he had not heard from either Luke Oil or Luke Oil's counsel.

18. On September 16, 2009, Mr. Collins contacted counsel for Orthodox Union by e-mail and informed him that Luke Oil had retained the services of a trademark attorney. Mr. Collins promised that either his counsel or he would "personally respond to [Orthodox Union's] letter and outline Luke's plan moving forward." Exhibit J attached hereto.

19. On September 21, 2009, counsel for Orthodox Union again contacted Mr. Collins by e-mail and informed him that he still had not heard from Luke Oil or Luke Oil's counsel. *See* Exhibit K attached hereto. Counsel for Orthodox Union informed Mr. Collins that if Luke Oil did not provide a substantive response by close of business on September 22, 2009, that Orthodox Union would begin to prepare a lawsuit and motion for injunctive relief. Exhibit K.

20. On September 22, 2009, counsel for Luke Oil notified counsel for Orthodox Union by e-mail that "Luke Oil was totally unaware of the Orthodox Union's trademark rights, and will be respectful of those rights as they are understood." Counsel for Luke Oil further promised to provide to Orthodox Union a "definitive response within a week." *See* Exhibit L attached hereto.

21. Counsel for Luke Oil has failed to contact counsel for Orthodox Union or to respond to Orthodox Union's demands. As of the date of this Complaint, Luke Oil has

not responded substantively to Orthodox Union's September 10 correspondence, and has continued its unauthorized use of the OU mark in the same manner as before Orthodox Union's notice of infringement and demand for cessation of the infringement.

22. Since Orthodox Union notified Luke Oil on September 10, 2009 of the existence of the OU mark's federal registrations; that the OU mark is incontestable; that the OU mark is a famous mark; that Luke Oil's unauthorized use of the OU mark constituted trademark infringement, dilution of a famous mark, unfair competition and a deceptive sales practice, Luke Oil's continued unauthorized use of the OU mark became knowing and willful. As such, since at least September 11, 2009, Luke Oil has willfully and intentionally infringed the OU mark.

COUNT I

Federal Trademark Infringement

23. The Orthodox Union incorporates and realleges the allegations in paragraphs 1-22 of this Complaint.

24. Luke Oil's unauthorized use in commerce of the OU mark in connection with the marketing and sale of Luke Oil's products, and particularly the food and beverage products sold in Luke Oil's convenience stores, has caused and is likely to cause confusion, or to cause mistake, or to cause deception as to the origin, sponsorship or approval of such goods by the Orthodox Union, in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

25. Since at least September 11, 2009, Luke Oil's unauthorized use in commerce of the OU mark in connection with the marketing and sale of Luke Oil's products was made with knowledge that Luke Oil lacked authority to use the OU mark.

Luke Oil's unauthorized use of the OU mark prior to September 11, 2009 was, at the least, a negligent infringement of the OU mark, but an infringement nonetheless.

26. Luke Oil began its offending use of the OU mark without consultation with or notice to the Orthodox Union, and in complete disregard of the Orthodox Union's rights. Moreover, since being notified of its infringing activity, and despite demand for cessation of its infringing conduct and offers to work through a reasonable plan for corrective action, Luke Oil has completely ignored Orthodox Union's demands and has continued to use the OU mark in commerce. As such, Luke Oil's conduct constitutes intentional and willful use of a counterfeit mark within the meaning of 15 U.S.C. §§ 1114, 1116, and 1117.

27. Luke Oil's conduct has injured the Orthodox Union and kosher and other consumers who rely on the Orthodox Union and the OU mark as an indicator that a merchant or a product has been supervised, endorsed, or approved by the Orthodox Union.

COUNT II

False Designation of Origin, 15 U.S.C. § 1125(a)

28. The Orthodox Union incorporates and realleges the allegations of Paragraphs 1 through 27 of this Complaint.

29. Luke Oil's unauthorized use in commerce of the OU mark in connection with the marketing and sale of food and beverage products constitutes a false designation of origin, a false or misleading description of fact, and a false or misleading representation of fact which has caused and is likely to cause confusion, or to cause mistake, or to cause deception as to the affiliation, connection or association of Luke Oil

with the Orthodox Union, or as to the origin, sponsorship or approval by the Orthodox Union of Luke Oil's products, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

30. Luke Oil's conduct has injured the Orthodox Union and kosher and other consumers who rely on the Orthodox Union and the OU mark as an indicator that a merchant or a product has been supervised, endorsed, or approved by the Orthodox Union.

COUNT III

Dilution of Famous Mark Under § 43(c) of Lanham Act, 15 U.S.C. § 1125(c)

31. The Orthodox Union repeats and incorporates the allegations of Paragraphs 1 through 30 of this Complaint.

32. The Orthodox Union's OU mark is a famous mark under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), in that the mark is distinctive, has been used for many years in many locations throughout the world and is widely recognized therein, has been widely advertised and publicized, and has not been used by any person or entity other than the Orthodox Union.

33. After the OU mark became famous, Luke Oil began using the mark in a manner that causes dilution of the distinctive quality of the mark.

34. Consumers familiar with the OU mark have recognized the OU mark in the marketing of Luke Oil's services and products, and have been led to conclude that Luke Oil or its services and products are affiliated with or endorsed by the Orthodox Union.

35. Luke Oil's conduct has caused injury to the Orthodox Union and to kosher and other consumers who associated the OU mark with Luke Oil's services and products under the mistaken belief that those services and products are affiliated with, endorsed by, or manufactured under the supervision of the Orthodox Union.

COUNT IV

Common Law Unfair Competition and Trademark Infringement

36. The Orthodox Union incorporates and realleges the allegations of Paragraphs 1 through 35 of this Complaint.

37. By its wrongful actions as described above, Luke Oil has violated and infringed the Orthodox Union's common law rights in its certification mark and has competed unfairly with the Orthodox Union under the common law.

38. Luke Oil's conduct amounts to deceit. By passing off its goods as being affiliated with or endorsed by the Orthodox Union, Luke Oil's conduct is likely to deceive or confuse the kosher consuming public, and thereby generate profits that, but for said deception, Luke Oil would not have received.

39. Luke Oil's continuing distribution and sale of such products after repeated demand by Orthodox Union, and Luke Oil's refusal to take corrective action with respect to its ongoing infringing activity are willful, and have caused and will continue to cause immediate, substantial and irreparable injury to the Orthodox Union, including irreparable injury to the Orthodox Union's OU mark, its reputation and its goodwill. In addition, Luke Oil's infringing acts have caused the Orthodox Union to suffer damages.

COUNT V

Deceptive Consumer Sale in Violation of Indiana Code § 24-5-.05-1 et. seq.

40. The Orthodox Union incorporates and realleges the allegations of Paragraphs 1 through 39 of this Complaint.

41. By its wrongful actions as described above, Luke Oil has willfully violated Indiana Code § 24-5-.05-1 *et. seq.*

42. Luke Oil's unauthorized use of the OU mark unlawfully represents that the subject of a consumer transaction "has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have" in violation of Indiana Code § 24-5-.05-3(a)(1).

43. Luke Oil's unauthorized use of the OU mark unlawfully represents that the subject of a consumer transaction "is of a particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not" in violation of Indiana Code § 24-5-.05-3(a)(2).

44. Luke Oil's unauthorized use of the OU mark unlawfully represents that the subject of a consumer transaction "has a sponsorship, approval, or affiliation in such consumer transaction the supplier does not have, and which the supplier knows or should reasonably know that the supplier does not have" in violation of Indiana Code § 24-5-.05-3(a)(7).

45. Orthodox Union formally notified Luke Oil of its unauthorized use of the OU mark, and of the likelihood that such unauthorized use of the OU mark will result in confusion.

46. Luke Oil's violations of Indiana Code § 24-5-.05-1 *et. seq.* are uncured.

47. Luke Oil's continuing distribution and sale of such products after repeated demand by Orthodox Union, and Luke Oil's refusal to take corrective action with respect to its ongoing infringing activity are willful, and have caused and will continue to cause immediate, substantial and irreparable injury to the Orthodox Union, including irreparable injury to the Orthodox Union's OU mark, its reputation and its goodwill. In addition, Luke Oil's infringing acts have caused the Orthodox Union to suffer damages.

WHEREFORE, the Orthodox Union respectfully requests that this Court:

- (1) Issue a preliminary and permanent injunction enjoining Luke Oil from continued infringement of the OU mark and any and all unauthorized use of the OU mark, and directing Luke Oil to take immediate corrective action to remove from the marketplace all unauthorized uses by Luke Oil of the OU mark, including any marketing, advertising, or other indications or uses of any affiliation between Luke Oil, its services or products and the OU mark;
- (2) Order Luke Oil to render an accounting to the Orthodox Union of all of Luke Oil's unauthorized uses of the OU mark;
- (3) Order Luke Oil to render an accounting to the Orthodox Union of all sales and profits gained from the sale of food, beverage and other products, bearing or sold in connection with use by Luke Oil of an unauthorized OU mark;
- (4) Award damages to the Orthodox Union in an amount to be determined at trial;
- (5) Award damages to the Orthodox Union in an amount of three times the amount of the Orthodox Union's damages or Luke Oil's profits, whichever is greater, pursuant to

15 U.S.C. § 1117 and/or award statutory damages to the Orthodox Union pursuant to 15 U.S.C. § 1117(c) for Luke Oil's intentional and willful use of a counterfeit of the OU mark;

(6) Award reasonable attorney's fees, treble and/or statutory damages in an amount to be proven at trial pursuant to Indiana Code § 24-5-0.5-1 *et. seq.*

(7) Award exemplary and punitive damages to the Orthodox Union in an amount to be determined at trial;

(8) Declare this to be an "exceptional" case within the meaning of 15 U.S.C. § 1117(a), and award the Orthodox Union its costs and attorneys' fees incurred in connection with this action under 15 U.S.C. § 1117(a), and as otherwise permitted by law;

(9) Award pre- and post-judgment interest to the Orthodox Union on all sums due from Luke Oil; and

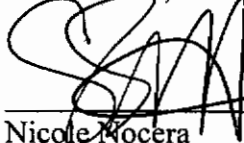
(10) Award such other and further relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

The Orthodox Union respectfully requests trial by jury on all claims so triable.

Dated: October 7, 2009.

WILDMAN, HARROLD, ALLEN & DIXON LLP



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BINGHAM McCUTCHEN LLP

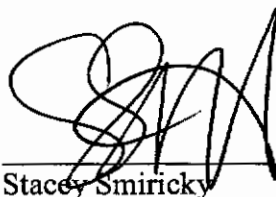
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Telephone: 202.373.6000
Facsimile: 202.373.6001

*Attorneys for Plaintiff Union of Orthodox Jewish
Congregations of America*

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and correct copy of the foregoing **Complaint for Damages and Injunctive Relief** will be served this 7th day of October, 2009, via messenger delivery by It's Your Serve, to:

Luke Oil Co., Inc.
3592 North Hobart Road
Hobart, Indiana 46342

A handwritten signature in black ink, appearing to be 'Stacey Smiricky', written over a horizontal line. The signature is stylized and somewhat cursive.

Stacey Smiricky

Ex. A.

The United States of America



CERTIFICATE OF RENEWAL

This is to certify that the records of the Patent and Trademark Office show that an application was filed in said Office for renewal of registration of the Mark shown herein, a copy of said Mark and pertinent data from the Registration being annexed hereto and made a part hereof,

And there having been due compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

Upon examination, it appeared that the applicant was entitled to have said Registration renewed under the Trademark Act of 1946, as amended, and said Registration has been duly renewed in the Patent and Trademark Office to the registrant named herein.

This Registration shall remain in force for TEN years from the date that said Registration was due to expire unless sooner terminated as provided by law.



In Testimony whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this twenty-second day of October 1996.

Bence Lehman

Commissioner of Patents and Trademarks

Prior U.S. Cls. A and A

United States Patent and Trademark Office
10 Year Renewal

Reg. No. 636,573
Registered Oct. 30, 1956
Renewal Term Begins Oct. 30, 1996

CERTIFICATION MARK
GOODS
PRINCIPAL REGISTER



UNION OF ORTHODOX JEWISH CON-
GREGATIONS OF AMERICA (NEW
YORK CORPORATION)
333 SEVENTH AVENUE
NEW YORK, NY 10001

THE MARK CERTIFIES THAT THE
PRODUCTION OF THE SAID GOODS
HAS BEEN SUPERVISED BY THE RAB-
BINICAL SUPERVISORS OF THE AP-

PLICANT, UNDER THE DIRECTION OF
HISTADRUTH MORABONIM DE AMER-
ICA-RABBINICAL COUNCIL OF AMER-
ICA, INC.

FOR: FOODS, DETERGENTS AND
HOUSEHOLD CLEANERS, IN CLASS A
FIRST USE 6-6-1925; IN COMMERCE
6-6-1925.

SER. NO. 77-001,026, FILED 1-18-1956.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Oct. 22, 1996.*

COMMISSIONER OF PATENTS AND TRADEMARKS

The United States of America



CERTIFICATE OF RENEWAL

The registration shown in this certificate has been renewed 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 renewal of the registration for 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 Commissioner of Patents and Trademarks, and that the registrant is entitled to renewal of the registration for the mark under the Trademark Act of 1946, as Amended.

A copy of the mark and pertinent data from the registration are a part of this certificate.

This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law.

Bruce Lehman

Commissioner of Patents and Trademarks

Prior U.S. Cls: A, 200, A and B

Reg. No. 1,087,891

United States Patent and Trademark Office

Registered Mar. 21, 1978

10 Year Renewal

Renewal Term Begins Mar. 21, 1998

**CERTIFICATION MARK
GOODS
PRINCIPAL REGISTER**



UNION OF ORTHODOX JEWISH CON-
GREGATIONS (NEW YORK CORPO-
RATION)
333 SEVENTH AVENUE
NEW YORK, NY 10001

OWNER OF U.S. REG. NO. 134,993.
THE CERTIFICATION MARK AS
USED BY PERSONS AUTHORIZED BY
APPLICANT CERTIFIES THAT THE
PRODUCTION OF SAID GOODS AND
THAT THE RENDERING OF SAID
SERVICES HAS BEEN SUPERVISED BY
THE RABBINICAL SUPERVISORS OF
THE APPLICANT, UNDER THE DIREC-
TION OF HISTADRUTH HORABONIM
DE AMERICA-RABBINICA COUNCIL
OF AMERICA, INC.

FOR: PACKAGING MATERIALS AND
WRAPS; BROILING AND BAKING
PANS; FLAVORS, EXTRACTS AND
FOOD COLORINGS; WINE, LIQUEURS,
AND CORDIALS; NON-ALCOHOLIC
BEVERAGES; SPICES AND SEASON-
INGS; AND SOAPS, IN CLASS A
FIRST USE 0-0-1925; IN COMMERCE
0-0-1925.

FOR: HOTEL CAMP RESTAURANT
AND CATERING SERVICES, FOOD
SERVICES IN HOSPITALS AND OTHER
INSTITUTIONS AND FOR TRAVEL-
LERS ON AIRLINES, IN CLASS B
FIRST USE 0-0-1961; IN COMMERCE
0-0-1961.

SER. NO. 73-130,761, FILED 6-17-1977.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Dec. 9, 1997.*



United States Patent and Trademark Office

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Word Mark OU

Goods and Services IC A . US A . G & S: PACKAGING MATERIALS AND WRAPS; BROILING AND BAKING PANS; FLAVORS, EXTRACTS AND FOOD COLORINGS; WINE, LIQUEURS, AND CORDIALS; NON-ALCOHOLIC BEVERAGES; SPICES AND SEASONINGS; AND SOAPS. FIRST USE: 19250000. FIRST USE IN COMMERCE: 19250000

IC B . US B . G & S: HOTEL CAMP RESTAURANT AND CATERING SERVICES, FOOD SERVICES IN HOSPITALS AND OTHER INSTITUTIONS AND FOR TRAVELLERS ON AIRLINES. FIRST USE: 19610000. FIRST USE IN COMMERCE: 19610000

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Design Search Code

Serial Number 73130761

Filing Date June 17, 1977

Current Filing Basis 1A

Original Filing Basis 1A

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 1087891

Registration Date March 21, 1978

Owner (REGISTRANT) UNION OF ORTHODOX JEWISH CONGREGATIONS OF AMERICA

CORPORATION NEW YORK 333 SEVENTH AVENUE NEW YORK NEW YORK 10001

Attorney of Record Edward A. Pennington, Esq.

Prior Registrations 0636593

Type of Mark CERTIFICATION MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Renewal 1ST RENEWAL 19971030

Other Data THE CERTIFICATION MARK AS USED BY PERSONS AUTHORIZED BY APPLICANT CERTIFIES THAT THE PRODUCTION OF SAID GOODS AND THAT THE RENDERING OF SAID SERVICES HAS BEEN SUPERVISED BY THE RABBINICAL SUPERVISORS OF THE APPLICANT, UNDER THE DIRECTION OF HISTADRUTH HORABONIM DE AMERICA-RABBINICA COUNCIL OF AMERICA, INC.

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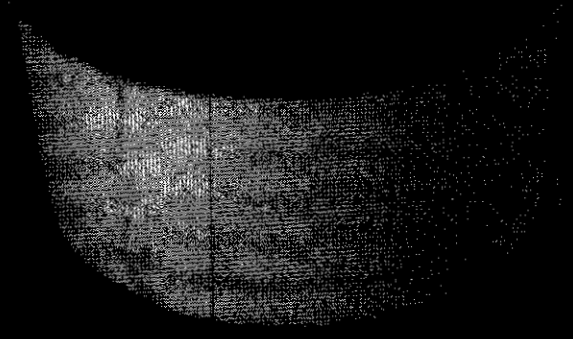
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EX

B

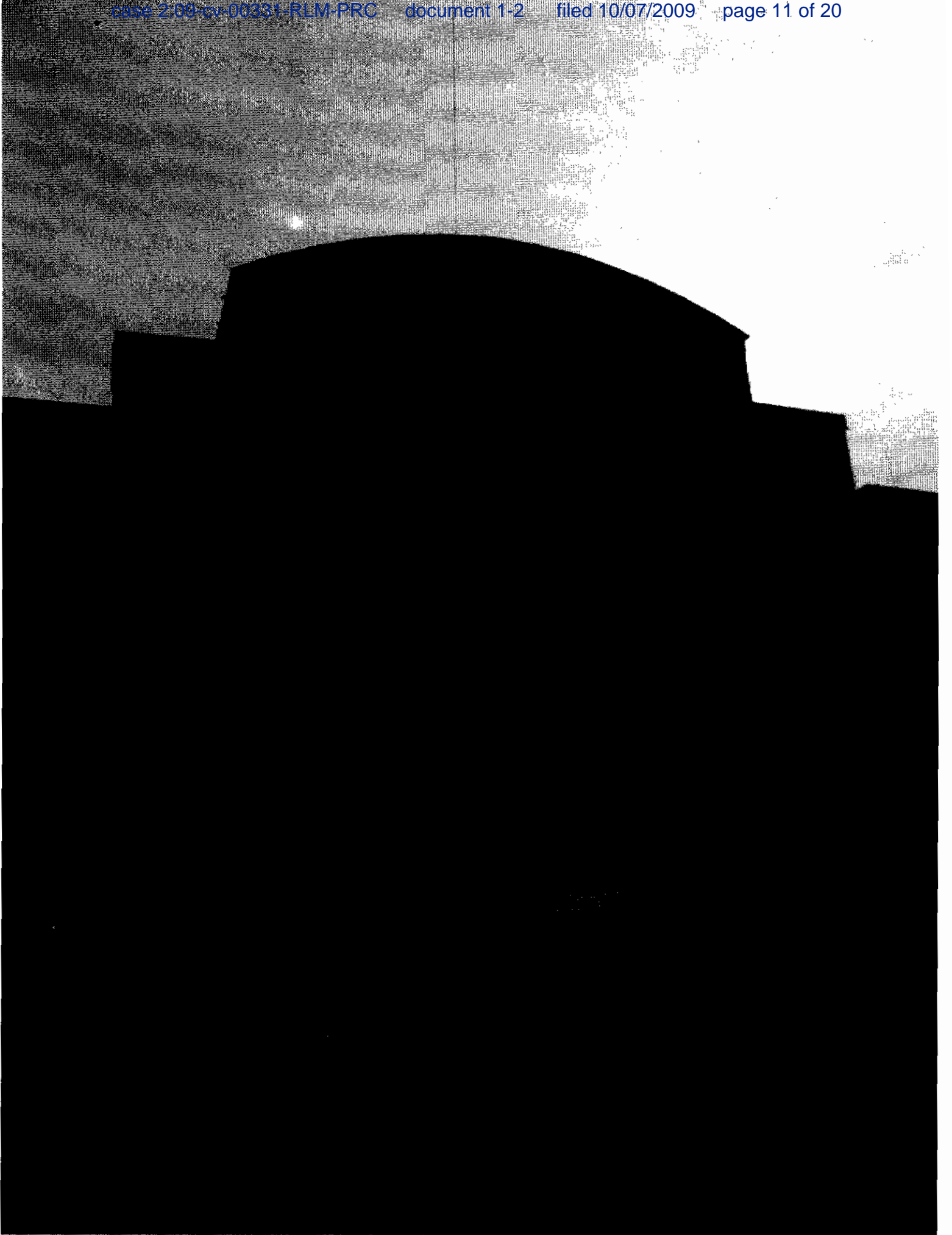


Luke



Ex.

C.



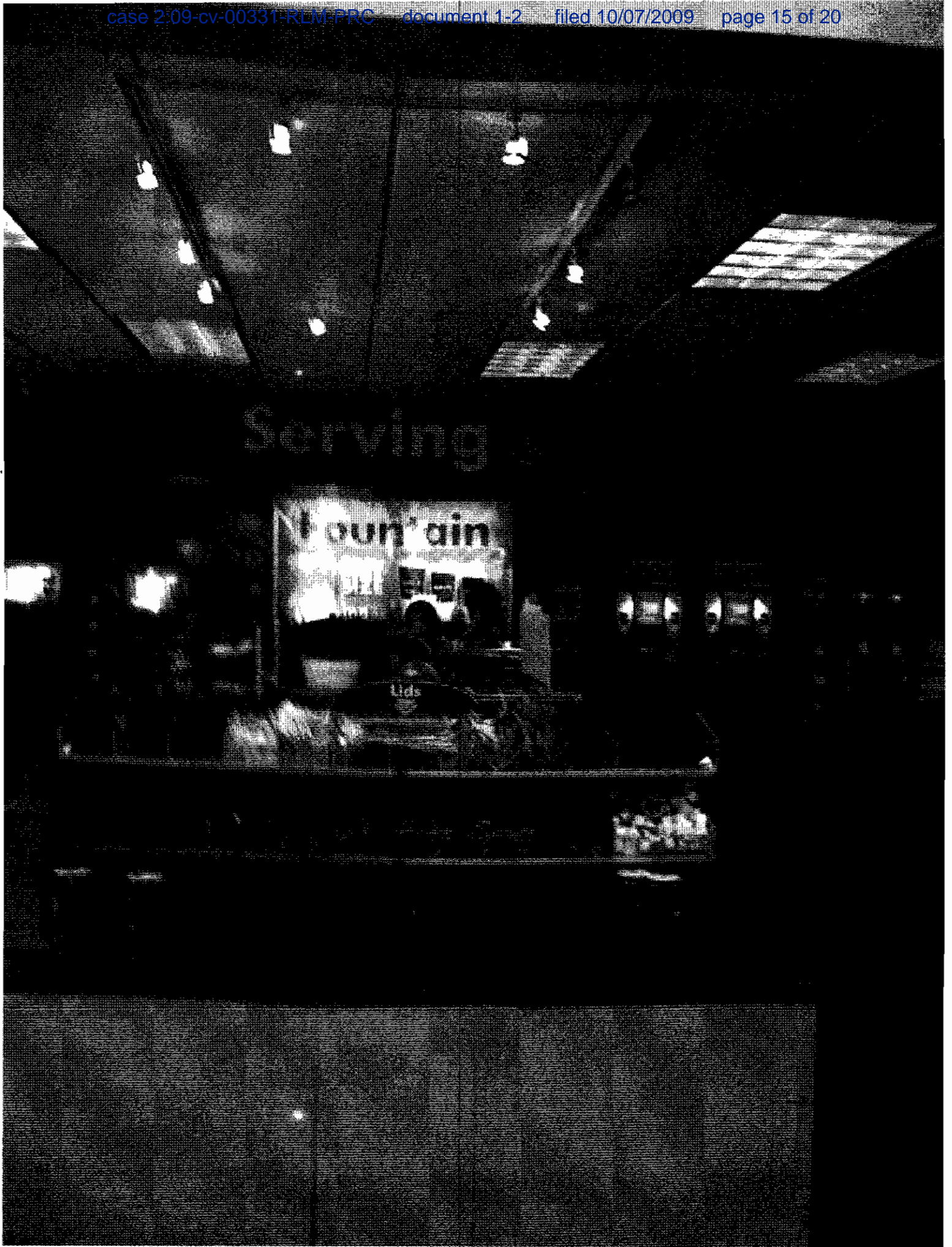
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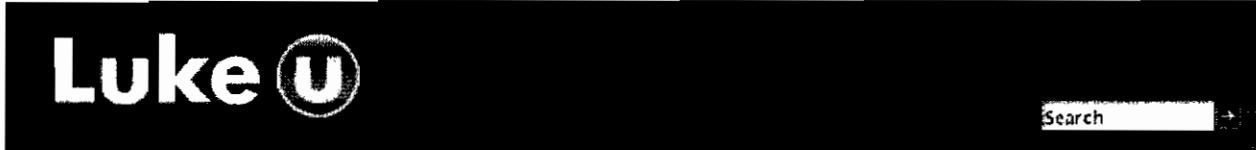


Ex.

E.



EX . F .



Corporate

Feed Back

Guarantee to 

Fleet

\$5 Car Wash

About Luke

Community



This site is currently under construction.

If you are interested in a position with Luke Please contact:

Nicole Stevens
HR Director
 p. 219-962-7676 ext.1108
 t. 219-963-9529
jobs@lukeoil.com
 3592 N Hobart Rd Hobart, IN 46342

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Ex. G.

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nwi.com



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A Family-Owned Business Since 1967

Dedicated to the many needs of northwest Indiana

Luke Oil Company was founded in 1967 by Ralph Luke as a home heating fuel supplier in Hobart, Ind. Today, Luke Oil is a third-generation, family owned company that has diversified into various commercial divisions.

What is Luke Oil

Luke Oil is a petroleum wholesaler, selling fuel to 100 gas stations throughout northwest Indiana and Chicago and is a fuel distributor for Shell, Mobil, Citgo, Marathon, and Phillips. Luke Oil is a petroleum hauler, delivering fuel to 100 gas stations throughout Northwest Indiana and Chicago, maintaining a fleet of eight trucks and 10 drivers; Luke Oil is a convenience store operator and currently operates 23 convenience stores in northwest Indiana. Luke Oil is a car wash operator with seven \$5 car washes in northwest Indiana. Luke Oil is a Subway franchisee, operating one Subway franchise in Valparaiso; Luke Oil is a liquor store operator with seven liquor stores in northwest Indiana; Luke Oil is a major distributor of wholesale fireworks in northwest Indiana. Luke Oil is owner and operator of County Line Orchard, the largest U-pick apple orchard destination in Chicagoland, specializing in school tours, corporate events, and one-tank weekend trips; Luke Oil is a full service general contractor; Luke Oil is a real estate developer, owning and developing various commercial properties including convenience stores, retail centers, big box developments, restaurants, and office buildings; Luke Oil is an investor, facilitating investment opportunities and partnerships for a group of local investors.

Luke Oil is a landscaping and maintenance company, operating a small landscaping, lawn care, and general maintenance company.

Most people in the region recognize the name Luke Oil from the gas stations they patronize for their quality fuel at a good price. Luke Oil currently owns 30 stations, operates 23 stations, and has two new stations under construction which are scheduled to open April 2009. There are four new stations and five new car washes being planned for development in 2009, says Tom Collins, Jr., vice president of retail operations for Luke Oil. In addition to the traditional offerings of gas, cigarettes, and grocery, all stores are being retrofitted to include our proprietary \$1 beverage program, Noble Roman's Pizza, Broaster Chicken, and a Luke \$5 Car Wash, he says.

Who are Luke Oil's Staff and Officers

Luke Oil is a family business, founded by Ralph Luke (1931-2007). Ralph Luke was born and raised in Hobart, Ind. along with his four brothers and one sister. After graduating from Hobart High School, Ralph spent time overseas in the Air Force. Upon his return, he went to work for Van Senus Oil. With the help of Bill Van Senus, Ralph would go on to purchase Van Senus and start Luke Oil Company. After 40-years in business Ralph had created a small local empire that employed more than 500 people. In addition to Luke Oil, Ralph was also a major shareholder in Duke of Oil and Zele's Roast Beef. His greatest asset was his personality and his ability to inspire others. Humbled by his success and fortune, Ralph never relocated, staying loyal to northwest Indiana and its institutions.

Thomas M. Collins, Sr., CEO and president of Luke Oil, began working for his father-in-law, Ralph Luke, in 1980. Tom worked side by side with Ralph to grow Luke Oil into the business that it is today. Tom was personally responsible for Luke Oil's north Lake County growth strategy in the late CE90s. Today, Tom spends most of his time managing and growing the wholesale fuel and transportation businesses. Tom is also active in the company's future growth plans, real estate development, and investment opportunities.

Tom has two children and seven grandchildren.

Thomas M. Collins, Jr., vice president of retail operations, started with Luke Oil in 1999 after graduating from Indiana University. Collins Jr.

is responsible for retail operations, commercial construction, acquisitions, and investor relationships. Tom has four children.

Ryan Richardson, vice president of Luke Oil, started with Luke Oil in 2001 after graduating from Purdue University. Ryan is responsible for orchard operations, real estate development, and commercial construction.

Ryan has three children and is married to Kristin (Collins) Richardson.

The family has always been, and continues to be, very close and supportive of each other, working in a trusting relationship, both personally and in business.

What does Luke Oil represent

It is Luke Oil's mission to consistently provide solid growth opportunities for all partners and associates who qualify. It is the vision of the company to set the standard for quality, convenience, and service in every market they serve. Their core values are loyalty, duty, respect, service, honor, integrity, and courage.

Serving U

"Our most important program for 2009 is the roll out of our new Luke U - Serving U image to all of our retail sites by the end of the year. This program is not only designed to establish a consistent company image, but more importantly to help facilitate a company culture focused on three levels of service: serving one's development as a professional and as a person; serving the company's mission, fellow co-workers, and the team; serving the customer and the community," says Collins, Jr.

Serving U helps its staff realize their own potential and happiness, function together as a team, and give the best service possible to customers. The term "Serving U" symbolizes the employee as a person, their level of self-respect, and their determination to grow within the company and their profession. This includes excellence in the areas of appearance and attitude, honor, integrity, courage, and respect. With regard to the company, the term Serving U symbolizes their commitment to serve other team members in an effort to help them succeed and grow within the company. This includes excellence in team work and communication, loyalty, duty, and respect. For customers, the term Serving U symbolizes Luke Oil's commitment to serve their customers. This includes excellence in personality, cleanliness, consistency, availability and service.

Luke Oil in the Community

Luke Oil is dedicated to giving back to the community it serves. Tom Collins, Jr. says, "We sponsor and donate to 20 different charities throughout the year. We have been averaging more than \$100,000 in charitable contributions over the past three years." Tom Collins, Jr. has been active with Opportunity Enterprises through the OE Marathon Team. "Also, we are a major supporter of the Reilly Rush Foundation out of Valparaiso including our annual Reilly's Wash and the Reilly's Run at County Line Orchard," he says.

What does the future hold for Luke Oil

Luke Oil is committed to the development of people, serving to recruit and retain high quality individuals by promoting its mission and vision statements. It will continue to provide quality growth opportunities for partners and associates who qualify by adopting its core values. Luke Oil will continue to be the preferred place of employment in the industries they serve and they strive to be one of the top ten places to work in northwest Indiana.

Luke Oil also plans to further develop County Line Orchard by adding a food commissary, farm market co-op community garden program, art and music classes and programs, becoming a small business incubator for farm market products and services, improving the educational component of current school programs, completing the development of a 25,000 square-foot barn to host weddings, events, and conventions, and creating a setting to host philanthropic and community events.

3592 N Hobart Rd
Hobart, IN
219-982-7676
www.uluke.com

Warning: include(/httpd/www/nw/nwitimes.com/html/inc/footer.php) [function.include]: failed to open stream: No such file or directory in advertorial.php on line 46

Warning: include() [function.include]: Failed opening '/httpd/www/nw/nwitimes.com/html/inc/footer.php' for inclusion (include_path='.:usr/local/lib/php') in advertorial.php on line 46

Ex. H.

BINGHAM

David J. Butler
Direct Phone: 202.373.6723
Direct Fax: 202.373.6418
david.butler@bingham.com

September 10, 2009

Via E-Mail & Overnight Delivery

Tom Collins, II
Vice President
Luke Oil
3592 North Hobart Road
Hobart, IN 46342

Re: Unauthorized Use of (U) Certification Mark

Dear Mr. Collins:

This firm represents the Union of Orthodox Jewish Congregations of America ("Orthodox Union"). The Orthodox Union is the owner of the famous (U) certification mark (the "(U) mark") which is registered under U.S. Federal Trademark Nos. 636,593 and 1,0087,891, and has become incontestable. The famous (U) certification mark has been used continuously by the Orthodox Union since at least 1925 for kosher certification of food products and other items, and has become recognized all over the world as the preeminent kosher product certification mark.

The Orthodox Union has learned that Luke Oil is using a copy of the (U) mark in several aspects of its operations, including several uses associated with the food and beverage offerings at Luke Oil locations, as well as identification of Luke Oil locations. These uses by Luke Oil of the (U) mark are likely to cause confusion or mistake among consumers as to the sponsorship or approval of Luke Oil's operations and offerings, in violation of Sections 32 and 43 of the Lanham Act, 15 U.S.C. §§ 1114(1) and 1125(a). Luke Oil's unauthorized uses of the (U) mark also dilutes the value of the (U) mark, and constitutes trademark infringement and unfair competition.


While Orthodox Union considers this to be a serious matter, and is prepared to take all necessary steps to protect its rights in the (U) mark, Orthodox Union recognizes that Luke Oil's uses of the (U) mark are likely the result of an innocent mistake, and are probably not intended to interfere with any of Orthodox Union's rights in the mark or to mislead the public regarding the sponsorship or approval of Luke Oil's products or services. Accordingly, Orthodox Union is willing to work with Luke Oil on the development of a prompt timetable for necessary corrective action, and cessation by Luke Oil of any further unauthorized uses of the (U) mark.


Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Walnut Creek

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

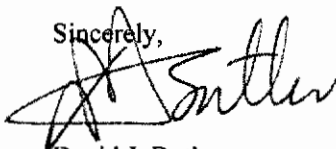
202.373.6000
202.373.6001
bingham.com

Tom Collins, II
September 10, 2009
Page 2

If Luke Oil is willing to enter into such discussions, and is willing to terminate all unauthorized use of the  mark promptly, either you or your counsel can contact me or David Irons, Director of Trademark Compliance at Orthodox Union, by no later than close of business on Wednesday, September 16, 2009, to discuss the schedule for such use termination. Mr. Irons' direct dial number is (212) 613-8298, or he can be reached by email at ironsd@ou.org. If Mr. Irons does not hear from you by close of business on September 15, or if I don't hear from you or your counsel by that date, we will conclude the Luke Oil has no interest in reaching an amicable resolution concerning this matter, and will pursue an appropriate legal remedy against Luke Oil for damages and injunctive relief.

We are hopeful that we can avoid the need for legal action to enforce Orthodox Union's rights in the  mark, and look forward to hearing from you or your counsel in a timely manner. Thank you in advance for your anticipated cooperation.

Sincerely,



David J. Butler

cc: David Irons (by email)

EX. I.

Levine, Randall M.

From: TMCollins [TMCollins@lukeoil.com]
Sent: Thursday, September 10, 2009 10:28 PM
To: Butler, David J.
Subject: RE: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

David-

Thanks for the attachment. I find your letter to be fair. You will be contact my myself or our legal counsel in a timely fashion.

Have a good night.

Tom Collins

From: Butler, David J. [mailto:David.Butler@bingham.com]
Sent: Thu 9/10/2009 9:22 PM
To: TMCollins
Subject: FW: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

From: Butler, David J.
Sent: Thursday, September 10, 2009 12:38 PM
To: 'tmcollins@lukeoil.com'
Cc: 'Irons, Dovid'
Subject: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

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10/1/2009

EX. J.



From: TMCollins [mailto:TMCollins@lukeoil.com]
Sent: Wednesday, September 16, 2009 4:15 PM
To: Butler, David J.
Subject: RE: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

Mr. Butler-

I wanted to get back with you by the end of business today in regards to your letter. I contacted attorney Thomas Henry from Indianapolis who specializes in trademark and patent law to review your letter and our concept. My hope was that he would provide a response and some guidance on this matter by the deadline in your letter. Unfortunately, I have not heard back from him as of yet.

I will give him until the end of business today to respond and if I do not hear back from him, I will personally respond to your letter and outline Luke's plan moving forward.

Thank you,

Tom Collins

From: Butler, David J. [mailto:David.Butler@bingham.com]
Sent: Tuesday, September 15, 2009 11:49 AM
To: TMCollins
Subject: RE: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

Mr. Collins:

I have not yet heard from you or your counsel. Please note that the deadline for such communication, as set out in my letter, is close of business tomorrow.

David J. Butler

From: TMCollins [mailto:TMCollins@lukeoil.com]
Sent: Thursday, September 10, 2009 10:28 PM
To: Butler, David J.
Subject: RE: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

David-

Thanks for the attachment. I find your letter to be fair. You will be contact my myself or our legal counsel in a

10/6/2009

timely fashion.

Have a good night.

Tom Collins

From: Butler, David J. [mailto:David.Butler@bingham.com]
Sent: Thu 9/10/2009 9:22 PM
To: TMCollins
Subject: FW: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

From: Butler, David J.
Sent: Thursday, September 10, 2009 12:38 PM
To: 'tmcollins@lukeoil.com'
Cc: 'Irons, Dovid'
Subject: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

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10/6/2009

EX.

K.

Levine, Randall M.

From: Butler, David J.
Sent: Monday, September 21, 2009 1:10 PM
To: 'TMCollins'
Subject: RE: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

Mr. Collins:

I have not heard further from you or from Mr. Henry.

If I do not receive a substantive response from you or from someone on your behalf by close of business tomorrow, we will begin preparing a lawsuit, and a motion for injunctive relief.

David J. Butler

From: Butler, David J.
Sent: Wednesday, September 16, 2009 4:17 PM
To: 'TMCollins'
Subject: RE: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

Mr. Collins: I look forward to hearing from you or Mr. Henry. DJB

From: TMCollins [mailto:TMCollins@lukeoil.com]
Sent: Wednesday, September 16, 2009 4:15 PM
To: Butler, David J.
Subject: RE: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

Mr. Butler-

I wanted to get back with you by the end of business today in regards to your letter. I contacted attorney Thomas Henry from Indianapolis who specializes in trademark and patent law to review your letter and our concept. My hope was that he would provide a response and some guidance on this matter by the deadline in your letter. Unfortunately, I have not heard back from him as of yet.

I will give him until the end of business today to respond and if I do not hear back from him, I will personally respond to your letter and outline Luke's plan moving forward.

Thank you,

Tom Collins

From: Butler, David J. [mailto:David.Butler@bingham.com]
Sent: Tuesday, September 15, 2009 11:49 AM
To: TMCollins
Subject: RE: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

Mr. Collins:

10/6/2009

I have not yet heard from you or your counsel. Please note that the deadline for such communication, as set out in my letter, is close of business tomorrow.

David J. Butler

From: TMCollins [mailto:TMCollins@lukeoil.com]
Sent: Thursday, September 10, 2009 10:28 PM
To: Butler, David J.
Subject: RE: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

David-

Thanks for the attachment. I find your letter to be fair. You will be contact my myself or our legal counsel in a timely fashion.

Have a good night.

Tom Collins

From: Butler, David J. [mailto:David.Butler@bingham.com]
Sent: Thu 9/10/2009 9:22 PM
To: TMCollins
Subject: FW: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

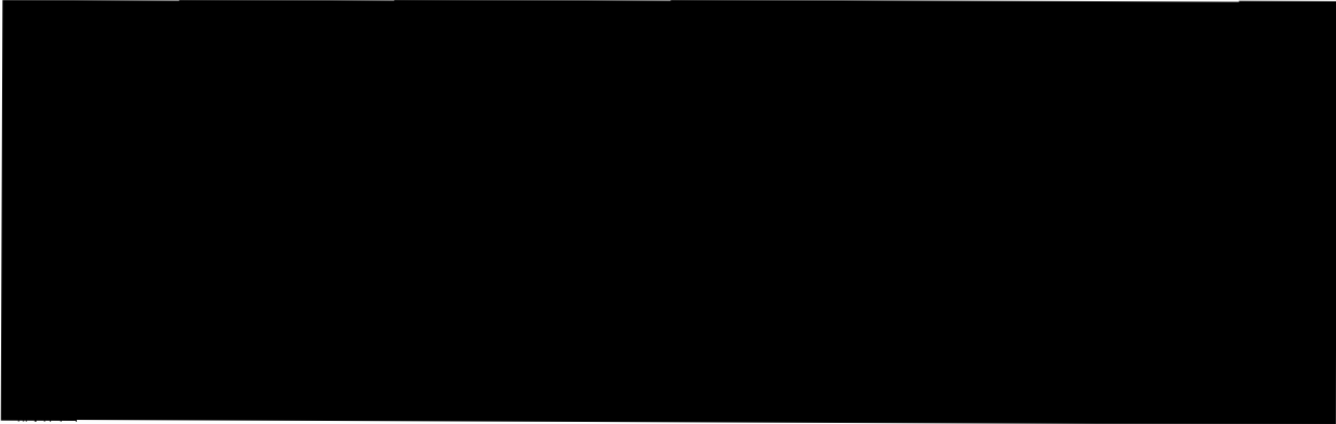
From: Butler, David J.
Sent: Thursday, September 10, 2009 12:38 PM
To: 'tmcollins@lukeoil.com'
Cc: 'Irons, David'
Subject: OU/Luke Oil - Letter to Tom Collins from David J. Butler - 9/10/09

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10/6/2009

EX. L.



From: Henry, Tom [mailto:thentry@uspatent.com]
Sent: Tuesday, September 22, 2009 4:22 PM
To: Butler, David J.
Subject: Circle U Certification Mark and Luke Oil (7583-2)

Mr. Butler:

I represent Luke Oil concerning the above matter. Tom Collins has asked that I contact you to let you know where things stand. I have talked with Mr. Collins and we have discussed at some length the issues regarding use of trademarks and the like. I have reviewed your letter of September 10, and I have asked Mr. Collins to send me pictures showing how Luke Oil is using the term which you have identified. I expect you will appreciate that these issues require consideration and can not be resolved in a matter of a week or two. On the other hand, I have been assured that Luke Oil was totally unaware of the Orthodox Union trademark rights, and will be respectful of those rights as they are understood. I expect we will be able to give you a definitive response within a week. In the meantime, please do not hesitate to contact me if you want to discuss this further.

Regards,
Tom

Thomas Q. Henry
thentry@uspatent.com
(317) 713-4907 (office)
(317) 289-3893 (cell)
Managing Partner
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204

10/6/2009

209CV331

JS 44 (Rev. 12/07)

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.)

<p>I. (a) PLAINTIFFS</p> <p style="text-align: center;">UNION OF ORTHODOX JEWISH CONGREGATIONS OF AMERICA</p> <p>(b) County of Residence of First Listed Plaintiff <u>New York County, NY</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) Nicole Nocera and Stacey Smiricky Wildman, Harrod, Allen & Dixon, LLP, 225 W. Wacker Dr., Chicago, IL 60606</p>	<p>DEFENDANTS</p> <p style="text-align: center;">LUKE OIL CO., INC.</p> <p>County of Residence of First Listed Defendant <u>Lake County, IN</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</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> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	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
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	FEDERAL 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 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"/> 196 Franchise	<p>PERSONAL INJURY</p> <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 <p>PERSONAL INJURY</p> <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 <p>PERSONAL PROPERTY</p> <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 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <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/Set 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 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
<p>REAL PROPERTY</p> <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	<p>CIVIL RIGHTS</p> <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 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<p>PRISONER PETITIONS</p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <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	<p>LABOR</p> <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	<p>SPENCER'S</p> <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))
		<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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, 15 USC 1125

Brief description of cause:
Trademark infringement

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 (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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.