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Attorneys for Plaintiff
THE FREECYCLE NETWORK, INC.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

THE FREECYCLE NETWORK, INC.,
an Arizona non-profit organization,

Plaintiff,

v.

TIM OEY and JANE DOE OEY,

Defendants.

CASE NO. CV 06-173 RCC

**DECLARATION OF DERON BEAL IN
SUPPORT OF THE FREECYCLE
NETWORK, INC.'S OPPOSITION TO
DEFENDANTS' MOTION TO STAY
OR TRANSFER**

I, Deron Beal, declare as follows:

1. I am the founder and Executive Director of The Freecycle Network, Inc. ("The Freecycle Network"). I make this declaration in support of The Freecycle Network's Opposition

to Defendants' Motion to Stay and Transfer. I have personal knowledge of the facts stated and if called to testify as a witness, would competently testify thereto.

2. The Freecycle Network, Inc. is a nonprofit corporation incorporated under the laws of the State of Arizona. The Freecycle Network was founded in Tucson. The Freecycle Network's only office and headquarters are located in Tucson. Further, all board members of The Freecycle Network are located in Tucson, Arizona.

3. The Freecycle Network maintains its own Web site to assist members in their efforts to recycle, reuse, and gift goods. The Web site is located at the URL www.freecycle.org. The site also maintains a directory of all member groups, which lists the individual group links and provides resources for volunteers to create new local recycling groups.

4. Defendant Tim Oey was a very active member of The Freecycle Network from early 2004 until late 2005, during which time he held various key positions within The Freecycle Network.

5. Mr. Oey was the head of the New Website Planning Team for The Freecycle Network. He was tasked with leading a group of the top moderators for The Freecycle Network worldwide in compiling a wish list / plan for an entirely new global website for The Freecycle Network. As the head of the New Website Planning Team, Mr. Oey was to provide his recommendations to The Freecycle Network's only office based in Tucson. This role was addition to his separate efforts related to his local group located in Sunnyvale.

6. Mr. Oey was also the head of FreecycleNext, which was a group formed by The Freecycle Network specifically for the moderators of all of The Freecycle Network's local member groups worldwide. The Freecycle Network formed FreecycleNext so that all moderators beyond the top 25 also had a forum to provide a wish list and input for our new global website design project. As the head of The Freecycle Network's Freecycle Next, Mr. Oey was tasked to collect comments, provide suggestions and make recommendations to The Freecycle Network's only office based in Tucson.

7. Mr. Oey was a member of The Freecycle Network's Penguin Patrol, a further international planning group consisting of some 4-6 worldwide moderators specifically tasked with developing guidelines and policies for the protection of The Freecycle Network's intellectual property, including copyright and trademark protection. Mr. Oey personally drafted and developed The Freecycle Network's Trademark and Copyright Policy and frequently commented on how to improve upon these guidelines and make these guidelines user friendly.

8. Mr. Oey also published these guidelines to the member groups. He provided advice and made numerous detailed recommendations to The Freecycle Network about multiple aspects of its intellectual property. For example, he provided detailed instructions on how to use, protect and identify The Freecycle Network's intellectual property in emails or to post trademark and copyright information on The Freecycle Network's website. In numerous emails, Mr. Oey provided The Freecycle Network with recommendations, suggestions and advice about protecting its intellectual property.

9. For example, Mr. Oey recommended to The Freecycle Network as a member of the Penguin Patrol that The Freecycle Network members should not use the "superscript TM symbol [in emails] . . . because most email programs will not display it right to the recipient." *See* Exhibit 1, attached hereto.

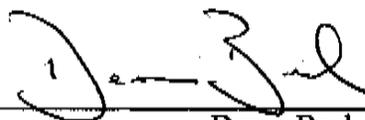
10. Another example includes one of many instances where Mr. Oey provided his "recommendation" on The Freecycle Network's Trademark and Copyright policy. Mr. Oey made on what the text version of The Freecycle Network's Trademark and Copyright policy should say so it could be sent cleanly via email. *See* Exhibit 2, attached hereto.

11. Mr. Oey was also one of 4-5 leaders of The Freecycle Network's main worldwide moderator group, the Freecycle Modsquad, which continues to be the main worldwide group where rules are discussed and voted on by moderators, binding polls of moderators are taken and official notices are made to moderators worldwide. He shared this worldwide leadership with me and 2-3 other moderators. As a leader of The Freecycle Network's "Modsquad," Mr. Oey was tasked with helping lead this main group consisting of well over a thousand moderators worldwide

at the time, informing worldwide moderators, collecting comments, providing suggestions and making recommendations to The Freecycle Network's only office based in Tucson in this regard. This leadership role was in addition to and separate from any Sunnyvale-specific or other locally-oriented volunteer moderating of any groups that Mr. Oey was involved in.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Tucson, Arizona on May 18, 2006.

By: _____



Deron Beal