

# EXHIBIT B

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15 Attorneys for Plaintiff  
16 THE FREecycle NETWORK, INC.

17 IN THE UNITED STATES DISTRICT COURT  
18 DISTRICT OF ARIZONA

19  
20 THE FREecycle NETWORK, INC.,  
an Arizona non-profit organization,

21 Plaintiff,

22 v.

23 TIM OEY,  
24 an individual

25 Defendant.

CASE NO. 06-CV-00173-RCC

DECLARATION OF DERON BEAL IN  
SUPPORT OF THE FREecycle  
NETWORK, INC.'S *EX PARTE* MOTION  
FOR TEMPORARY RESTRAINING  
ORDER AND MOTION FOR  
PRELIMINARY INJUNCTION

Date: April 24, 2006  
Time: 2:00 p.m.  
Before: Honorable Raner C. Collins  
Location: Courtroom 5B

27  
28  
BEAL DECLARATION IN SUPPORT OF  
*EX PARTE* MOTION FOR TEMPORARY RESTRAINING ORDER &  
MOTION FOR PRELIMINARY INJUNCTION

[BY060920-053]

1 I, Deron Beal, declare as follows:

2 1 I am the founder, Executive Director and Board Chair of The Freecycle Network,  
3 Inc. ("The Freecycle Network"). I make this declaration in support of The Freecycle Network's  
4 *Ex Parte* Motion for Temporary Restraining Order and Motion for Preliminary Injunction. I  
5 have personal knowledge of the facts stated and if called to testify as a witness, would  
6 competently testify thereto.

7 2. The Freecycle Network, Inc. is a nonprofit corporation incorporated under the  
8 laws of the State of Arizona. The Freecycle Network encourages and helps to coordinate the  
9 efforts of member groups throughout the world to reuse, recycle, and gift goods. The  
10 organization was started in Tucson, Arizona, with a single recycling center. Today, The  
11 Freecycle Network is a worldwide organization, with thousands of local recycling groups and  
12 more than an estimated two million individual members. Publications such as CNN.com, The  
13 Motley Fool, CBS News, and The Washington Post have heavily praised The Freecycle Network  
14 and its promotion of the reusing, recycling, and gifting of goods. True and correct copies of  
15 news articles from CNN.com, The Motley Fool, CBS News, and The Washington Post,  
16 respectively, are attached hereto as Exhibits A-D.

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

21 4. The Freecycle Network has received corporate sponsorship since February 2005  
22 to enable it to cover its administrative costs and continue promoting the reusing, recycling, and  
23 gifting of goods.

24 5. The Freecycle Network has been using the trademarks FREECYCLE, THE  
25 FREECYCLE NETWORK, and the distinctive "The Freecycle Network" logo (collectively "The  
26 Freecycle Network's Marks" or the "Marks") continuously since at least May 1, 2003. The  
27 Freecycle Network has strict guidelines as to the use of the Marks, and expends much effort in  
28

1 policing potential infringement of the Marks. A true and correct copy of The Freecycle  
2 Network's Trademark and Copyright Policy, as of March 15, 2005, is attached hereto as Exhibit  
3 E. A true and correct copy of The Freecycle Network's guidelines for appropriate use of its  
4 Marks, as of April 3, 2006, is attached hereto as Exhibit F.

5 6. The Freecycle Network is currently registering these marks with the United States  
6 Patent and Trademark Office ("PTO"). The Freecycle Network's FREECYCLE trademark and  
7 distinctive logo were approved for publication on the Principal Register on November 22, 2005.  
8 A notice of publication was issued on December 28, 2005. Subsequently, an opposition was  
9 filed with the Trademark Trial and Appeal Board ("TTAB") on January 18, 2006, challenging  
10 the registration of these marks. A true and correct copy of a current status report from the PTO  
11 for The Freecycle Network's trademark application is hereto attached as Exhibit G. A true and  
12 correct copy of the opposition filed with the TTAB is attached as Exhibit H.

13 7. The Freecycle Network gives member groups permission to use the Marks in  
14 order to help facilitate the goals of recycling, reusing, and gifting of goods. The Marks are used  
15 to identify local groups who wish to promote the recycling, reusing, and gifting of goods to the  
16 public, and also to identify local recycling organizations which participate within The Freecycle  
17 Network. The Freecycle Network itself uses the Marks to help promote the goals of The  
18 Freecycle Network, including promotion of recycling of usable items within a community.  
19 Individual recyclers rely on the Marks to know that they are dealing with a local organization  
20 affiliated with The Freecycle Network.

21 8. Defendant Tim Oey ("Defendant" or "Oey") was an active member of The  
22 Freecycle Network from early 2004 until late 2005, during which time he held various positions  
23 within The Freecycle Network. Defendant was a member of a group tasked with developing  
24 guidelines for the protection of The Freecycle Network's intellectual property, including  
25 copyright and trademark protection. Defendant, in fact, personally helped develop these  
26 guidelines, and published these guidelines to the member groups. Defendant frequently and  
27

28

1 vigorously defended and attempted to protect the Marks in public e-mail exchanges and various  
2 Internet fora.

3 9. Due to behavior contrary to the goals of The Freecycle Network, Defendant was  
4 asked to step down from his position at The Freecycle Network on September 15, 2005.  
5 Subsequently, Defendant made false statements regarding The Freecycle Network and the  
6 Marks, and began to publicly encourage the destruction of The Freecycle Network's Marks. In  
7 particular, Defendant made statements calling into question the ownership and validity of the  
8 Marks. Defendant continues making such statements despite having been asked to refrain from  
9 such conduct.

10 10. Waste Management has reduced its corporate sponsorship of The Freecycle  
11 Network from \$120,000 in the previous year to \$100,000 for the year beginning in February  
12 2006 and ending in January 2007. Additionally, Defendant's statements have adversely affected  
13 the hard-earned reputation and goodwill of The Freecycle Network.

14 I declare under penalty of perjury under the laws of the United States of America that the  
15 foregoing is true and correct. Executed in Tucson, Arizona on April 19<sup>th</sup> 2006.

16  
17 By: \_\_\_\_\_  
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Deron Beal  
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# EXHIBIT A



## Web site finds new homes for old junk

**FRANKFURT, Germany (CNN) -- EBay may be king when it comes to online trading, but another Web site, which has an environmentally friendly ethos, is also making a big impact on the business of auctioning in cyberspace.**

Freecycle.org is popular with a new breed of tech-savvy greens who are putting their unwanted goods up for bid on the Web, instead of throwing them in the trash.

What makes Freecycle unique, though, is that everything up for grabs on the site is free.

If, for example, you have a bike you want to give away, you would post it on your local Freecycle Web site and wait for the e-mails to come in.

And because no money changes hands, you get to decide who the bike goes to -- and users say that the best part is meeting the person when they come to pick up the item.

The site has 1.6 million members from more than over 50 countries -- and environmentally friendly Germany is leading the way.

Publishing expert Thomas Pradel is one of the people behind Freecycle's rapid organic growth.

"I started the Frankfurt Freecycle group one-and-a-half years ago and now there's 700 members and it's still growing," Pradel told CNN.

Laura Thurston, a project manager who runs the Darmstadt site, also in Germany, told CNN running such a worthy cause was very rewarding.

"It makes me feel good about trying to save the environment, save the planet and also I don't want my life full of clutter," she said.

Freecycle is currently listed on the Yahoo groups network.

But its Arizona-based founder is trying to give Freecycle a more permanent virtual home -- a move that will require capital and the introduction of advertising.

Environmental lobby group Friends of the Earth do not see this as a problem.

"It's a good solution to the end part of the problem which is the waste of useful goods, and in that way it will stop those goods going to landfill or incineration," Georgina Bloomfield, of Friends of the Earth, told CNN.

"The environmental benefit of using that shouldn't be overshadowed by the fact that they may need to take advertising as well."

-- CNN's Jim Boulden contributed to this report.

**Find this article at:**

<http://www.cnn.com/2005/TECH/10/17/spark.freecycle/index.html>

Check the box to include the list of links referenced in the article.



# EXHIBIT B

[Previous Page](#)

## Things You Can Get For Free!

<http://www.fool.co.uk/news/foolseyeview/2005/fev051124c.htm>

By Alison Hunt ( TMFally)  
11/24/2005

If you thought that nothing in life is free, then I'm here to prove you wrong. Below is just a few of the ways we can get services, entertainment, software, even cold hard cash, absolutely free! So if you'd like to save a few bob check them out:

### **Free Phone Calls (worth £10+ per month)**

How much money do you spend phoning your friends and family, each month? How would you like to reduce it to next to nothing? Well, if like many you have a broadband connection at home, it's easy. Sign up to Skype, plug in a simple headset with microphone into your PC and you can call any of your friends who do the same, absolutely free! What's more, get friends and relatives who live abroad to sign up and you can call them for free, too.

### **Free cash (worth £50+)**

If you'd find some actual cold, hard cash useful, and you're not getting great value out of your bank account, consider switching. You'll get £75 if you switch to Citibank, £50 if you move to First Direct or Lloyds TSB and if you can find a friend with an Alliance & Leicester account to recommend you, you'll both get £50!

*You can switch to First Direct and Citibank in our [Banking Centre](#).*

### **Free Cinema Tickets (worth £7-8 each)**

If you're a member of the Nectar scheme, don't use those points to get money off your shopping bill. Whereas 2,000 points (four vouchers) would save you a tenner in-store, use those same vouchers in an Odeon cinema and you'd get two free cinema tickets, which could be worth over £15, instead. Use 4,000 points and you can get two tickets for one of the West End cinemas.

Alternatively, if you (or a friend) have a mobile phone on the Orange network, take advantage of the Orange Wednesday promotion - meaning you can pay for one ticket on a Wednesday, and get another absolutely free!

### **Free Virus protection (worth £40 annually)**

Protecting your home computer against viruses is extremely important, especially if you use Internet banking - some banks will even expect you to have it. And virus protection from Norton or McAfee typically costs around £40 per year. However, there is some very good, anti-virus protection software available, for absolutely nothing! Check out AVG and avast for excellent, free anti-virus protection.

### **Free Bottles of Wine (worth £60+)**

<http://www.fool.co.uk/Server/printarticle.aspx?file=/news/foolseyeview/2005/fev051124c....> 4/11/2006

Switch bank to Smile's current account before 10 December and, once you've credited the account with at least £1,500, as well as benefiting from excellent customer service and an interest rate of 3.3%AER, you'll also be given a free case of twelve bottles of wine!

*You can switch to Smile in our Banking Centre.*

### **Free just about anything! (worth £1+)**

Ever been concerned with the amount of stuff you take to the rubbish tip that still has some life in it? Ever had to buy something that you know other people simply store in their garage but no longer use? Then check out [Freecycle](#). This worldwide network allows anyone with any useful items they no longer need but hate to simply throw away to give it to someone who could use it. So you can pick up virtually anything, for free.

This fantastic method of recycling has really taken off to the point that wherever you live, you're likely to find yourself close to a Freecycle community. Items listed by my local Freecycle group today include furniture, baby gear, toys and even a wireless router!

### **More free cash (worth £50+ depending on spend)**

If earning money while you spend appeals, a [cashback credit card](#) will be right up your street. By earning a percentage of every pound you spend on your card you can quickly accrue some serious cashback especially if you put all of your spending, no matter how trivial, on the card. Spending £500 a month on the American Express Blue card, for example, could earn you over £70 cashback in the first year.

*You can find a number of cashback credit cards, including the American Express Blue card in our [Credit Card Centre](#).*

### **Free DVD rental (worth £7+)**

Fancy watching the latest blockbusters released on DVD, for free? Then sign up to one of the many DVD rental services and get films delivered, to your door (you simply pop them in the post box to return). They each offer a free trial, which; if you don't wish to continue after this time you can simply cancel. Check out [Screenselect](#), [LoveFilm](#), [Tesco](#) (powered by VideoIsland), [Blockbuster](#) and [Amazon](#) (subscribers get 10% off any DVD purchases made) to name but a few. And don't forget, you can rent a DVD at Blockbuster for just 500 Nectar points (one voucher).

### **Free Firewall (worth £40+ annually)**

If you're a broadband user, along with virus protection you'll need a good firewall. But don't worry; you don't have to spend a fortune buying an off-the-shelf package. Download a free version from ZoneAlarm or Sygate and protect your PC against hackers, for nothing.

### **Free electrical items, flights, days out etc. (worth £30+ annually, depending on your spending)**

If you grocery shop in Sainsbury's, buy your petrol at BP and your clothes at Debenhams you probably already have a [Nectar](#) card. The question is - do you realise all the different ways in which you can use the vouchers? Cinema tickets and DVD rental have already been mentioned, but you can also save up your points for free electrical items, pampering gifts, champagne balloon trips, flights and days out to name but a few.

And don't forget, you can earn points when you make any online purchases at any of the new Nectar

<http://www.fool.co.uk/Server/printarticle.aspx?file=/news/foolseyeview/2005/fev051124c....> 4/11/2006

e-Stores including Amazon, Play, B&Q, The Apple Store, PC World, Curry's, Game, Heals and The White Company.

**Free Airmiles, days out, meals in restaurants etc. (worth £30+ annually, depending on spend)**

And for those that shop at Tesco, there is a wealth of ways to use those Clubcard points. Generally speaking, you'll get better value if you convert your vouchers into Deals (each £2.50 becomes £10). Exchange your Deals tokens for free entry to Hampton Court Palace, The Tower of London, Longleat Safari Park or Whipsnade Wild Animal Park amongst others.

Alternatively, use them for a free meal at HAHA Bar and Canteen, Café Rouge or Bella Italia. And £8-10 in Clubcard vouchers will buy one year's subscription to Cosmopolitan, Good Housekeeping or Men's Health magazine. And if you're an Airmiles collector, each £2.50 voucher is worth 60 Airmiles with each additional 50p worth another 12 miles.

**Free Borrowing (worth £100+ depending on debt)**

If you currently pay interest on a credit card, don't forget that by switching to a 0% card for balance transfers you can save yourself some serious interest and effectively borrow for free. Why not bag a [better card](#) today?

*We have a number of 0% cards in our [Credit Card Centre](#).*

**Free Anti-Spyware programs (worth £40+ annually)**

Protect your home PC from fraudsters by downloading one of the free, anti-spyware programs available. Check out [Ad-Aware](#) and [Spyware Blaster 3.4](#) for their free downloads.

**Free Aerial view of your home**

If you've got broadband and fancy viewing your home from space, check out this fantastic program from Google. By downloading the free version of [Google Earth](#) you can zoom in on anywhere in the world, from space, including your own home and even see 3D images and terrain!

**Free Financial Advice (worth hundreds, if not thousands of pounds!)**

And last but not least, save yourself a fortune in financial adviser fees by getting free information regarding personal finance and investing from the UK's best financial website, the [Motley Fool](#)!

So there you have it, fifteen ways to get something for free. What's more, if you took advantage of all of these suggestions you could save at least £500 each year not bad, eh!

> **[Better Banking & Cheaper Cards!](#)**

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[Previous Page](#)

# EXHIBIT C


[BACK](#) [PRINT](#)

## How To Choose Healthy Gifts

Dec. 9, 2005

**(WebMD)** Who needs messy turtledoves and partridges when you can give the gift of better health to the adults and kids on your list – without breaking the bank?

WebMD turned to experts to get 12 suggestions for healthy holiday gifts.

**1. Jump rope.** "When you think about muscles," Cedric X. Bryant, PhD, tells WebMD, "you realize they don't have little brains inside to know whether you are using a \$2,000 piece of equipment or a \$15 jump rope." Bryant is chief exercise physiologist for the American Council on Exercise (ACE). ACE recommends a jump rope for kids and fit adults. A 30-minute session at moderate speed can melt 250 calories off of a 130-pound person. For kids, jump ropes are great – revive a forgotten art! But Rita Beckford, MD, tells WebMD that jumping rope is not for the seriously overweight because it is a high-impact exercise. Beckford is a family practitioner and director of the Twinsburg Urgent Care Center in Cleveland.

**2. Heart rate monitor.** You can find these for around \$50, although some are higher. "These are great for people who have just started exercising regularly," Beckford says. "Getting up to 70% or 80% of your maximum heart rate is excellent for fat burning."

**3. Pedometer.** These can make you mindful of how much you are moving, Beckford says. She has upped the old conventional wisdom of a goal of 5,000 steps a day to 10,000, a challenge for the new year.

**4. Body bands.** Color coded by the resistance they provide, body bands are great stocking stuffers, but you might want to include a good instruction book or video, Beckford says. Unlike weights, these don't have the potential to drop on your toe or smack you in the face, but they must be used correctly. They are also great for seniors, she says.

**5. Stationary frame for your road bike.** "You can get one for around \$50," Bryant says. "This makes your bike into an exercise bike."

**6. Exercise tapes or videos.** Beckford created an exercise video, *At Home with Dr. B*, out of necessity. She was trying to shed 90 pregnancy pounds and was working out after hours in her urgent-care center. Soon her staff, then patients, then patients with their children, asked to join her. She then was asked to bring her workout to other centers and had to create the video to spread the popular program. If your recipient gets bored with certain tapes or videos, research good "walking" music that can be loaded on iPods. Bryant says a portable CD player, way under \$50, can also do the trick.

**7. Starter lesson in karate, swimming, boxing, or Pilates.** A Pilates mat is also a good present under this budget.

### For Kids and Sports-Minded Adults

**8. Assorted balls.** With kids packing on the pounds, the holidays are a nice time to think about exercising as a family. Audrey Cross, PhD, a professor at the School of Public Health at Columbia University, says soccer is fun for adults and kids. "It develops good eye-foot coordination," she jokes. A volley ball and net, badminton set, or a basketball are also under \$50. What house should be without a ball? If a portable basketball hoop is too expensive, see if there is a giveaway list in your area. Go to [Freecycle.org](http://Freecycle.org) and sign up to offer and pick up items for free.

**9. Double-sided countertop grill.** Those little grills are helping everyone eat meat and veggies prepared in a healthier manner, according to Beckford. "They are so simple to use." JoAnna M. Lund, author of the health exchange cookbook series and *Cooking Healthy with the Kids in Mind*, agrees. She tells WebMD that kids can grill with these if properly supervised.

**10. Apron for each child.** Lund loves to cook with her eight grandchildren. "They all have an apron and put it on first thing when they visit and we make something," she says. "I am not stirring up food, I am stirring up memories they will always have."

**11. Blender or juicer.** "You can 'cook' great treats using a blender," Lund says. For kids, this is a painless way to get servings of fruit and milk. Children also like to use a salad spinner, another great gift, and will appreciate implements with chunkier, easier-to-hold handles than the sharp wire-handled carrot peeler found in every kitchen.

**12. Healthy foods themselves.** A gourmet basket of fruit, an assortment of nuts, bottles of almond or olive oil or balsamic vinegar, are all great gifts, Cross suggests. A plastic chopping board that washes free of meat juices is also a thoughtful present.

"Anything," Cross laughs, "but a deep-fat fryer. That would be an awful present!"

Happy holidays, all -- and good eating and playing!

By Star Lawrence  
Reviewed by Louise Chang, MD  
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**XEROX**

# EXHIBIT D



washingtonpost.com

## Shrink Your Ecological Footprint

By Bridget Bentz Sizer  
Special to The Washington Post  
Sunday, March 12, 2006; M05

Everybody knows how big his actual footprint is, but until a friend sent me the link to <http://www.ecofoot.org/>, I was blissfully ignorant of the size of my ecological footprint. The Web site, created by the Earth Day Network, surveys users' eating, transportation and housing choices and spits out an estimate of how many planets would be needed to sustain the world if everyone on Earth lived the same lifestyle. The bad news? If everyone in the world lived like me, we would need three planets to sustain us. Even worse, the average American lifestyle would require 5.3 planets.

But it's not all doom and gloom. While downsizing an actual footprint requires amputation, an ecological footprint is much easier to modify. "We all have the power to make changes happen . . . when each of us do it, collectively we have a significant impact on the environment," says Monique Tilford, acting executive director of the Center for the New American Dream, a Takoma Park-based environmental advocacy group. Here are eight ways to start acting locally for a global impact.

### JOIN FREECYCLED C

Heidi Ridgley, a senior editor for the environmental nonprofit Defenders of Wildlife, wasn't sure what to do with her eco-friendly bug killer after she moved from a roach-infested apartment in Adams Morgan to a pest-free rowhouse in Columbia Heights. So she offered it up on the Freecycle Network. "People crawled out of the woodwork to [claim] it," she jokes.

Started in Tucson in 2003, the Freecycle Network is an international collection of free listservs aimed at reducing landfill waste by making one person's trash another person's treasure.

"I discovered Freecycle while redoing my front porch last summer," Ridgley says. "I had perfectly reusable deck wood that I didn't need anymore, and a neighbor told me Freecycle would ensure it wouldn't get sent to a landfill." With more than 9,300 local members, FreecycleDC (<http://groups.yahoo.com/group/FreecycleDC>) is a bustle of activity, with members posting regularly to offer unwanted goods. The only hard and fast rule is that all items must be offered for free. In addition to the deck wood and the bug killer, Ridgley has found homes for an unwanted child's scooter, a salad spinner, aquarium dechlorination drops and a thermostat.

### GET RID OF JUNK MAIL

The average American receives 41 pounds of junk mail a year, according to the Center for the Development of Recycling. And 44 percent of that winds up in a landfill unopened (for me, the rest clutters up the kitchen table). Though the tide of junk mail may seem overwhelming, Tilford says that it's possible to shut it off. "Companies are required by law to take you off a mailing list if you request

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that," she says. A good place to start is by contacting the Direct Marketing Association to request your name be placed on a "do-not-mail" file. (This request can be made for free via postcard, or for \$5 on DMA's Web site, <http://www.dmaconsumers.org/cgi/offmailinglist>.) To curb the flow of pre-approved credit card applications, call TransUnion at 888-567-8688.

### *BE GREEN WHEN YOU CLEAN*

Labels on typical household cleaners can be a bit troubling -- with warnings of "irreversible eye damage" and "skin burns." Being clean can sound, well, a little dirty. But fear not. Mindy Pennybacker, the editor of the Green Guide, an environmental and health newsletter, says most of her readers report finding "alternative cleaning products that work just as well as conventional cleaners." In other words, being green and being clean can go hand in hand. To find eco-friendly cleaners, the Green Guide (<http://www.thegreenguide.com/>) recommends reading labels carefully with an eye for specific claims. "Biodegradable in three to five days" is preferable to simply "biodegradable," since most substances will eventually break down, given the right conditions. Also, cleaners that promise "no solvents," "no phosphates" or are "plant-based" offer a better green guarantee than those with a vague "ecologically friendly" stamp on the label.

### *CHANGE YOUR LIGHT BULBS*

Question: How many years does it take an environmentalist to change a light bulb? Answer: Seven, but only if he's using energy-efficient compact fluorescent light (CFL) bulbs. Though slightly more expensive, low-mercury CFL bulbs use less energy and last longer than standard light bulbs. Replace four standard bulbs with the CFL ones, and you'll prevent the emission of 5,000 pounds of carbon dioxide over the life of the bulbs, according to the Center for the New American Dream. The center, which has a "Turn the Tide" campaign (<http://www.newdream.org/ttooffline/actions.php>), also estimates that you'll save \$100 on your energy bill over the same time period. Though consumers complained of the harsh quality of early CFL bulbs, more recent models have softened the light. A 25-watt CFL bulb emits the same amount of light as a standard 100-watt bulb. And these days, CFL bulbs are sold almost everywhere standard light bulbs are sold.

### *PARK YOUR CAR*

When Mimi Ikle-Khalsa's car was stolen last year, the insurance settlement would have paid for a replacement. Instead, Ikle-Khalsa, a massage therapist from Takoma Park, reflected on her use of fossil fuels and decided to go without. She relies on a combination of foot-power and public transportation to get to work in Silver Spring and Bethesda. Aside from the occasional "horrific rain" that crops up during her 1 1/2 -mile trek to the Metro, Ikle-Khalsa has no complaints.

While ditching the car entirely might not be practical for everyone -- according to a 2002 survey by the U.S. Department of Transportation, the average American drives 203 miles each week -- cutting back on needless car trips will shrink your global footprint; each person who eliminates 20 miles of extra driving a week also eliminates nearly 1,000 pounds of greenhouse gas emissions each year, according to the Center for the New American Dream. "Try consolidating shopping trips, so you're not just darting out and buying things," says Pennybacker. "All of these combined efforts can make a difference."

### *BYO BAG*

Comedienne Lily Tomlin tells a story about buying a wastebasket: "The cashier put it in a bag. I brought it home. I took it out of the bag. I crumpled up the bag and tossed it in the wastebasket." The joke works

because of its absurdity -- Tomlin generates trash even as she buys a receptacle for the trash -- but also because it taps into a larger truth; each year Americans use an estimated 100 billion plastic shopping bags. Reusablebags.com, a Web site dedicated to reducing the use of disposable shopping bags, estimates that most plastic shopping bags wind up in landfills, where they take 1,000 years to decompose. So next time you're at the grocery store, consider bagging your goods in reusable canvas bags instead of paper or plastic. If you currently bring home 10 grocery bags each week that's a saving of 520 plastic bags each year.

### *RECYCLE YOUR CELL PHONE*

Arsenic, mercury and lead are the kinds of toxins that lead to emergency phone calls to the poison control hotline, but did you know that they might also be in your old cell phone? The EPA estimates that 700 million cell phones containing 250,000 tons of toxic waste already have been discarded in American landfills. Next time you get a new cell phone, try donating your old one instead of tossing it. The National Zoo has partnered with Eco-Cell, a nonprofit based in Louisville, Ken., to collect visitors' unwanted cell phones, batteries and accessories. Eco-Cell will donate up to \$15 to the Friends of the National Zoo for every working cell phone collected -- working phones will be refurbished and passed on to low-income people, while "dead" phones will be recycled according to EPA guidelines. Not planning a trip to the zoo? Call Eco-Cell at 888-326-3357 or visit their Web site ( <http://www.eco-cell.org/> ) to learn how to donate a phone.

### *SKIP THE SCREENSAVER*

Contrary to what the name might have you believe, the flying-window screensaver that pops up on your computer monitor when it's not in use is more of an energy waster than a saver. A computer monitor in screensaver mode uses almost as much energy as an active monitor. So ditch the screensaver and instead set your computer to "sleep mode" so that the screen goes blank when not in use. Better yet, turn off your monitor. Smith University estimates that 30 monitors set to sleep mode represent a reduction in emissions and energy consumption equal to taking one car off the road.

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#### **Ads by Google**

##### **Environmental Management**

ISO 14001 Training Courses Offered by BVQi. Learn More Today  
[www.bvqi.com](http://www.bvqi.com)

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Get rid of your unwanted junk. We'll sort it, load it, & clean up!  
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##### **Garbage Truck Wash**

InterClean Equipment From design to start-up  
[www.interclean.com](http://www.interclean.com)

# EXHIBIT E

**Freecycle™ Trademark and Copyright Policy**  
**Updated on 3-15-05**

**How to Use the Freecycle Trademark:**

We are doing a really good thing here. But, we're also learning as we go, which means there will always be evolution and change. Because the Freecycle concept is unique and amazingly successful, there are many who have and who would try to use it for personal gain and profit. For that reason, The Freecycle Network is incorporated as a non-profit organization, and the Freecycle name and logo are trademark protected. We need to do our best to properly use the Freecycle trademark so that we don't lose the right to use it.

In legalese, the use of the term "Freecycle" denotes a gifting service which is officially approved by the nonprofit organization "The Freecycle Network," and one that the public can expect to adhere to certain standards. The Freecycle Network must approve any email list or web site that uses the term "Freecycle" in its name and provides any sort of exchange service. (and a relevant point for us to note internally is that we have to demonstrate a "concerted" effort.)

**When using the term "Freecycle," please do the following:**

- 1) **While "The Freecycle Network" is a trade name, it also functions as a service mark -- i.e., a source indicator-- so it is ok to use a TM with it.**

For example: The Freecycle Network™

When used as a trade name (think proper name), the term "Freecycle" may be used in place of "The Freecycle Network" to allow sentences to be more concise.

For example:

- ◆ While The Freecycle Network has been growing by leaps and bounds, Freecycle still remains true to its core mission.

- 2) **In all other cases, the term "Freecycle" must be used as an adjective, never as a noun or verb.**

For example:

- ◆ Do not say "I'm a freecycler." Do say "I'm a Freecycle member."
- ◆ Do not say "Keep on freecyclin!" Do say "Keep on recyclin', my Freecycle friends!"
- ◆ Do not say "Freecycling group." Do say "Freecycle group"
- ◆ Do not say "Please Freecycle." Do say "Please join a Freecycle group."
- ◆ Do not say "There are 10 freecycles in this state." Do say "There are 10 Freecycle groups in this state."
- ◆ Do not say "freecycle's membership.". Do say "The Freecycle Network's membership."

- 3) **Attribution Statement.** (fancy-speak for a statement attributing ownership of a trademark to someone at the bottom of e-mails, etc.) **At the bottom or within the body of all official Freecycle web sites, articles, press releases, group home pages, and email list footers** (a Yahoo function which automatically places the text in the footer of every e-mail posted to that Yahoo list/group), **the following trademark attribution should be posted:**

---

Copyright © 2004-2005 The Freecycle Network (<http://www.Freecycle.org>). All rights reserved.

Freecycle and the Freecycle logo are trademarks of The Freecycle Network in the United States and/or other countries.

---

(In email list footers it is helpful to include the lines as well to set this apart.)

To create a footer in your Yahoo group:

- a. Log into the Yahoo and go to the group page
- b. Click on Management at the left
- c. Click on Messages at the right
- d. Next to Subject Tag and Footer, click Edit
- e. Enter the text above in the Footer box (you can create the lines by using a series of dashes (-) or underscores (\_) but don't let them extend too far or they'll wrap to the next line in some email programs
- f. Click the Save Changes button

For those with more advanced computer skills here's a couple fancy alternatives to the above method:

- a. You can use this image instead of the Freecycle logo on your main group page. It still contains the logo but it also includes the statement above:

<http://www.freecycle.org/images/freecycle-tm.jpg>

- b. If you'd like to include the HTML code to make the footer show up properly on a web page, you can go to this page:

<http://www.freecycle.org/tm-code.htm>

highlight the HTML code, and paste it into your group description.

- 4) **The term "Freecycle" in text must always be capitalized or otherwise set it off from the surrounding text.** Example: Freecycle groups are great!

- 5) **Local groups need to use the official Freecycle logo. It must include a TM symbol and appear exactly as it does on <http://www.freecycle.org>.**

It is ok to put adornments around it and behind it. Never put anything over any portion of the logo or otherwise obscure the basic form of the logo or the TM symbol.

- 6) **E-Mail addresses with the word "Freecycle" in them.** One should consider using something explanatory in addition to the word "Freecycle" in their e-mail address or ID for clarity's sake. Example: FreecycleSpringfield@hotmail.com.

- 7) **On your local Yahoo group sites, articles, press releases & automatic notices:** The first "prominent display" or introduction of the mark (i.e., the first time you use the term Freecycle in a document) needs to be distinguished from other text with a tm (to be replaced with an (R) eventually, once the trademark is registered). This is in addition to the above attribution statement (the footer-note statement in point 3). So, a Freecycle group site should have a TM by the logo at the top and a TM by the first use of The Freecycle Network (or of the word Freecycle, whichever comes first). The other instances of Freecycle can be without a TM marking, though it is still important to capitalize or color them to show they are not just common words. See Tucson's local group as an example of how to do this:  
<http://groups.yahoo.com/group/freecycle/>

- A. In HTML, use the HTML code "Freecycle&trade;" (without the quotes).
- B. For plain ASCII text documents, in email, and in files in a Yahoo group, use "Freecycle(TM)" (without the quotes).
- C. Other documents, use any method available to create the TM superscript
- D. There's no need to use the TM mark more than once per document.
- E. Do not use the TM mark in email addresses, email subject tag lines (such as [freecyclemytown]), group names, or URLs.

F. Do be sure to include the footer in item 3 above, whenever possible.

**8) OPTIONAL: For further information about trademarks and how to use them properly, see:**

<http://www.inta.org/info/faqs.html>

<http://www.uspto.gov/main/trademarks.htm>

**9) A current copy of this trademark use document may be obtained at:**

<http://freecycle.org/tmfaq.php>

**Question and Answers:**

**What happened to the Freecycle service mark (SM)?**

Freecycle formerly used the SM (Service Mark) designation, but for better worldwide uniformity and recognition, we are now using TM instead of SM.

**Is it ok for individual email addresses or URLs to include the term "freecycle"?**

Yes, but please make sure the word is accompanied by something explanatory, like FreecycleMytownMod.

**Do personal emails about Freecycle need to use the TM mark or trademark attribution?**

No. Having the trademark attribution in email list footers is enough.

**Where are the most common places that "Freecycle" use should be checked?**

- Group description/home page  
(Management / Description and Appearance / Description - Edit)
- Group email footer text (Management / Messages / Subject Tag and Footer - Edit)
- Group welcome message (Management / Membership / Welcome Message - Edit)
- All automatically sent notices -- especially the Freecycle Etiquette document
- Press releases or other stand-alone documents
- Flyers

**What changes should I make to my group's Freecycle Etiquette document?**

Make sure all instances of Freecycle are used as an adjective or trade name. Look at the Freecycle etiquette text at <http://freecycle.org/faq.php> for good examples.

**Are modified local logo graphics with our TM still ok?**

Adding graphics around the mark is fine and fun. We do need to leave the mark itself unaltered (so you're OK as long as the logo and TM are not covered or obscured in any way).

**What happens when the Freecycle mark becomes registered?**

When this happens, all occurrences of Freecycle(TM) must change to Freecycle(R), and HTML code "Freecycle&trade;" to "Freecycle&reg;".

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Copyright © 2004-2005 The Freecycle Network (<http://www.Freecycle.org>). All rights reserved.

Freecycle and the Freecycle logo are trademarks of The Freecycle Network in the United States and/or other countries.

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# EXHIBIT F



## How to Use the Freecycle™ Trademark Properly

[Updated on 04-03-06]

We are doing a really good thing here. And, we are also learning as we go, which means there will always be evolution and change. Because the Freecycle concept is unique and amazingly successful, there are many who have and who would try to use it for personal gain and profit. For that reason, The Freecycle Network™ is incorporated as a nonprofit organization, and the Freecycle name and logo are both trademark protected. We need to do our best to properly use the Freecycle trademark so that we don't lose the right to it.

In legalese, the use of the term "Freecycle" denotes a gifting service which is officially approved by the nonprofit organization "The Freecycle Network," and one that the public can expect to adhere to certain standards. The Freecycle Network must approve any email list or web site that uses the term "Freecycle" in its name and provides any sort of exchange service. (A relevant point for us to note internally is that we have to demonstrate a "concerted" effort.)

When using the term "Freecycle" please do the following:

1) While "The Freecycle Network" is a trade name, it also functions as a service mark -- i.e., a source indicator -- so it is okay to use a TM with it.

For example: The Freecycle Network(TM)

When used as a trade name (think proper name), the term "Freecycle" may be used in place of "The Freecycle Network" to allow sentences to be more concise.

For example: While The Freecycle Network has been growing by leaps and bounds, Freecycle also remains true to its core mission.

2) In all other cases, the term "Freecycle" must be used as an adjective, never as a noun or verb. For example:

- Do not say "I'm a freecycler." Do say "I'm a Freecycle member."
- Do not say "Keep on freecycling!" Do say "Keep on recycling, my Freecycle friends!"
- Do not say "Freecycling group." Do say "Freecycle group"
- Do not say "Please Freecycle." Do say "Please join a Freecycle group."
- Do not say "There are 10 freecycles in this state." Do say "There are 10 Freecycle groups in this state."
- Do not say "freecycle's membership." Do say "The Freecycle Network's membership." (Note: new groups may use the word Freecycle in their group name/title, but should not be approved with any variations of the word Freecycle in their name, title or description, like freecycler, freecycling, freecycles.)

3) The term "Freecycle" in text must always be capitalized to set it off from the surrounding text. Example: Freecycle groups are great!

4) Local groups need to use the official Freecycle logo. It must include a TM symbol and appear exactly as it does on <http://www.freecycle.org>. It is okay to put adornments around it and behind it. Never put anything over any portion of the logo or otherwise obscure the basic form of the logo or the TM symbol.

5) OPTIONAL: For further information about trademarks and how to use them properly, see:

<http://www.inta.org/info/faqs.html>  
<http://www.uspto.gov/main/trademarks.htm>

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© 2003, 2004, 2005, 2006, The Freecycle Network™. All rights reserved.

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Copyright © 2003-2006 The Freecycle Network (<http://www.freecycle.org>). All rights reserved.  
Freecycle and the Freecycle logo are trademarks of The Freecycle Network in the United States  
and/or other countries.

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# EXHIBIT G

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-04-11 20:06:00 ET

Serial Number: 78475113

Registration Number: (NOT AVAILABLE)

Mark



(words only): FREECYCLE

Standard Character claim: No

Current Status: An opposition is now pending at the Trademark Trial and Appeal Board.

Date of Status: 2006-01-18

Filing Date: 2004-08-27

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 102

Attorney Assigned:  
AGOSTO GISELLE MARIE Employee Location

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-12-06

---

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. THE FREECYCLE NETWORK

Address:

THE FREECYCLE NETWORK  
901 NORTH PERRY AVENUE  
TUCSON, AZ 85705  
United States

Legal Entity Type: Corporation  
State or Country of Incorporation: Arizona  
Phone Number: 520-631-2171

Fax Number: na

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### GOODS AND/OR SERVICES

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**International Class:** 035

Providing a website which features advertisements for giving and receiving of free property of others on a global computer network

**First Use Date:** 2003-05-01

**First Use in Commerce Date:** 2003-05-01

**Basis:** 1(a)

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### ADDITIONAL INFORMATION

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**Color(s) Claimed:** The color(s) GREEN, TAN, BLACK, ORANGE, YELLOW is/are claimed as a feature of the mark.

**Description of Mark and Any Color Part(s):** The mark consists of the word "freecycle" in green with a slight black shadow around the edges of the letter. The wheels and frame of the bicycle are tan and outlined in black. The guitar forms the letter "l" of the word "freecycle". The guitar headstock and fretboard are black with two white stripes suggesting strings. The body of the guitar is shaded in black around the edge with an insertion of a white and orange line running from the top left corner of the body to the neck of the guitar. The interior of the body is orange with a yellow reflection surrounding the left side of the bridge and completely surrounding the strings. Four black lines, suggesting strings, begin above the sound hole and stop below the bridge.

**Design Search Code(s):**

18.03.01 - Bicycles; Tricycles; Unicycles

22.01.06 - Banjos; Guitars; Ukuleles

27.03.05 - Objects forming letters or numerals

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### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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### PROSECUTION HISTORY

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2006-01-18 - Opposition instituted for Proceeding

2006-01-18 - Opposition papers filed

2006-01-17 - Published for opposition

2005-12-28 - Notice of publication

2005-11-30 - Law Office Publication Review Completed

2005-11-25 - Assigned To LIE

2005-11-22 - Approved for Pub - Principal Register (Initial exam)

2005-11-22 - EXAMINERS AMENDMENT E-MAILED  
2005-11-22 - Examiners Amendment -Written  
2005-11-10 - Priority Action E-Mailed  
2005-11-10 - Priority Action Written  
2005-11-10 - Previous allowance count withdrawn  
2005-10-28 - Withdrawn From Pub - Og Review Query  
2005-10-01 - Law Office Publication Review Completed  
2005-09-30 - Assigned To LIE  
2005-09-28 - Approved for Pub - Principal Register (Initial exam)  
2005-09-28 - Examiner's Amendment Entered  
2005-09-20 - EXAMINERS AMENDMENT E-MAILED  
2005-09-20 - Examiners Amendment -Written  
2005-09-17 - Teas/Email Correspondence Entered  
2005-09-13 - Communication received from applicant  
2005-09-13 - TEAS Response to Office Action Received  
2005-06-15 - LETTER OF SUSPENSION E-MAILED  
2005-06-15 - Suspension Letter Written  
2005-05-06 - Teas/Email Correspondence Entered  
2005-04-25 - Communication received from applicant  
2005-04-29 - Amendment From Applicant Entered  
2005-04-22 - Communication received from applicant  
2005-04-25 - TEAS Response to Office Action Received  
2005-04-22 - PAPER RECEIVED  
2005-03-30 - Non-final action e-mailed  
2005-03-30 - Non-Final Action Written  
2005-03-28 - Case file assigned to examining attorney  
2004-09-03 - New Application Entered In Tram

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**CORRESPONDENCE INFORMATION**

# EXHIBIT H

ESTTA Tracking number: **ESTTA62464**

Filing date: **01/18/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	FreecycleSunnyvale		
Entity	Unincorporated association	Citizenship	California
Address	P.O. Box 1 Sunnyvale, CA 94807 UNITED STATES		

Attorney information	Ian N. Feinberg Mayer Brown Rowe & Maw LLP Two Palo Alto Square, Suite 300 3000 El Camino Real Palo Alto, CA 94306 UNITED STATES ifeinberg@mayerbrownrowe.com,eevans@mayerbrownrowe.com Phone:650-331-2055		
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**Applicant Information**

Application No	78475113	Publication date	01/17/2006
Opposition Filing Date	01/18/2006	Opposition Period Ends	02/16/2006
Applicant	THE FREECYCLE NETWORK 901 NORTH PERRY AVENUE TUCSON, AZ 85705 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 2003/05/01 First Use In Commerce: 2003/05/01 All goods and services in the class are opposed, namely: Providing a website which features advertisements for giving and receiving of free property of others on a global computer network	
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Attachments	Freecycle Not of Oppos Trademark.PDF ( 8 pages ) TTAB_exhibits.pdf ( 29 pages )
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Signature	/Ian N. Feinberg/
Name	Ian N. Feinberg
Date	01/18/2006



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 78/475,113  
 Filed: August 27, 2004  
 For the mark: FREECYCLE  
 Published in the Official Gazette on: January 17, 2006

FreecycleSunnyvale,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
The Freecycle Network,	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Opposer, FreecycleSunnyvale, believes that it will be damaged by registration of the mark FREECYCLE as shown in the above-identified application, and hereby opposes the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. § 1063 (a).

The grounds for opposition are as follows:

1. Opposer FreecycleSunnyvale is an unincorporated non-profit association with its principal place of business in Sunnyvale, California, which is located in the Northern District of California.
2. Upon information and belief, applicant The Freecycle Network is an Arizona non-profit corporation with its principal place of business in Tucson, Arizona.
3. Freecycling is the common or generic name for the practice of recycling by giving something away to another, often a person who is poor or disadvantaged in some way, for free. A person who freecycles is called a freecycler.

4. FreecycleSunnyvale promotes freecycling by providing support and advice to freecyclers who wish to create Internet fora for freecycling.

5. The Freecycle Network also promotes freecycling by providing support and advice to freecyclers who wish to create Internet fora for freecycling.

6. Freecycling is the common or generic name for the practice of recycling by giving something away to another, often a person who is poor or disadvantaged in some way, for free. A person who freecycles is called a freecycler. Freecycling has two principal advantages for society: (1) it reduces landfill by preventing or delaying the disposal of items unwanted by their current owners; and (2) it gives those same items to others for free, who do want them and may be unable to afford to purchase them.

7. Many freecyclers announce the availability of the items they wish to give away online by, for example, sending an email message to an email distribution list. Many of the email distribution lists freecyclers use are hosted by Yahoo! as part of its Yahoo! Groups online service.

8. Freecyclers who use the Yahoo! Groups online service to freecycle items enter into a contract with Yahoo! In exchange for their compliance with Yahoo!'s conditions, the freecyclers receive Yahoo!'s online services. These services allow freecyclers to reach many other freecyclers in their area by sending a single email message.

9. The Freecycle Network was founded in May 2003. The Freecycle Network helped popularize freecycling by assisting local freecycling groups, including FreecycleSunnyvale, in using Yahoo!'s online services to freecycle items.

10. FreecycleSunnyvale was founded in October 2003. It entered into a contractual relationship with Yahoo! and used Yahoo!'s online services to assist freecyclers in the Sunnyvale, California area freecycling items.

11. FreecycleSunnyvale used a Yahoo! Group with the name “freecyclesunnyvale.”

12. FreecycleSunnyvale initially received enthusiastic support from The Freecycle Network.

13. The Freecycle Network granted FreecycleSunnyvale a license in 2003 to use a mark derived from the mark covered by the present application. On or about October 9, 2003, after a member of FreecycleSunnyvale requested assistance in creating a graphic logo reading “FreecycleSunnyvale,” the Board Chair and Executive Director of The Freecycle Network granted permission to do so, provided that the logo was not used for commercial purposes. The text of the email granting permission reads: “Yeah, Sunnyvale! ... You can get the neutral logo from <http://www.freecycle.org> , just don't use it for commercial purposes or maybe Mark or Albert can help you to do your own fancy schmancy logo!”

14. Freecyclers and The Freecycle Network treated freecycling as the common or generic name for giving something away to another for free. In August 2004, The Freecycle Network’s home page included, among others, the references to freecycling:

- (a) “Number of cities freecycling: 1,210”
- (b) “Number of people freecycling: 406,949”
- (c) “Have fun and keep on Freecyclin’!”
- (d) “How does Freecycling work?”
- (e) “Who can Freecycle?”

The Freecycle Network submitted a copy of the home page of its website, containing these uses of freecycle and freecycling in a generic sense, as a specimen to its pending application for registration of the mark FREECYCLE on the Principal Register on or about August 27, 2004. A copy of the specimen submitted is attached as Exhibit 1.

15. The Freecycle Network's use of the terms freecycle and freecycling in a generic sense is consistent with prevailing practice in the national media. Examination of publicly-accessible media sources reveals hundreds of newspaper and magazine articles that use freecycle

and freecycling to refer to the practice of recycling by giving something away to another for free.

Examples include:

- (a) “If a true packrat hordes [sic], a ‘freecycler’ can't stand to see something that might be useful to someone go to waste, languishing unused in a musty garage, attic, bottom dresser-drawer or—worse yet—a landfill.” Katharine Mieszkowski, *From each according to his junk, to each according to her need*, Salon.com, Nov. 23, 2003, at <http://www.salon.com/tech/feature/2003/11/25/freecycle/print.html> (Attached as Exhibit 2);
- (b) “Freecyclers use Yahoo Groups as a free bulletin board, requiring registration only. Givers post their excess items on Yahoo and takers send an e-mail saying they will come and pick it up.” Mike Cassidy, *Freecycling Movement Gains Ground in Valley*, San Jose Mercury News, Jan. 27, 2004, at C1 (Attached as Exhibit 3);
- (c) “Dusty but new exercise equipment, a five-person hot tub, and enough white Ikea bookshelves to furnish a small college town have been posted online through a new group that practices freecycling, the giving away of useful but unwanted goods to keep them out of landfills and maybe help someone less fortunate in the process.” Tina Kelley, *One Sock, With Holes? I'll Take It; Freecycling Brings Castoff Goods Back From the Bin*, The New York Times, March 16, 2004, at B1 (Attached as Exhibit 4);
- (d) “Known as ‘freecycling,’ the approach creates Web-based communities in cities across the country that allow members to post by e-mail a listing of items they are looking to unload. The catch? Everything much be given away free.” *Gambits and Gambles in the World of Technology*, The Wall Street Journal, May 6, 2004 (Attached as Exhibit 5); and
- (e) “And just how does one freecycle? . . . If there's an object, or even a service, you want to give or receive, you post an e-mail, leave a contact and, if someone bites,

arrange for a pickup. The rules are simple: no politics or spam, and everything must be free.” Richard Jerome and Strawberry Saroyan, *Free For All, People*, May 10, 2004, at 195 (Attached as Exhibit 6).

16. Despite the generic nature of the terms freecycle and freecycling, The Freecycle Network filed the instant application for the registration of the mark FREECYCLE and a graphic logo using that mark on the Principal Register of trademarks on August 27, 2004.

17. In late 2004 or early 2005, The Freecycle Network altered the text of its website to remove some, but not all, uses of freecycle and freecycling in a generic sense. The Freecycle Network's website continues to include many hundreds of instances where freecycle and freecycling are used in the generic sense to refer to the practice of recycling by giving something away to another for free.

18. In January or February 2005, The Freecycle Network began to assert the right to exclusive use of the terms freecycle and freecycling.

19. The Freecycle Network has created usage guidelines for users of its services. These guidelines direct users to avoid using the terms freecycle and freecycling in a generic sense.

20. The Freecycle Network has not found an adequate substitute for the generic term freecycling. “[A] gifting or exchange-oriented [web]site” or “gifting or exchanging unwanted items with fellow users” have not achieved wide acceptance.

21. The Freecycle Network has replaced the simple question “How does Freecycling work?” on its home page with “How does it work?”

22. FreecycleSunnyvale will be damaged by the registration of the mark FREECYCLE and/or the graphic logo The Freecycle Network had licensed to FreecycleSunnyvale for non-commercial use on the Principal Register or the Supplemental Register because such registration would grant The Freecycle Network an improper monopoly over the use of the generic terms freecycle and freecycling and/or the logo licensed to FreecycleSunnyvale. The Freecycle Network has already asserted such an improper monopoly

by, among other things, inducing Yahoo! Inc., FreecycleSunnyvale's online service provider, to terminate FreecycleSunnyvale's Yahoo! Group online service by claiming that the group's name, freecyclesunnyvale, and/or its use of the logo licensed to it infringed The Freecycle Network's trademark rights.

WHEREFORE, Opposer, FreecycleSunnyvale, believes and alleges that freecycle is a generic term. In the alternative, FreecycleSunnyvale believes and alleges that The Freecycle Network has dedicated the terms freecyle and freecycling and/or the graphic logo The Freecycle Network had licensed to FreecycleSunnyvale for non-commercial use to the public domain. In the second alternative, FreecycleSunnyvale believes and alleges that The Freecycle Network has engaged in uncontrolled or naked licensing of the terms freecycle and freecycling and/or the graphic logo The Freecycle Network had licensed to FreecycleSunnyvale for non-commercial use and thereby abandoned any trademark rights it might otherwise have acquired.

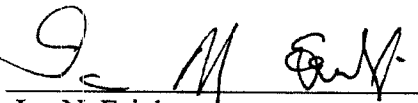
FreecycleSunnyvale therefore believes and alleges that Applicant's FREECYCLE is not registrable on the Principal Register or on the Supplemental Register.

Opposer requests that:

1. Judgment in the present opposition be entered in favor of the Opposer and against Applicant, with prejudice;
2. The present opposition be sustained; and
3. Registration on the application of Applicant for the trademark FREECYCLE, Serial No. 78/475,113, be rejected and refused.

Respectfully submitted,

FREECYCLESUNNYVALE

By: 

Ian N. Feinberg  
MAYER, BROWN, ROWE & MAW LLP  
Two Palo Alto Square  
3000 El Camino Real  
Palo Alto CA 94306  
(650) 331-2055

Attorney for Opposer