

The Freecycle Network, Inc. v. Tim Oey  
U.S. District Court  
District of Arizona  
06-CV-173-TUC-RCC  
Exhibit A to Bandyopadhyay Declaration

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15 Attorneys for Plaintiff  
16 THE FREECYCLE NETWORK, INC.

17 IN THE UNITED STATES DISTRICT COURT  
18 DISTRICT OF ARIZONA

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

22 Plaintiff,

23 v.

24 TIM OEY and JANE DOE OEY,

25 Defendants.

Case No.

COMPLAINT FOR TRADEMARK  
DISPARAGEMENT, INJURIOUS  
FALSEHOOD, DEFAMATION,  
INTENTIONAL INTERFERENCE  
WITH BUSINESS RELATIONS

DEMAND FOR JURY TRIAL

Assigned to:

27 Plaintiff The Freecycle Network, Inc. ("Plaintiff" or "The Freecycle Network")  
28 hereby alleges for its Complaint against Defendant Tim Oey ("Defendant" or "Mr. Oey")

1 and Defendant Jane Doe Oey ("Mrs. Oey"), on personal knowledge as to its own  
2 activities and on information and belief as to the activities of others, as follows:

3 **The Parties**

4 1. The Freecycle Network is an incorporated Arizona non-profit organization  
5 with its principal place of business in Tucson, Arizona. The Freecycle Network promotes  
6 recycling by providing support to and acting as a central organizing point for local  
7 community-based recycling efforts throughout the United States and several countries  
8 abroad.

9 2. Defendants are residents of Sunnyvale, California. Defendant is a former  
10 member of The Freecycle Network. Defendant Jane Doe Oey is, on information and  
11 belief, the spouse of Defendant Mr. Oey, and all actions taken by Defendant were taken  
12 on behalf of the marital community.

13 **Jurisdiction and Venue**

14 3. This Court has jurisdiction over the subject matter of this action pursuant to  
15 28 U.S.C. §§ 1331 and 1338, as this action arises under the trademark laws of the United  
16 States.

17 4. This Court has further jurisdiction under 28 U.S.C. § 1332, in that The  
18 Freecycle Network and Defendant are citizens of different states and the matter in  
19 controversy exceeds the sum of \$75,000, exclusive of interests and costs.

20 5. This Court has original jurisdiction over The Freecycle Network's state law  
21 claims under 28 U.S.C. § 1332(a), as well as supplemental jurisdiction over these claims  
22 under 28 U.S.C. § 1367(a).

23 6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a), as this is a  
24 district in which a substantial part of the events giving rise to the claims occurred.

25 **Background Facts**

26 7. The Freecycle Network is a non-profit organization that provides local,  
27 community-based recycling and gifting forums throughout the United States. Starting  
28 with a single recycling community in Tucson, The Freecycle Network has grown to a

1 worldwide organization with thousands of local recycling, reusing, and gifting groups  
2 and more than two million individual members. The Freecycle Network maintains an  
3 Internet Web site, located at www.freecycle.org, which maintains a directory of local  
4 recycling groups throughout the world and provides resources for volunteers to create  
5 new local recycling groups.

6 8. The Freecycle Network has been using the distinctive and famous  
7 trademarks FREECYCLE, THE FREECYCLE NETWORK, and the distinctive and  
8 famous "The Freecycle Network" logo (collectively "The Freecycle Network's Marks")  
9 exclusively and continuously since at least May 1, 2003. The Freecycle Network's  
10 Marks comprise the core of The Freecycle Network's intellectual property.

11 9. In addition to The Freecycle Network's long and continuous use of The  
12 Freecycle Network's Marks, registration of The Freecycle Network's Marks is currently  
13 pending before the United States Patent and Trademark Office.

14 10. As a result of its use and promotion of The Freecycle Network's Marks,  
15 The Freecycle Network has built up and now owns valuable goodwill that is symbolized  
16 by these trademarks.

17 11. The Freecycle Network enters into contractual relationships with local  
18 recycling organizations and with corporate sponsors. The Freecycle Network provides  
19 corporate sponsors a limited non-exclusive license to use its intellectual property and  
20 recycling know-how, in exchange for monetary donations.

21 12. The Freecycle Network provides local volunteers with a limited non-  
22 exclusive license to use The Freecycle Network's Marks for local promotions. The  
23 Freecycle Network's Marks are used to identify local recycling groups that belong  
24 generally to The Freecycle Network organization. The Freecycle Network's Marks are  
25 further used by The Freecycle Network to promote recycling and reuse of usable items  
26 within a community. Individual recyclers rely on The Freecycle Network's Marks to  
27 know that they are dealing with a local organization affiliated with The Freecycle  
28 Network.

1           13. Defendant was an active member of The Freecycle Network from early  
2 2004 until late 2005, holding a variety of positions during this time including, but not  
3 limited to, (1) membership in The Freecycle Network's intellectual property working  
4 group, and (2) leader of the New Website Planning Group, tasked with developing The  
5 Freecycle Network's next-generation Internet Web site.

6           14. Defendant vigorously defended The Freecycle Network's rights to The  
7 Freecycle Network's Marks in public e-mail exchanges and various Internet fora while he  
8 was a member of The Freecycle Network. Examples include:

9           (a) In an e-mail dated September 17, 2004, Defendant stated, in  
10 pertinent part, "Everyone in the Freecycle network needs to protect the  
11 "Freecycle" trademark." (See Exhibit A.)

12           (b) In an e-mail dated January 5, 2005, Defendant provided a list of  
13 guidelines entitled "How To Protect the Freecycle Trademark" that includes  
14 detailed instructions for proper use of the FREECYCLE mark. (See Exhibit B.)

15           (c) In an e-mail dated May 5, 2005, Defendant stated, in pertinent part,  
16 "...the Freecycle trademark [] ...is real, Freecycle is using it, and has the right to  
17 defend it to a degree even without registration. The reason that the Freecycle  
18 trademark is important is that people are associating it with an excellent service.  
19 People join The Freecycle Network because they trust it. So the more we work to  
20 make Freecycle trustworthy, distinct, and useful, the more people recognize it, the  
21 more people join it, and the more power the network has to generate gifts rather  
22 than trash – which is THE goal." (See Exhibit C.)

23           15. On or around September 15, 2005, Defendant was asked to resign from his  
24 position at The Freecycle Network due to behavior from Defendant contrary to the  
25 mission of The Freecycle Network Organization. (See Exhibit D.)

26           16. Since terminating his membership in The Freecycle Network, Defendant  
27 has engaged in a systematic campaign to destroy the value of The Freecycle Network's  
28 intellectual property, particularly The Freecycle Network's Marks.

1           17. Defendant has intentionally made false statements about The Freecycle  
2 Network's operations and the validity of The Freecycle Network's intellectual property,  
3 including The Freecycle Network's Marks. These statements include assertions that The  
4 Freecycle Network does not possess valid trademark rights in The Freecycle Network's  
5 Marks, assertions that The Freecycle Network's Marks, specifically the FREECYCLE  
6 mark, is a generic term, and assertions that third parties can freely use The Freecycle  
7 Network's Marks. Examples include:

8           (a) In a Yahoo! Groups message, Defendant stated, in pertinent part,  
9 "...it is legal for everyone to use the term freecycle...so have fun with it!" (See  
10 Exhibit E.)

11           (b) In an e-mail dated September 20, 2005, Defendant stated, in  
12 pertinent part, "...I have encouraged people to use the term freecycle as a generic  
13 term which would block The Freecycle Network (The Freecycle Network), and all  
14 others, from holding a trademark..." (See Exhibit F.)

15           (c) In a Yahoo! Groups message dated February 23, 2006, Defendant  
16 stated, in pertinent part, "...please contact all the freecycle groups in your state  
17 and surrounding states to let them know that freecycle is a generic term..." (See  
18 Exhibit G.)

19           18. Defendant has published false and misleading statements regarding The  
20 Freecycle Network and The Freecycle Network's Marks to third parties, through public  
21 e-mail lists and public Yahoo! Groups Web sites. (See generally Exhibits A-F).

22           19. Defendant has attempted to intentionally and maliciously induce local  
23 recycling organizations to terminate their association with The Freecycle Network and  
24 misuse The Freecycle Network's trademarks. Examples include:

25           (a) In a Yahoo! Groups message dated February 23, 2006, Defendant  
26 maliciously encouraged others to misuse The Freecycle Network's Marks in a  
27 manner that will "[d]rive The Freecycle Network nuts." (See Exhibit G.)  
28

1 (b) In the same Yahoo! Groups message, Defendant intentionally  
2 encouraged others to misuse the Marks “[b]ecause [The Freecycle Network] are  
3 doing bad things.” *Id.*

4 (c) In a Yahoo! Groups message dated September 20, 2005, Defendant  
5 stated “I have actually encouraged people to use the term freecycle as a generic  
6 term which would block The Freecycle Network (The Freecycle Network), and all  
7 others, from holding a trademark....” (*See Exhibit F.*)

8 **FIRST CLAIM FOR RELIEF**

9 (Contributory Trademark Infringement, 15 U.S.C. § 1125(a))

10 20. The Freecycle Network repeats and re-alleges the allegations of paragraphs  
11 1 through 19 of the Complaint as if fully set forth herein.

12 21. Defendant has been knowingly inducing third parties to infringe The  
13 Freecycle Network’s Marks.

14 22. Such knowing inducement of infringement of The Freecycle Network’s  
15 Marks by Defendant constitutes contributory trademark infringement in violation of  
16 Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)).

17 23. The Freecycle Network is informed and believes that Defendant’s past and  
18 continuing contributory trademark infringement of The Freecycle Network’s Marks has  
19 been deliberate and willful, and was calculated to harm the goodwill of The Freecycle  
20 Network’s Marks, and of The Freecycle Network’s reputation and goodwill.

21 24. Defendant’s contributory infringing conduct has damaged The Freecycle  
22 Network in an amount to be determined at trial, and will continue to damage The  
23 Freecycle Network, unless restrained by this Court. The Freecycle Network is entitled to  
24 an injunction, as set forth below, and as a consequence of Defendant’s willful conduct, to  
25 an award against Defendant in an amount of three times The Freecycle Network’s  
26 damages, and The Freecycle Network’s attorneys’ fees and costs incurred in connection  
27 with this action.

28 ///



**SECOND CLAIM FOR RELIEF**

(Trademark Disparagement, 15 U.S.C. § 1125(a))

25. The Freecycle Network repeats and re-alleges the allegations of paragraphs 1 through 24 of the Complaint as if fully set forth herein.

26. Defendant has intentionally made false statements about The Freecycle Network's operations and the validity of The Freecycle Network's intellectual property, including The Freecycle Network's Marks. These statements include assertions that The Freecycle Network does not possess valid trademark rights in The Freecycle Network's Marks, and assertions that The Freecycle Network's Marks, specifically the FREECYCLE mark, is a generic term.

27. Defendant made such false statements with malice, in an attempt to harm The Freecycle Network's right to its intellectual property, harm the goodwill of The Freecycle Network's Marks, and harm The Freecycle Network's reputation and goodwill.

28. The Freecycle Network has suffered special damages due to Defendant's false statements in an amount to be determined at trial, including, but not limited to, a loss of goodwill, decreased membership, loss of potential corporate sponsorship, and potential loss of intellectual property right in The Freecycle Network's Marks. Defendant will continue to damage The Freecycle Network, unless restrained by this Court. The Freecycle Network is entitled to an injunction, as set forth below, and as a consequence of Defendant's willful conduct, to an award against Defendant in an amount of three times The Freecycle Network's damages, and The Freecycle Network's attorneys' fees and costs incurred in connection with this action.

**THIRD CLAIM FOR RELIEF**

(Injurious Falsehood, Arizona Common Law)

29. The Freecycle Network repeats and re-alleges the allegations of paragraphs 1 through 28 of the Complaint as if fully set forth herein.

30. Defendant has published false statements to third parties, through public e-mail lists and public Yahoo! Groups Web sites, regarding The Freecycle Network and



1 The Freecycle Network's Marks. The Freecycle Network's false statements in this  
2 regard include, but are not limited to, assertions that The Freecycle Network's Marks are  
3 generic, that The Freecycle Network does not have valid trademark rights in The  
4 Freecycle Network's Marks, and that third parties can freely use the FREECYCLE mark.

5 31. Defendant intentionally made such false statements with the knowledge  
6 that they were false.

7 32. Defendant made such false statements in an effort to dissuade the readers of  
8 these statements from entering into or maintaining business and volunteer relationships  
9 with The Freecycle Network.

10 33. The Freecycle Network has suffered pecuniary loss due to Defendant's  
11 false statements in an amount to be determined at trial, including, but not limited to, a  
12 loss of goodwill, decreased membership, loss and/or reduction of potential corporate  
13 sponsorship, and potential loss of intellectual property right in The Freecycle Network's  
14 Marks. Defendant will continue to damage The Freecycle Network, unless restrained by  
15 this Court. The Freecycle Network is entitled to an injunction, as set forth below, and as  
16 a consequence of Defendant's willful conduct, to an award against Defendant in an  
17 amount of three times The Freecycle Network's damages, and The Freecycle Network's  
18 attorneys' fees and costs incurred in connection with this action.

19 **FOURTH CLAIM FOR RELIEF**

20 (Defamation, Arizona Common Law)

21 34. The Freecycle Network repeats and re-alleges the allegations of paragraphs  
22 1 through 33 of the Complaint as if fully set forth herein.

23 35. Defendant has made false and misleading public statements concerning The  
24 Freecycle Network and The Freecycle Network's Marks. The Freecycle Network's false  
25 statements in this regard include, but are not limited to, assertions that The Freecycle  
26 Network's Marks are generic, that The Freecycle Network does not have valid trademark  
27 rights in The Freecycle Network's Marks, and that third parties can freely use the  
28 FREECYCLE mark.

1           36. Defendant has published these false and misleading statements without  
2 authorization from The Freecycle Network, on public e-mail lists and public Yahoo!  
3 Groups Web sites.

4           37. Defendant intentionally made such false and misleading statements with the  
5 knowledge that such statements were false and misleading.

6           38. Defendant made such false and misleading statements with malice, in an  
7 attempt to harm The Freecycle Network's right to its intellectual property, harm the  
8 goodwill of The Freecycle Network's Marks, and harm The Freecycle Network's  
9 reputation and goodwill.

10           39. The Freecycle Network has suffered special harm due to Defendant's false  
11 statements in an amount to be determined at trial, including, but not limited to, a loss of  
12 goodwill, decreased membership, loss of potential corporate sponsorship, and potential  
13 loss of intellectual property right in The Freecycle Network's Marks. Defendant will  
14 continue to damage The Freecycle Network, unless restrained by this Court. The  
15 Freecycle Network is entitled to an injunction, as set forth below, and as a consequence  
16 of Defendant's willful conduct, to an award against Defendant in an amount of three  
17 times The Freecycle Network's damages, and The Freecycle Network's attorneys' fees  
18 and costs incurred in connection with this action.

19                                   **FIFTH CLAIM FOR RELIEF**

20           (Intentional Interference with Business Relationship, Arizona Common Law)

21           40. The Freecycle Network repeats and re-alleges the allegations of paragraphs  
22 1 through 39 of the Complaint as if fully set forth herein.

23           41. The Freecycle Network enters into contractual relationships with its local  
24 recycling, reusing, and gifting groups, and with corporate sponsors.

25           42. Due to his prior involvement in The Freecycle Network, Defendant has  
26 personal knowledge of The Freecycle Network's contractual relationships with its local  
27 recycling, reusing, and gifting groups, and with corporate sponsors.  
28

43. Defendant intentionally made false and misleading statements regarding The Freecycle Network and The Freecycle Network's Marks in an attempt to disrupt The Freecycle Network's contractual relationships by (1) stating that The Freecycle Network does not hold valid rights in the FREECYCLE mark, and (2) attempting to induce local recycling organizations to terminate their association with The Freecycle Network and misuse The Freecycle Network's trademarks.

44. Defendant made such false and misleading statements with malice, in an attempt to harm The Freecycle Network's right to its intellectual property, harm the goodwill of The Freecycle Network's Marks, and harm The Freecycle Network's reputation and goodwill.

45. The Freecycle Network has suffered damages due to Defendant's false statements in an amount to be determined at trial, including, but not limited to, a loss of goodwill, decreased membership, loss of potential corporate sponsorship, and potential loss of intellectual property rights in The Freecycle Network's Marks. Defendant will continue to damage The Freecycle Network, unless restrained by this Court. The Freecycle Network is entitled to an injunction, as set forth below, and as a consequence of Defendant's willful conduct, to an award against Defendant in an amount of three times The Freecycle Network's damages, and The Freecycle Network's attorneys' fees and costs incurred in connection with this action.

## PRAYER FOR RELIEF

WHEREFORE, The Freecycle Network requests that the Court enter judgment in its favor and against Defendants on its Complaint as follows:

A. An injunction temporarily, preliminarily and permanently enjoining and restraining Defendant, its agents, servants, employees, affiliates, attorneys, and all those in privity or acting in concert with Defendant, from using or inducing third parties to use The Freecycle Network's Marks in any form or any close variation thereof;

B. An injunction temporarily, preliminarily and permanently enjoining and restraining Defendant, its agents, servants, employees, affiliates, attorneys, and all those

1 in privity or acting in concert with Defendant, from interfering with The Freecycle  
2 Network's business relationships;

3 C. An award of damages to The Freecycle Network adequate to compensate  
4 The Freecycle Network for Defendant's acts of infringement, disparagement,  
5 interference, injurious falsehood, and defamation, together with interest thereon, and an  
6 increase in the amount of damages to three times the amount found or assessed by this  
7 Court because of the willful and deliberate nature of Defendant's acts, as provided by  
8 35 U.S.C. § 284;

9 D. An award of The Freecycle Network's costs incurred in this action,  
10 together with reasonable attorneys' fees;

11 E. Granting such other and further relief as this Court may deem just and  
12 proper.

13 **DEMAND FOR JURY TRIAL**

14 The Freecycle Network demands a jury trial on all issues.

15 Dated this 4<sup>th</sup> day of April, 2006.

16 DECONCINI McDONALD  
17 YETWIN & LACY, P.C., and  
18 PERKINS COIE LLP

19 By: \_\_\_\_\_

  
20 Lisa Anne Smith  
21 Shefali Milczarek-Desai

22 Paul J. Andre  
23 Lisa Kobiaika  
24 Esha Bandyopadhyay  
25 Sean Boyle

26 Attorneys for Plaintiff  
27 The Freecycle Network, Inc.  
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**VERIFICATION**

STATE OF ARIZONA     )  
                                      ) ss.  
County of Pima         )

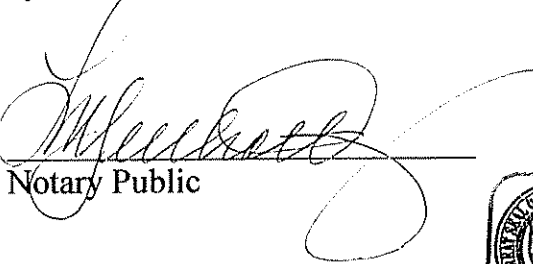
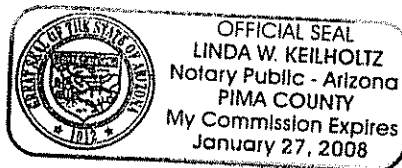
I, Deron Beal, upon penalty of perjury, depose and say that:

1. I am the Executive Director and Board Chair of The Freecycle Network, Inc.
2. I have reviewed The Freecycle Network, Inc.'s Complaint for Trademark Disparagement, Injurious Falsehood, Defamation, and Intentional Interference with Business Relations.
3. To the best of my knowledge, the contents of this document are true and correct.

DATED this 4<sup>th</sup> day of April, 2006.

  
\_\_\_\_\_

Subscribed and sworn to before me  
this 4th day of April, 2006,  
by Deron Beal.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

1-27-08

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Index of Exhibits to Complaint

Exhibit A	E-mail dated 9/17/04 from Tim Oey re Intellectual Property
Exhibit B	E-mail dated 1/5/05 from Tim Oey re How to Protect the Freecycle Trademark
Exhibit C	E-mail dated 5/5/05 from Tim Oey to Pauline M. Gabriel
Exhibit D	E-mail dated 9/16/05 to Tim Oey requesting resignation
Exhibit E	Yahoo Groups messages
Exhibit F	E-mail dated 9/20/05 from Tim Oey re Goodbye
Exhibit G	Yahoo Groups message



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Exhibit A

4. Must follow the terms in its End User License Agreement (EULA).

Just for reference, I'm not a lawyer but I am in the software industry and I work very closely with many lawyers regarding how software may and may not be used.

Cheers,  
Tim

---

\*\*\*\*\*From: Tim Oey <timoe@...> Reduce\_Reuse...  
Date: Fri Sep 17, 2004 12:55 am Offline  
Subject: Freecycle -- intellectual property protection is important...  
Since the Freecycle network is growing up, here are some recommendations for discussion and hopefully adoption (and general education).

Please note that I'm not a lawyer but I've been involved with intellectual property issues for about 20 years (copyrights, trademarks, patents, etc). For "official" advice, please consult the appropriate type of attorney.

1) Everyone in the Freecycle network needs to protect the "Freecycle" trademark. Not only must trademarks be actively defended (as Deron is doing), they must also be used properly. Trademarks are adjectives, and must only be used as such (i.e., Freecycle moderators, Freecycle network, etc). Marks should never be used as nouns or verbs, nor should marks be pluralized or used in the possessive form. This is especially important in official Freecycle communications -- web sites, autosent emails, etc. Unfortunately this does crimp the use of "Keep on Freecyclin'" -- catchy, but risky.

2) What is the official full name of the Freecycle non-profit? Is it "The Freecycle Network"? or "Freecycle, Inc." or what?

3) As people create material for Freecycle, it would be useful to come up with some sort of concise copyright policy for everyone to use that references the

official full Freecycle name. For material of significant length, here is what I recommend:

a) Either the standard:  
Copyright <year> The Freecycle Network, All Rights Reserved  
or

b)  
Copyright <year> The Freecycle Network, All Rights Reserved

Official Freecycle sites may re-use, edit, extract, redistribute, and update this article as long as this copyright statement is retained.

If you redistribute, you may optionally give credit to whoever has contributed to it thus far.

Credits: <names of contributors>

The nice thing about (b) is that it is pretty clear that stuff can be updated by others in the Freecycle network -- this constitutes a simple mini-license that sticks to Freecycle copyrighted material and also gives contributors a way to be recognized.

Cheers,  
Tim

---

**From:** Tim Oey <timoe@...>

**Date:** Fri Sep 17, 2004 4:05 am

**Subject:** Re: [freecyclemodsqad] RE; HOW DO I ADDRESS THIS?

(ADMIN: WEAPONS)

[Reduce\\_Reuse...](#)

[Offline](#)

[Send Email](#)

Umm, I hope we'll trust our moderators to achieve a rational balance (vs the type of screening you get at the airport these days). For instance the following items I'm ok with (and have seen) on a Freecycle list but would not give to a 4 year old (or leave a 4 year old around without supervision):

Matches  
Lighters (for barbecues)  
Barbecue grill  
Sewing machine

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Exhibit B



## [freecyclemodsquad] How to Protect the Freecycle Trademark (was: Verbing a Noun - "To Freecycle")

1 message

Tim Oey <timoe@yaho.com>

Wed, Jan 5, 2005 at 10:22 PM

To: freecyclemodsquad@yahoogroups.com

Cc: Sherry <bookworms@comcast.net>, Cynthia Armistead <freecycle@technozoo.org>

Sherry & Cynthia -- Thanks for the excellent explanation about trademarks and the great links!

All -- I'm glad Deron has finally published an official rule about use of the term "Freecycle" as used by The Freecycle Network. Below is further practical guidance on how to do the right thing.

My own local group (<http://groups.yahoo.com/group/freecyclesunnyvale/>) has been Freecycle trademark safe for several months now. It is a bit tricky but it is important. A big advantage that Freecycle has over commercial companies is that we have all of you out there to help guide everyone (particularly journalists) in the proper use of the Freecycle term. Journalists are usually quite happy to help as it is a common concern for them.

### How to Protect the Freecycle Trademark

The Freecycle trademark is very important to The Freecycle Network. Use of the term "Freecycle" denotes a group that is officially approved by The Freecycle Network and one that the members can expect to adhere to a certain level of quality and security (as described by Freecycle etiquette).

To properly protect the Freecycle trademark, Freecycle staff, moderators, and journalists must do the following.

1) The first or most prominent mention of Freecycle in a document (on the [Freecycle.org](http://Freecycle.org) site, in an article, on a Freecycle group home page) should include the (TM) designation, preferably as a superscript. The (TM) superscript is not needed in casual emails but should be used in posted documents and on web sites.

For example:

- See the current Freecycle logo graphic at <http://Freecycle.org>
- See how the words "The Freecycle (TM) Network" appear at: <http://groups.yahoo.com/group/freecyclesunnyvale/>
- Here is a sentence example: "This Freecycle (TM) group supports Sunnyvale, California."

In HTML, the easiest way to add the TM superscript is to use the following HTML code (remove the periods from this example -- they are included so this code is not interpreted as html in this email):

```
<sup><font size="1">TM</font></sup>
```

2) Major official Freecycle publications (like the main [Freecycle.org](http://Freecycle.org) site, major official documents, and press releases) should say at the bottom:

"Freecycle is a trademark of The Freecycle Network "

3) The word "Freecycle" must always be capitalized or otherwise set off from the surrounding text.

4) The word "Freecycle" must always 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 use the term "freecyclin", say something else.
- Do not say "Please freecycle!", say "Please join a Freecycle group!" or "Please join The Freecycle Network"

Note: the term "Freecycle" may be used as a short name reference to "The Freecycle Network", just as "Adobe" is used as a short way to refer to "Adobe Systems Incorporated" (for examples see <http://www.adobe.com/aboutadobe/main.html> and Adobe's "Terms of Use" at <http://www.adobe.com/misc/copyright.html>)

For further details about trademarks, service marks, and how to use them properly, please see:

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

and

<http://en.wikipedia.org/wiki/Trademark>

Enjoy!!

Cheers,  
Tim

----- Yahoo! Groups Sponsor ----->

Take a look at [donorschoose.org](http://donorschoose.org), an excellent charitable web site for anyone who cares about public education!

<http://us.click.yahoo.com/O.5XsA/8WnJAA/E2hLAA/rcToIB/TM>

----->

Yahoo! Groups Links

<\*> To visit your group on the web, go to:  
<http://groups.yahoo.com/group/freecyclemodsquad/>

<\*> To unsubscribe from this group, send an email to:  
[freecyclemodsquad-unsubscribe@yahoogroups.com](mailto:freecyclemodsquad-unsubscribe@yahoogroups.com)

<\*> Your use of Yahoo! Groups is subject to:  
<http://docs.yahoo.com/info/terms/>



The Freecycle Network, Inc. v. Tim Oey  
U.S. District Court  
District of Arizona  
Exhibit C

the NGA for Saskatchewan, since I'm in pretty constant contact with most of the mods here, I have gone thru most of the groups myself, and made sure to help, or get them help to get their groups tm'd. Maybe, if the tmsupport (or someone else) doesn't do this already, it might be an idea.

With over 2000 groups, if we could made smaller, more manageable chunks to check, it shouldn't take too long to go thru all the official groups - and maybe even have time to check for rogues. I know in my travels I've spotted one or two that aren't tm'd correctly.....who should I be sending these to? If anyone.

--  
 Pauline Gabriel [mmouse@sasktel.net](mailto:mmouse@sasktel.net)  
 Regina-Freecycle listowner and busy PR person.....  
 FreecycleModSquadCanada and PrairieModSquad co-owner  
 and International and Saskatchewan Freecycle NGA.  
<http://www.freecycle.org> for an official Freecycle(tm) group in your area!

----- Yahoo! Groups Sponsor ----->  
 Dying to be thin?  
 Anorexia Narrated by Julianne Moore .  
[http://us.click.yahoo.com/FLQ\\_sC/gsnJAA/E2hLAA/rcToIB/TM](http://us.click.yahoo.com/FLQ_sC/gsnJAA/E2hLAA/rcToIB/TM)  
 [Quoted text hidden]

Tim Oey <[timoeey@yahoo.com](mailto:timoeey@yahoo.com)>

Thu, May 5, 2005 at 6:25 PM

To: "Pauline M. Gabriel" <[mmouse@sasktel.net](mailto:mmouse@sasktel.net)>, freecyclederon <[deron@freecycle.org](mailto:deron@freecycle.org)>, freecyclemodsquad@yahooogroups.com

Hmmm.... tracking which groups are using the Freecycle trademark correctly seems like a good idea to me. It would be useful to know how many groups are doing a good job, how many not, and how many are unknown.

BTW, while registration of the trademark is pending, the Freecycle trademark itself is not pending -- it is real, Freecycle is using it, and has the right to defend it to a degree even without registration. If it becomes registered, then Freecycle will have more methods to defend its use as well as more solid backing.

The reason that the Freecycle trademark is important is because people are associating it with an excellent service. People join The Freecycle Network because they trust it. So the more we work to make Freecycle trustworthy, distinct, and useful, the more people recognize it, the more people join it, and the more power the network has to generate gifts rather than trash -- which is THE goal.

Cheers,  
 Tim

At 10:40 AM -0600 5/5/05, Pauline M. Gabriel wrote:

>Since not all groups keep current with info (it would be nice if they  
 >did, but we all know that not all our members keep up with list  
 >policies, so why expect all group moderators to do this), might it be  
 >wise to set up a temp position for each state, to go thru all the  
 >groups in that state, and bring forth those groups to the tmsupport@  
 >for contact, or contact them themselves, and nudge them along. As  
 >the NGA for Saskatchewan, since I'm in pretty constant contact with  
 >most of the mods here, I have gone thru most of the groups myself,  
 >and made sure to help, or get them help to get their groups tm'd.  
 >Maybe, if the tmsupport (or someone else) doesn't do this already, it

>might be an idea.

>

>With over 2000 groups, if we could made smaller, more manageable

>chunks to check, it shouldn't take too long to go thru all the

>official groups - and maybe even have time to check for rogues. I

>know in my travels I've spotted one or two that aren't tm'd

>correctly.....who should I be sending these to? If anyone.

[Quoted text hidden]

The Freecycle Network, Inc. v. Tim Oey  
U.S. District Court  
District of Arizona  
Exhibit D

Paula  
[pdspencer@earthlink.com](mailto:pdspencer@earthlink.com)  
Be kind to each other.

---

No virus found in this incoming message.  
Checked by AVG Anti-Virus.  
Version: 7.0.344 / Virus Database: 267.11.1/104 - Release Date: 9/16/2005

---

**\*\*Step down letter from Paula, the GOA, to Tim.**

----- Original Message -----

From: "Paula" <[california@freecycle.org](mailto:california@freecycle.org)>  
To: <[oey@post.harvard.edu](mailto:oey@post.harvard.edu)>  
Cc: <[deron@freecycle.org](mailto:deron@freecycle.org)>  
Sent: Friday, September 16, 2005 12:04 PM  
Subject: Trademark Issues

Tim,

>

> As a volunteer representative of The FreecycleT Network you have publicly  
> requested that members actively campaign against the organization  
> obtaining the Trademark it has filed for. The following are quotes from  
> your post:

>

> "The best way to keep freecycle in the public domain is for as many people  
> and groups as possible to continue to use the term generically.

>

> If you feel that the term freecycle is generic, you can let the USPTO know  
> by sending a letter to:

> Commissioner Of Trademarks" (address followed)

>

> "Yahoo listens to its customers, so if folks complain about groups being  
> deleted for use of the term "freecycling" than members/moderators of those  
> groups should complain to Yahoo "(email address followed)

>

> This is contrary to the mission of this organization to keep the trademark  
> free from external corporate use and solely open to local members of The  
> FreecycleT Network. Therefore, I must ask that you step down as the as  
> a moderator of the Freecycle Sunnyvale list. I would appreciate your  
> cooperation as soon as possible and confirming that you have done so.

>

> Sincerely,

> Paula

>

> All the best,

> Paula

The Freecycle Network, Inc. v. Tim Oey  
U.S. District Court  
District of Arizona  
Exhibit E



>  
> Be kind to each other.  
> [www.freecycle.org](http://www.freecycle.org)  
>  
> FreecycleT and the FreecycleT logo are trademarks of The FreecycleT  
> Network in the United States and/or other countries.  
>  
> No virus found in this incoming message.  
> Checked by AVG Anti-Virus.  
> Version: 7.0.344 / Virus Database: 267.11.1/104 - Release Date: 9/16/2005

---

----- Original Message -----

From: "Paula" <[california@freecycle.org](mailto:california@freecycle.org)>  
To: <[timcafc@oeyweb.com](mailto:timcafc@oeyweb.com)>; <[petritim123@yahoo.com](mailto:petritim123@yahoo.com)>; <[timoev@yahoo.com](mailto:timoev@yahoo.com)>  
Sent: Friday, September 16, 2005 1:30 PM  
Subject: Trademark Issues

Tim,  
>  
> As a volunteer representative of The FreecycleT Network you have publicly  
> requested that members actively campaign against the organization  
> obtaining the Trademark it has filed for. The following are quotes from  
> your post:  
>  
> "The best way to keep freecycle in the public domain is for as many people  
> and groups as possible to continue to use the term generically.  
>  
> If you feel that the term freecycle is generic, you can let the USPTO know  
> by sending a letter to:  
> Commissioner Of Trademarks" (address followed)  
>  
> "Yahoo listens to its customers, so if folks complain about groups being  
> deleted for use of the term "freecycling" than members/moderators of those  
> groups should complain to Yahoo "(email address followed)  
>  
> This is contrary to the mission of this organization to keep the trademark  
> free from external corporate use and solely open to local members of The  
> FreecycleT Network. Therefore, I must ask that you step down as the as  
> a moderator of the Freecycle Sunnyvale list. I would appreciate your  
> cooperation as soon as possible and confirming that you have done so.  
>  
> Sincerely,  
> Paula  
>

\*\*\*\*\*

Tim Oey <[timoeey@gmail.com](mailto:timoeey@gmail.com)> to Freedomcycle

More options 4:40 am (3 hours ago) Good news -- it is legal for everyone to use the term freecycle, freecycling, freecycler, freecycled, etc -- there are no current viable registered trademark applications that cover the word -- so have fun with it!

1) The trademark application 78415420

(New Media Worlds, Inc.-- International Class: 042 An online service where users are able to give items away for free that they no longer need) Their claim was for just the plain word "freecycle" but it is about to be denied based on abandonment as of a notice sent to this applicant on 8/22/2005.

Read it at: <http://portal.uspto.gov/external/portal/tow>

Serial Number: 78415420

2) The trademark application 78475113

(THE FREECYCLE NETWORK-- International Class: 042 DESIGN, CREATION, HOSTING AND MAINTENANCE OF A FREE WEBSITE THAT PROVIDES OTHERS WITH A GLOBAL INTERNET BASED SYSTEM OF GIVING AND RECEIVING PERSONAL PROPERTY FOR FREE)

This claim was for the freecycle graphic logo only and does not cover the word in standard characters (plain text).

Read all about it at: <http://portal.uspto.gov/external/portal/tow>

Serial Number: 78475113

In particular read the application itself.

Please note that the original application includes a copy of the then current freecycle.org site which uses the word freecycle as freecycling, freecycles, etc.

Plus continued use of the word freecycle as a generic term by everyone will insure that it can never be trademarked by any corporation ever. So I hope you all will do your part to make this so. If you don't trust me, just read up on trademark law yourself or consult your own attorney.

Keep on freecyclin'!

Cheers,

",1]);/-->

Good news -- it is legal for everyone to use the term freecycle, freecycling, freecycler, freecycled, etc -- there are no current viable registered trademark applications that cover the word --- so have fun with

----- Original Message -----

**From:** Tim Oey  
**To:** freecyclenext@yahoogroups.com  
**Sent:** Wednesday, September 14, 2005 2:03 AM  
**Subject:** [freecyclenext] Gifting "freecycle" to the public

The best way to keep freecycle in the public domain is for as many people and groups as possible to continue to use the term generically.

If you feel that the term freecycle is generic, you can let the USPTO know by sending a letter to:  
Commissioner Of Trademarks  
P.O. Box 1451  
Alexandria, Va. 22313-1451

In your letter, reference registered trademark application 78475113.

Yahoo listens to its customers, so if folks complain about groups being deleted for use of the term "freecycling" than members/moderators of those groups should complain to Yahoo at:  
[http://add.yahoo.com/fast/help/us/groups/cgi\\_abuse](http://add.yahoo.com/fast/help/us/groups/cgi_abuse)  
or  
[copyright@yahoo-inc.com](mailto:copyright@yahoo-inc.com)

Basically, if you all want something to happen you have to do something about it.

Power to the people...

Cheers,  
Tim

- Visit your group "freecyclenext" on the web.
- To unsubscribe from this group, send an email to:  
[freecyclenext-unsubscribe@yahoogroups.com](mailto:freecyclenext-unsubscribe@yahoogroups.com)
- Your use of Yahoo! Groups is subject to the Yahoo! Terms of Service.

The Freecycle Network, Inc. v. Tim Oey  
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District of Arizona  
Exhibit F

We have already successfully defended it from a company in Canada and a company in Florida. We are fortunate to have a great deal of pro bono legal support as an organization from those who believe in us.

However, I was surprised to learn that you are actively not only encouraging moderators to misuse our trademark but also to write the US Patent & Trademark Office to contest our right to the trademark. You went so far as to provide the address and our case number. You have made your position a clear. This position is clearly in stark contrast to the goals of this organization.

I'm sorry that you have chosen this path and hope that you will reconsider. I wish you the best. No doubt you have good intentions in your heart which hopefully will not prove costly for The Freecycle Network as an organization overall down the road.

Sincerely yours,  
Deron

Deron Beal  
The Freecycle Network

---

No virus found in this incoming message.

Checked by AVG Anti-Virus.

Version: 7.0.344 / Virus Database: 267.11.3/106 - Release Date: 9/19/2005

---

----- Original Message -----

From: "Tim Oey" <[oev@post.harvard.edu](mailto:oev@post.harvard.edu)>

To: "chandan mishra" <[chandan@hotmail.com](mailto:chandan@hotmail.com)>; "Deron Beal" <[deron@freecycle.org](mailto:deron@freecycle.org)>;  
<[freecyclesunnyvale-owner@yahooogroups.com](mailto:freecyclesunnyvale-owner@yahooogroups.com)>

Cc: <[california@freecycle.org](mailto:california@freecycle.org)>

Sent: Tuesday, September 20, 2005 11:08 AM

Subject: RE: Goodbye

- > Actually on this point, I have encouraged people to
- > use the term freecycle as a generic term which would
- > block The Freecycle Network (TFN), and all others,
- > from holding a trademark on the term in the area of
- > freecycling services offered on the web.
- >
- > This would mean that everyone could use the term
- > freecycle and no one could stop anyone else from using
- > it. There are also lots of other consequences.
- >
- > In consultation with some trademark attorneys, I'm in
- > the process of writing up a more thorough analysis of
- > the pro's and con's of freecycle as a trademark vs
- > freecycle as a generic term.
- >

> The decision to pursue a trademark was made by Deron.  
> Most of the network does not know what the  
> consequences are of getting a trademark nor the  
> consequences of having freecycle be a generic term.  
> Deron did not want to allow discussion or voting in  
> this space which lead us to the current situation.  
>  
> Cheers,  
> Tim  
>  
> --- chandan mishra <[chandan@hotmail.com](mailto:chandan@hotmail.com)> wrote:  
>> 4. Also according to Tim, he never encouraged anyone  
>> to misuse Freecycle  
>> trademark. Could you please point us to instances  
>> where he did that?  
>  
> --  
> No virus found in this incoming message.  
> Checked by AVG Anti-Virus.  
> Version: 7.0.344 / Virus Database: 267.11.3/107 - Release Date: 9/20/2005

---



The Freecycle Network, Inc. v. Tim Oey  
U.S. District Court  
District of Arizona  
Exhibit G

Yahoo! My Yahoo! Mail Make Yahoo! your home page

Search the Web  Search

**YAHOO! GROUPS**

Groups Home - Help



**\$7500 CREDIT CARD**  
**Free Enrollment**

NO CREDIT CHECKS  
REBUILD YOUR CREDIT  
FREE CREDIT LIMIT INCREASE  
NO EMPLOYMENT VERIFICATION

*The Power of Gold*  
**ExpressGOLD**  
**SIGNUP TODAY**  
CLICK HERE

| Group Member - Edit Membership

Start a Group | My Groups

**fcnext** Free Recycling - The Next Generation

Home  
Messages  
Post  
Chat  
Files  
Photos  
Links  
Database  
Polls  
Calendar

Promote

## Messages

Message #

Go

Search:

Go

Messages Help

Post Message

Up Thread | Message Index | View Source | Unwrap Lines

Message 3171 of 4099 < Previous Message | Next Message >

Reply

Forward

**From:** Tim Oey <timoe@...>  
**Date:** Thu Feb 23, 2006 9:55 am  
**Subject:** Let your voices be heard...

reduce\_reuse...

Offline

Send Email

Invite to Yahoo! 360°

Many of us know that TFN is already a bit crazy in trying to clamp down on free speech freedoms, but now is a great time to further the cause and keep freecycle free for everyone forever (and drive TFN even crazier).

What you can do on your own:

1) Using TFN's directory, please contact all the freecycle groups in your state and surrounding states to let them know that freecycle is a generic term. Ask them to visit <http://greenribbon.us> for more information. There is no need to be that organized about it but if you think you have a state well covered, please post a note to fcnext. You'll need to dribble the mails out a few at a time and by as many people as possible to get around Yahoo's intricate group owner spam catchers. Make all your emails unique -- don't repeat exactly the same contents

### Yahoo! Groups Tips

Did you know...  
You can create an FAQ  
for your group?

Yahoo! 360°

Keep connected to  
your friends and  
family through blogs,  
photos and more.  
Create your own 360°  
page now.

or subject, etc.

2) If you currently have a group within TFN, either take it out of TFN and tell all your members that freecycling should stay free or do comply initially with TFN's request so that your group is not deleted but then later sprinkle freecycling around your group and other groups so the free grassroots movement continues to be free (this is likely to really drive TFN nuts). Let more people know about <http://greenribbon.us>

3) Do give TFN GOAs a hard time because they are doing bad things by limiting free speech. Free speech is very important. Let everyone know that TFN does not need to control freecycling for TFN to be successful.




4) Get your freecycling is free statements to Eric for posting on <http://greenribbon.us>










5) Let others know that freecycling is a wonderful thing that people can do via Google, Craigslist, Yahoo Groups, any email list, or however they wish -- even just leaving stuff out on the curb with a "Free" or "Freecycle this" note attached.

Spread the word and let the word be free.

Enjoy!

Cheers,  
Tim

Replies		Author	Date
3190	<b>Re: Let your voices be heard...</b> I don't think any of that is a good idea. Why not let the courts decide it? By...	If I told ya..... belhaven_lass   	Feb 23, 2006 5:18 pm

3314	----- <b>Re: Let your voices be heard...</b> Hi Lass, The courts will get to it eventually. How is encouraging others to...	Tim Oey reduce_reuse...   	Feb 26, 2006 11:00 pm
3336	----- <b>Re: Let your voices be heard...</b> i second tim's post...educating others is a necessity in any grassroots ...	xtina (freecycle mode... existentialista   	Feb 27, 2006 5:11 am
3348	----- <b>Re: Let your voices be heard...</b> I think I've made my intent known when it comes to FreeSpeech :- ) FreeCyco ... ..	Free cycle Recycle freecycos   	Feb 27, 2006 6:47 am

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[www.buygiftribbon.com](http://www.buygiftribbon.com)

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