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6 Attorneys for Plaintiff,
 7 International Oddities, Inc.

8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

10 International Oddities, Inc., a California
 corporation,

11 Plaintiff,

12 vs.

13 Domestic Oddities Wholesale
 14 Distribution LLC, a Nevada limited
 liability company, Eric C. Fontenelle, an
 15 individual, Rick Chervenak, an
 individual, Brett M. McSpadden, an
 16 individual, and Derek L. Durbin, an
 individual,

17 Defendants.
 18

Case No.: CV 12-2259-CAS (RZx)

**PERMANENT INJUNCTION WITH
 RESPECT TO DEFENDANT DEREK
 L. DURBIN, AN INDIVIDUAL**

19
 20 WHEREAS, plaintiff International Oddities, Inc. (“IO” or “Plaintiff”) has filed
 21 its complaint in the above-entitled action against Defendant DEREK L. DURBIN, an
 22 individual (“Durbin”), among the various other above-named defendants (collectively
 23 “Defendants”) for trademark infringement, unfair competition, false designation of
 24 origin, dilution, and cyberpiracy, among other related causes, concerning IO’s
 25 federally registered trademarks INTERNATIONAL ODDITIES® and BLACK
 26 WIDOW®;

27 WHEREAS, Defendant Domestic Oddities Wholesale Distribution LLC, a
 28 Nevada limited liability company ("Domestic Oddities") is in the business of

1 marketing and selling various products over the Internet and through distributors and
2 retail outlets, including, without limitation, "herbal incense," sometimes referred to
3 generically as "potpourri," in part, through websites owned, operated, or hosted by one
4 or more of the Defendants and/or their affiliates;

5 WHEREAS, in exchange for IO's dismissal of the complaint in this Action,
6 without prejudice, as to Durbin, only, Durbin and IO have stipulated to entry of a
7 permanent injunction as to Durbin, on the following terms and conditions;

8
9 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND
10 DECREED THAT:

11 1. This Court has jurisdiction of the subject matter of this litigation and over
12 Mr. Durbin's person.

13 2. Mr. Durbin waives the right to appeal from entry of this Permanent
14 Injunction With Respect to Defendant Derek L. Durbin, an Individual ("Permanent
15 Injunction" or "Order").

16 3. Plaintiff is a corporation organized under the laws of the State of
17 California, having an address at 927 Deep Valley Drive, No. 163, Rolling Hills, CA
18 90274.

19 4. Defendant Derek L. Durbin is an individual residing in Slidell, Louisiana.

20 5. IO's United States Trademark Registration No. 3,001,848 for the mark
21 INTERNATIONAL ODDITIES in International Class 034 for "non-tobacco smoking
22 products, namely, herbal tobacco substitute, not for medical use," ("Plaintiff's
23 INTERNATIONAL ODDITIES Registration") is valid and subsisting and is owned
24 by IO. This registration has since been granted incontestable status by the USPTO.

25 6. For approximately 17 years, Plaintiff has continuously used its
26 INTERNATIONAL ODDITIES trade name and trademark alone and in combination
27 with other words and symbols for its herbal smoking and dietary supplement products.
28 International Oddities' goods have been sold and marketed throughout the United

1 States under the INTERNATIONAL ODDITIES mark. By virtue of such use,
2 Plaintiff has also acquired common law rights in the trademark and trade name
3 INTERNATIONAL ODDITIES. Plaintiff's INTERNATIONAL ODDITIES
4 Registration and its common law rights in the INTERNATIONAL ODDITIES mark
5 are collectively referred to herein as "Plaintiff's INTERNATIONAL ODDITIES
6 mark."

7 7. IO's United States Trademark Registration No. 3,168,188 for the mark
8 BLACK WIDOW in International Class 034, relating to "non-tobacco smoking
9 products, namely, herbal tobacco substitute, not for medical use," ("Plaintiff's BLACK
10 WIDOW Registration") is valid and subsisting and is owned by IO. This registration
11 has since been granted incontestable status by the USPTO. Plaintiff has also acquired
12 common law rights in the mark/name BLACK WIDOW by virtue of its extensive use
13 and advertising of goods under this mark/name. Plaintiff's BLACK WIDOW
14 Registration and its common law rights in the BLACK WIDOW mark/name are
15 collectively referred to herein as "Plaintiff's BLACK WIDOW mark."

16 8. Plaintiff's BLACK WIDOW mark and Plaintiff's INTERNATIONAL
17 ODDITIES mark are collectively referred to herein as the "IO TRADEMARKS."

18 9. As a result of Plaintiff's extensive use and advertising, the IO
19 TRADEMARKS have become well known to the industry and the purchasing public
20 to designate herbal smoking-related products, among other products, originating from
21 IO.

22 10. IO has superior rights to exclusive use of the IO TRADEMARKS vis-à-
23 vis Durbin.

24 11. Durbin shall not in the future file or maintain an application for
25 registration or a registration of any mark comprising or including the IO
26 TRADEMARKS or any reproductions, copies, counterfeits or colorable imitations
27 thereof or any terms confusingly similar thereto, including without limitation the
28 marks "DOMESTIC ODDITIES," "BLACK WIDOW," and/or "WHITE WIDOW,"

1 with the United States Patent and Trademark Office or any other governmental or
2 state authority.

3 12. Subject to the provisions of Paragraph 15, upon entry of this Consent
4 Judgment and Permanent Injunction, Durbin and each of his employees, agents,
5 servants, attorneys, successors and assigns and any entity he has an ownership interest
6 in (unless it is a publicly traded company in which it/he owns or controls less than 5%
7 of issued and outstanding voting stock, including any stock that could be converted
8 into voting stock), controls directly or indirectly or for which he is an officer, director,
9 or provides advice or direction, and all those in active concert and participation, or
10 affiliated with one or more of them or under authority of Mr. Durbin who receive
11 actual notice of this Permanent Injunction by personal service or otherwise, are hereby
12 enjoined and restrained from:

13 (a) making, contributing to the making, or inducing others to
14 make any use of a name, tradename, mark, URL, domain name, or
15 computer code which comprises or includes one or more of the IO
16 TRADEMARKS or any reproduction, copy, counterfeit or colorable
17 imitation thereof or any term(s) confusingly similar thereto, including
18 without limitation the marks "DOMESTIC ODDITIES," "BLACK
19 WIDOW," and/or "WHITE WIDOW," especially any such use on or in
20 connection with herbal incense, "potpourri," herbal tobacco substitutes or
21 any smoking-related products and accessories (including, without
22 limitation, lighters, pipes, matchbooks, or any similar goods), sold,
23 offered for sale, distributed, or imported into the United States or
24 otherwise advertised, marketed or promoted;

25 (b) offering for sale, selling, distributing, marketing, importing,
26 advertising, promoting or giving away, or causing to be offered for sale,
27 sold, distributed, marketed, imported, or given away any goods bearing
28 one or more of the IO TRADEMARKS or any reproduction, copy,

1 counterfeit or colorable imitation thereof or any term(s) confusingly
2 similar thereto, including without limitation the marks "DOMESTIC
3 ODDITIES," "BLACK WIDOW," and/or "WHITE WIDOW";

4 (c) shipping, delivering, distributing, returning, or otherwise
5 disposing of in any manner other than destruction of packaging, or from
6 causing to be shipped, delivered, distributed, returned, or disposed of
7 (other than destroying packaging), products bearing one or more of the
8 IO TRADEMARKS or any reproduction, copy, counterfeit or colorable
9 imitation thereof or any term(s) confusingly similar thereto, including
10 without limitation the marks "DOMESTIC ODDITIES," "BLACK
11 WIDOW," and/or "WHITE WIDOW";

12 (d) displaying, advertising, or soliciting purchases, or causing to
13 be displayed, advertised, or solicited, any product under one or more of
14 the IO TRADEMARKS or any reproduction, copy, counterfeit or
15 colorable imitation thereof or any term(s) confusingly similar thereto,
16 including without limitation the marks "DOMESTIC ODDITIES,"
17 "BLACK WIDOW," and/or "WHITE WIDOW," over the Internet or
18 otherwise;

19 (e) registering, maintaining, promoting, using, trafficking in, or
20 engaging in any activities (directly or indirectly) with any domain name,
21 web page name or URL which includes one or more of Plaintiff's
22 trademarks (listed in **Exhibit 1** hereto) or any reproductions, counterfeits,
23 copies or colorable imitations thereof or any terms confusingly similar
24 thereto, including without limitation the <domesticoddities.com>,
25 <domesticoddities.net> and <domesticoddities.org> domain names;

26 (f) maintaining, operating, or using (whether directly or
27 indirectly) or inducing others (including, without limitation Affiliates) to
28 maintain, operate, or use any web-page, home page, web site, website

1 content (including, without limitation, that which appears on "hidden
2 pages"), any code whatsoever (including but not limited to metatags,
3 HTML, XHTML, any computer code, domain names, URLs, sub pages,
4 extensions, links, or any division or portion thereof, signs, banner ads, or
5 any other visual media used in connection with any goods/business) that
6 contains one or more of the IO TRADEMARKS or any reproduction,
7 copy, counterfeit or colorable imitation thereof or any term(s)
8 confusingly similar thereto, including without limitation the marks
9 "DOMESTIC ODDITIES," "BLACK WIDOW," and/or "WHITE
10 WIDOW" (as used in this document, the capitalized term "Affiliates"
11 means third-party owned websites/domain names that link to one or more
12 websites owned, hosted, and/or operated by one of more of the
13 Defendants);

14 (g) obtaining, registering, transferring, assigning, licensing,
15 authorizing use, or otherwise displaying (directly or indirectly) of any
16 domain name or URL which includes one or more of Plaintiff's
17 trademarks (listed in **Exhibit 1** hereto) or any reproduction, copy,
18 counterfeit or colorable imitation thereof or any term confusingly similar
19 thereto, including without limitation the <domesticoddities.com>,
20 <domesticoddities.net> and <domesticoddities.org> domain names, or
21 undertaking any such activities to promote or utilize such domain names;

22 (h) identifying yourself (directly or through his Affiliates) or
23 any of your products over the telephone or by any other media (including
24 the Internet) or printed matter as "International Oddities" or any
25 confusingly similar term, or any reproduction, counterfeit, copy or
26 colorable imitation of the "International Oddities" designation, including
27 without limitation the mark/trade-name "DOMESTIC ODDITIES";
28

1 (i) infringing, inducing others to infringe, or contributing to the
2 infringement of any of Plaintiff's trademarks (listed in **Exhibit 1** hereto)
3 or otherwise engaging in unfair competition with IO in any manner or
4 engaging in any conduct tending to falsely represent or likely to confuse,
5 mislead or deceive suppliers, purchasers, or any member of the public
6 into thinking that one or more of the Defendants or their Affiliates or
7 their products originate from or are affiliated with IO or that IO has
8 otherwise sponsored, approved, or licensed any products or services of
9 any of the Defendants or their Affiliates;

10 (j) passing off, inducing or enabling others (including, without
11 limitation, any of the Defendants' Affiliates) to sell or pass off any
12 product not Plaintiff's or not produced under the control and supervision
13 of Plaintiff as approved by Plaintiff for sale under one or more of
14 Plaintiff's trademarks (listed in **Exhibit 1** hereto); and

15 (k) committing or contributing to any acts calculated to cause
16 purchasers to believe that any products not Plaintiff's are those sold under
17 the control and supervision of Plaintiff, or are sponsored or approved or
18 connected with, guaranteed or produced under the control and
19 supervision of Plaintiff, or otherwise infringing, inducing others to
20 infringe, or contributing to the infringement of any of Plaintiff's trade
21 names or Plaintiff's trademarks (listed in **Exhibit 1** hereto).

22 13. IT IS FURTHER ORDERED that, subject to the provisions of Paragraph
23 15 below, upon entry of this Consent Judgment and Permanent Injunction, Durbin
24 shall eliminate (and not thereafter resume use of) all references to or mentions of the
25 IO TRADEMARKS or any reproduction, copy, counterfeit or colorable imitation
26 thereof or any term(s) confusingly similar thereto, including without limitation the
27 marks "DOMESTIC ODDITIES," "BLACK WIDOW," and/or "WHITE WIDOW,"
28 from all labels, products, packaging, website content (including, without limitation,

1 that which appears on “hidden pages”), any code whatsoever including but not limited
2 to metatags, HTML, XHTML, any computer code, domain names, URLs, sub pages,
3 extensions, links, or any division or portion thereof, signs, banners and all other visual
4 media under his control and shall terminate all advertising, under his control, bearing
5 one or more of the IO TRADEMARKS or any reproduction, copy, counterfeit or
6 colorable imitation thereof or any term(s) confusingly similar thereto, including
7 without limitation the marks “DOMESTIC ODDITIES,” "BLACK WIDOW," and
8 "WHITE WIDOW," from all third party media (including, without limitation, that of
9 Defendants’ Affiliates), including print advertising and the Internet.

10 14. IT IS FURTHER ORDERED that, subject to the provisions of Paragraph
11 15 below, upon entry of this Consent Judgment and Permanent Injunction, Durbin
12 shall eliminate any content, including links, from any and all websites which he owns,
13 controls, or operates that causes or tends to cause an Internet search engine to list or
14 report a website – not selling goods that originate from or are otherwise authorized by
15 Plaintiff, including, without limitation, Defendants' “DOMESTIC ODDITIES,”
16 "BLACK WIDOW," or "WHITE WIDOW," products – based on a search query that
17 includes one of Plaintiff’s trademarks (listed in **Exhibit 1** hereto) or any reproduction,
18 copy, counterfeit or colorable imitation thereof or any term confusingly similar
19 thereto.

20 15. Durbin claims to have been operating a business under the trade name
21 “Derek Durbin Enterprises, LLC d/b/a White Widow Novelties.” To the extent that
22 Durbin is using the term "White Widow" as part of his business/trade name on printed
23 checks, printed, printed business cards, and printed stationery, already in existence as
24 of July 13, 2012, Durbin shall have 30 days from entry of this Order to remove all
25 mention of the term "White Widow" from his existing inventory of such documents,
26 after which any remaining inventory shall be destroyed or be relabeled to eliminate all
27 traces of that term, as required under the provisions of this Consent Judgment and
28

1 Permanent Injunction. This 30 day grace period does not apply to any item or
2 medium not listed in this paragraph.

3 16. Durbin shall within ten (10) days of entry of this Order voluntarily cancel
4 U.S. Registration No. 3,937,072 for the mark WHITE WIDOW. In the event that for
5 whatever reason Durbin fails to file the request for voluntary cancellation or the
6 request for voluntary cancellation is not heeded by the United States Patent and
7 Trademark Office ("USPTO"), the Commissioner of Trademarks at the USPTO is
8 hereby ordered to promptly cancel U.S. Registration No. 3,937,072 for the mark
9 WHITE WIDOW upon receipt of this Order.

10 17. Defendant Derek L. Durbin shall within ten (10) days of entry of this
11 Order expressly abandon U.S. Application No. 85326969 for the mark WHITE
12 WIDOW, pending before the USPTO. In the event that Mr. Durbin fails to abandon
13 U.S. Application No. 85326969, as ordered, the Commissioner of Trademarks at the
14 USPTO shall cause U.S. Application No. 85326969 to be abandoned.

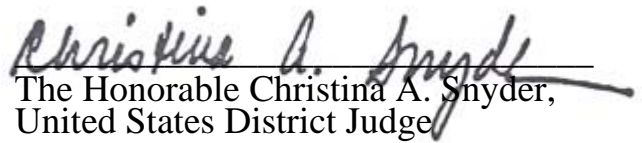
15 18. In the event that Plaintiff believes that Durbin has not complied with one
16 or more of the terms set forth in this Permanent Injunction, then, in lieu of Central
17 District Local Rule 7-3 procedures, Plaintiff shall notify Durbin in writing specifying
18 the nature of such noncompliance. Within seven (7) calendar days from receipt of
19 such notice from Plaintiff, Durbin shall notify Plaintiff by written affidavit whether or
20 not the activity complained of was/is connected with any product or activity
21 originating from Durbin or his agents. In the event that, despite said written affidavit,
22 Plaintiff continues to believe that Durbin has not complied with his duties under this
23 Permanent Injunction, or if the parties have not otherwise resolved the issue of
24 noncompliance within that time to Plaintiff's satisfaction, then Plaintiff may initiate
25 appropriate legal action. If Plaintiff notifies Durbin of more than one instance of
26 noncompliance within a one-year period, then Plaintiff shall be relieved of its duty to
27 provide notice to Defendants under this paragraph or otherwise comply with the
28 requirements of Local Rule 7-3 with regard to future violations.

1 19. This Court shall retain jurisdiction to construe, enforce, and implement
2 this Permanent Injunction.

3 20. Plaintiff may issue subpoenas, pursuant to Fed. R. Civ. P. Rules 26
4 through 45, as appropriate to enable it to police and enforce compliance with this
5 Permanent Injunction.

6 21. The prevailing party in any proceeding to enforce the terms of this
7 Consent Judgment and Permanent Injunction shall be entitled to recover the attorneys'
8 fees and costs incurred therewith.

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12 Dated: August 9, 2012


The Honorable Christina A. Snyder,
United States District Judge

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EXHIBIT 1

EXHIBIT 1

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2 Reg. No. 3,001,848, registered on September 27, 2005 for the mark INTERNATIONAL ODDITIES;
3 Reg. No. 2,284,977, registered on October 12, 1999 for the mark ULTRA WIZARD SMOKE; Reg.
4 No. 3,120,347, registered on July 25, 2006 for the mark SKYSCRAPER; Reg. No. 3,186,133,
5 registered on December 19, 2006 for the mark KRYPTO; Reg. No. 3,057,327, registered on
6 February 7, 2006 for the mark DRO; Reg. No. 2,295,413, registered on November 30, 1999 for the
7 mark STASHISH; Reg. 3,168,188, registered on November 7, 2006 for the mark BLACK WIDOW;
8 Reg. 3,168,157, registered on November 7, 2006 for the mark STUNK; Reg. 3,053,633, registered
9 on January 31, 2006 for the mark RASTA SMOKE; A'HIA for non-tobacco smoking-related
10 products; BÁHLI BUBBLE BUD for non-tobacco smoking-related products; IO for non-tobacco
11 smoking-related products; AFGANISH for non-tobacco smoking-related products; ALBINO
12 RHINO for non-tobacco smoking-related products; BC DRO for non-tobacco smoking-related
13 products; BLONDE STASHISH for non-tobacco smoking-related products; CRYSTAL BALL for
14 non-tobacco smoking-related products; GOTALITE SPECIAL for non-tobacco smoking-related
15 products; HERBAL BLACK "O" for non-tobacco smoking-related products; I.O. DRO for non-
16 tobacco smoking-related products; KILLER STUNK for non-tobacco smoking-related products;
17 KRYPTONITE SPECIAL for non-tobacco smoking-related products; MELTDOWN for non-
18 tobacco smoking-related products; NE146 BUD for non-tobacco smoking-related products; O.P.N.
19 for non-tobacco smoking-related products; O'REAM SMOKE for non-tobacco smoking-related
20 products; PANAMA GOLD for non-tobacco smoking-related products; SHOTGUN 6-PACK for
21 non-tobacco smoking-related products; SMOKE RING SPECIAL for non-tobacco smoking-related
22 products; STANISH for non-tobacco smoking-related products; STANISH BLONDE for non-
23 tobacco smoking-related products; STANISH ORIGINAL for non-tobacco smoking-related
24 products; STANISH RED for non-tobacco smoking-related products; STANISH RESIN OIL for
25 non-tobacco smoking-related products; STASH PACK for non-tobacco smoking-related products;
26 SUPER HEX DROPS for non-tobacco smoking-related products; T-C-3 for non-tobacco smoking-
27 related products; THAI LOPIUM OIL for non-tobacco smoking-related products; TRIPLE
28 DECKER SPECIAL for non-tobacco smoking-related products; T*** STIX for non-tobacco
smoking-related products; WIZARD BOX for non-tobacco smoking-related products; WIZARD
MACHINE for non-tobacco smoking-related products; WIZARD SMOKE for non-tobacco
smoking-related products; A'HIA for non-tobacco smoking products (the "A'HIA mark"); BÁHLI
BUBBLE BUD for non-tobacco smoking products (the "BÁHLI mark"); ICONOCLAST'S for herbs

1 for smoking and various smoking accessories; BLACK BOA for herbs for smoking and various
2 smoking accessories; HAWAIIAN CRUNCH for herbs for smoking and various smoking
3 accessories; BLUNT LOADS for herbs for smoking and various smoking accessories; AFTER
4 BURNER for herbs for smoking and various smoking accessories; DELUXE DUTCH for herbs for
5 smoking and various smoking accessories; Reg. No. 3,642,564, registered on June 23, 2009; and
6 Reg. No. 3,488,483, registered on August 19, 2008.
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1 **STIPULATION**

2 IT IS HEREBY STIPULATED by and between the parties to the within action
3 that the foregoing Permanent Injunction With Respect to Defendant Derek L. Durbin,
4 an Individual may be presented to the Court for approval and, when approved and
5 signed by the Court, may be entered herein, all without further notice, and each party
6 waives all right to seek review and appeal or otherwise therefrom.

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8 Respectfully submitted,

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10 Dated: July 30, 2012

11 Wolf, Rifkin, Shapiro, Schulman &
12 Rabkin, LLP

13
14 By: 

15 Mark B. Mizrahi (CA Bar No. 179384)

16 *Attorneys for Plaintiff,*
17 *International Oddities, Inc.*

18
19 Dated: July 13, 2012

20 Derek L. Durbin, an Individual

21
22 By: 

23 Derek L. Durbin, an Individual

24 *Defendant Appearing Pro se*
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