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Starbucks Corporation d/b/a/ Starbucks
Coffee Company***

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STARBUCKS CORPORATION d/b/a
STARBUCKS COFFEE COMPANY, a
Washington corporation,

Plaintiffs,

vs.

HITMAN GLASS, a California
corporation; JAMES LANDGRAF, an
individual residing in Oregon and doing
business under the Oregon assumed
business name EVOL GLASS; and DOES
1 through 10, inclusive,

Defendants.

Case No. 2:16-CV-03937-ODW-PJW


**~~PROPOSED~~ CONSENT JUDGMENT
AND PERMANENT INJUNCTION
AGAINST DEFENDANT HITMAN
GLASS**

Judge: Hon. Otis D. Wright II

**CONSENT JUDGMENT AND
PERMANENT INJUNCTION**

1 This action came before the Court, the Honorable Otis D. Wright, II, United
 2 States District Judge presiding, on the Stipulation for Consent Judgment and Entry of
 3 Permanent Injunction (the “Stipulation”) filed by Plaintiff Starbucks Corporation d/b/a
 4 Starbucks Coffee Company (“Starbucks Corp.”) and Defendant Hitman Glass. Having
 5 reviewed the Stipulation and good cause appearing, the Court hereby finds as follows:

6 1. Starbucks Corp. is the owner of all rights, title, and interest in numerous
 7 trademarks for the Siren Logo and the 40th Anniversary Siren Logo, which trademarks
 8 it has used and uses in connection with the distribution, sale, advertising, and
 9 promotion of various goods and services, including but not limited to coffee products,
 10 restaurant and café services, coffee cups, tea cups, mugs, glassware, dishes, plates and
 11 bowls, toys and books, and, T-shirts, caps, sweatshirts, jackets, aprons, and other
 12 clothing items (collectively, the “Starbucks Goods and Services”), and which
 13 trademarks are registered in the United States as set forth below:

<u>Trademark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Trademark</u>
Siren Logo Black & White	1,542,775	June 6, 1989	
Siren Logo Black & White	1,815,938	January 11, 1994	
Siren Logo Black & White	2,028,943	January, 7 1997	
Siren Logo Black & White	2,176,976	July 28, 1998	
Siren Logo Black & White	3,298,945	September 25, 2007	
Siren Logo Black & White	3,673,335	August 25, 2009	
Siren Logo Black & White	1,943,361	December 12, 1995	
Siren Logo Black & White	2,120,653	December 9, 1997	
Siren Logo Black & White	3,428,127	May 13, 2008	

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Siren Logo Green, Black, & White	1,815,937	January 11, 1994	
Siren Logo Green, Black, & White	2,266,351	August, 3, 1999	
Siren Logo Green, Black, & White	2,266,352	August, 3 1999	
Siren Logo Green, Black, & White	2,325,182	March 7, 2000	
Siren Logo Green, Black, & White	1,893,602	May 9, 1995	
Siren Logo Green, Black, & White	3,428,128	May 13, 2008	
40th Anniversary Siren Logo Black & White	4,415,862	October 8, 2013	
40th Anniversary Siren Logo Black & White	4,538,053	May 27, 2014	
40th Anniversary Siren Logo Black & White	4,639,908	November 18, 2014	
40th Anniversary Siren Logo Green & White	4,538,585	May 27, 2014	
40th Anniversary Siren Logo Green & White	4,572,688	July 22, 2014	
40th Anniversary Siren Logo Green & White	4,635,864	November 11, 2014	

1 Collectively, the above trademarks, including all federal registrations and common law
2 rights for the Siren Logo and the 40th Anniversary Siren Logo, are referred to herein
3 as the “Starbucks Marks.”

4 2. Starbucks Corp. has used the Starbucks Marks comprising the Siren Logo
5 at least with respect to restaurant services serving coffee, among other things, in
6 commerce continuously since as early as 1988 and has used the Starbucks Marks
7 comprising the Siren Logo in connection with, among other things, the promotion and
8 offering for sale of all the Starbucks Goods and Services in commerce continuously
9 since at least as early as 2008; Starbucks Corp. has used the Starbucks Marks
10 comprising the 40th Anniversary Siren Logo in connection with among other things
11 the promotion and offering for sale of the Starbucks Goods and Services in commerce
12 continuously since at least as early as 2012.

13 3. As a result of the widespread, exclusive, and continuous use of the
14 Starbucks Marks to identify the Starbucks Goods and Services and to identify
15 Starbucks Corp. as their source, Starbucks Corp. owns valid and subsisting federal
16 statutory and common law rights to the Starbucks Marks.

17 4. The Starbucks Marks are distinctive to the consuming public.

18 5. As a result of Starbucks Corp.’s investment, the Starbucks Marks have
19 come to symbolize the high quality of the Starbucks Goods and Services with which
20 the Starbucks Marks are used, and the Starbucks Marks have acquired and represent
21 invaluable distinction, goodwill, and reputation that are exclusive to Starbucks Corp.

22 6. As a result of their inherent and commercial distinctiveness, as well as
23 their widespread use and promotion throughout the United States, the Starbucks Marks
24 are famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. §
25 1125(c).

26 7. Starbucks owns United States copyright registrations for the Siren Logo
27 and the 40th Anniversary Siren Logo, including United States copyright Registration
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No. VA 875-932 and Registration No. VA 1-768-520 (the “Starbucks Copyrights”), as set forth below:

<u>Copyright</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Copyright</u>
Starbucks Coffee Siren Logo	VA 875-932	March 9, 1998	
Starbucks 40th Anniversary Siren Logo	VA 1-768-520	April 26, 2011	

8. Starbucks Corp. filed this action on June 3, 2016 against defendants Hitman Glass, a California corporation, and James Landgraf, an individual residing in Oregon and doing business under the Oregon assumed business name Evol Glass, seeking injunctive relief and damages based on the following alleged claims: (1) Federal Trademark Dilution pursuant to the Lanham Act (15 U.S.C. § 1125(c)); (2) California Trademark Dilution pursuant to California Business and Professions Code § 14247; (3) Federal Copyright Infringement pursuant to the Copyright Act (17 U.S.C. § 501 *et seq.*); (4) Federal Trademark Infringement pursuant to the Lanham Act (15 U.S.C. § 1114); and, (5) False Designation of Origin pursuant to the Lanham Act (15 U.S.C. § 1125(a)). The gravamen of Starbucks Corp.’s complaint is that Hitman Glass and Evol Glass sold a line of products (the “Accused Products”) that diluted and/or

1 infringed the Starbucks Marks and infringed the Starbucks Copyrights. The Accused
2 Products include the following:



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19 9. Starbucks Corp. served the Summons and Complaint on Hitman Glass on
20 July 21, 2016.

21 10. With respect to the claims for Federal Trademark Dilution, Copyright
22 Infringement, Trademark Infringement, and False Designation of Origin, this Court has
23 original and/or exclusive jurisdiction over the subject matter of this action and Hitman
24 Glass pursuant to 28 U.S.C. §§ 1331 and 1338(a) and (b); with respect to the claim for
25 California Trademark Dilution pursuant to California Business and Professions Code,
26 this Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a); venue is
27 proper in this Court pursuant to 28 U.S.C. § 1391(b) and (c).

28 11. Hitman Glass filed an answer to the Complaint on September 9, 2016.

1 12. Hitman Glass admits that Starbucks Corp. is the owner of all rights, title,
2 and interest in the Starbucks Marks and in the Starbucks Copyrights.

3 13. Hitman Glass does not contest that the Starbucks Marks and the Starbucks
4 Copyrights are valid and enforceable and that the Starbucks Marks are famous.

5 14. Starting after Starbucks Corp. acquired protectable exclusive rights in the
6 Starbucks Marks and after the Starbucks Marks became famous within the meaning of
7 Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), without Starbucks Corp.'s
8 permission, Hitman Glass began using on the Accused Products a mark confusingly
9 and substantially similar to the Starbucks Marks and to the material protected by the
10 Starbucks Copyrights. Hitman Glass has represented that it sold a total of one-
11 thousand five-hundred twelve (1,512) units of the Accused Products (the "Subject
12 Accused Products").

13 15. Hitman Glass' acts have caused and are likely to continue causing dilution
14 by blurring and to dilute the distinctive quality of the Starbucks Marks, constitute
15 infringement of Starbucks Copyrights, and constitute infringement of certain of
16 Starbucks Marks. Consumers have associated the Accused Products with the
17 Starbucks Marks. This dilution by blurring has irreparably harmed Starbucks Corp.
18 because no monetary damages can adequately compensate for the dilution of the
19 distinctive quality of the Starbucks Marks.

20 16. Hitman Glass has agreed to entry of this Consent Judgment and
21 Permanent Injunction.

22 17. Hitman Glass is unaware of any other interested parties in this litigation
23 besides Evol Glass, and Hitman Glass is not representing the interests of any entity
24 other than those of Hitman Glass. Hitman Glass is signing this Consent Judgment and
25 Permanent Injunction on its own volition.

26 NOW THEREFORE, upon consent of the parties hereto, it is HEREBY
27 ORDERED, ADJUDGED, and DECREED that:
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1 1. Hitman Glass, together with all of its officers, directors, employees,
2 agents, representatives, owners, attorneys, successor companies, related companies,
3 and all persons acting in concert or participation with it, and each of them, are
4 permanently enjoined and restrained from directly or indirectly:

5 a. making, using, selling, advertising, promoting, or authorizing any
6 third party to make, use, sell, advertise, or promote, any product or service bearing or
7 utilizing in any way any of the Starbucks Marks, or any other mark that is a copy,
8 simulation, confusingly similar variation, or colorable imitation of the Starbucks
9 Marks;

10 b. engaging in any activity that is likely to dilute or impair the
11 distinctiveness of any of the Starbucks Marks;

12 c. engaging in any activity that infringes Starbucks Corp.'s rights in
13 any of the Starbucks Marks;

14 d. using any word, term, name, symbol, device, trademark, logo, or
15 design that tends to falsely represent, or is likely to confuse, mislead, cause mistake, or
16 deceive, consumers, purchasers, Hitman Glass' customers, prospective customers, or
17 any member of the public that Hitman Glass' promotions, advertisements, products, or
18 services originate from or have been sponsored by, approved by, are affiliated with, are
19 connected to, or licensed by, or are otherwise associated with Starbucks Corp.;

20 e. making, using, selling, advertising, promoting, or authorizing any
21 third party to make, use, sell, advertise, or promote any of the Accused Products;

22 f. reproducing, making derivative works of, distributing, or displaying
23 the materials protected by the Starbucks Copyrights or any substantially similar
24 materials including those materials included among the Accused Products;

25 2. This Consent Judgment constitutes a final judgment concerning this
26 action with respect to only defendant Hitman Glass.

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1 3. This Consent Judgment and Permanent Injunction shall be binding upon
2 and shall inure to the benefit of the parties and their respective successors, assigns, and
3 acquiring companies.

4 4. If Hitman Glass is found by the Court to be in contempt of, or to have
5 violated this Consent Judgment and Permanent Injunction, the parties agree that
6 Starbucks Corp. shall be entitled to all relief available which it may request from the
7 Court, including sanctions for contempt, damages, injunctive relief, attorneys' fees,
8 costs, and any and all other relief that is proper if there is such violation.


9 5. The parties waive any right to appeal from the filing or entry of this
10 Consent Judgment and Permanent Injunction based on the Stipulation; the parties also
11 waive any right to attack the validity of this Consent Judgment and Permanent
12 Injunction based on the Stipulation; the parties waive any and all findings of fact and
13 conclusions of law arising out of the entry of this Consent Judgment and Permanent
14 Injunction other than those set forth above; each of the parties shall bear its own
15 attorneys' fees and costs other than as contemplated by the parties' settlement
16 agreement.

17 6. The Court shall retain jurisdiction of this matter for purposes of enforcing
18 the terms of this Consent Judgment and Permanent Injunction. Except as otherwise
19 provided herein, this action is fully resolved with prejudice.

20 7. This Consent Judgment and Permanent Injunction shall remain in full
21 force and effect unless and until modified by order of this Court.

22 IT IS SO ORDERED.

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24 Dated: April 24, 2017




Hon. Otis D. Wright II
United States District Judge

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CONSENTED TO:

K&L GATES LLP

Dated: ~~March~~ ^{April 19} __, 2017

By: 
Seth A. Gold
Rebecca Liu
Pallavi M. Wahi (admitted *pro hac vice*)
Aaron E. Millstein (admitted *pro hac vice*)

Attorneys for Plaintiff Starbucks Corp.

MARGOLIN & LAWRENCE

Dated: ~~March~~ ^{April 3} __, 2017

By: 
J. Raza Lawrence
Alison Margolin

Attorneys for Defendant Hitman Glass