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9 Attorneys for Plaintiff
 10 MONSTER CABLE PRODUCTS, INC.

11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA

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| <p>11 MONSTER CABLE PRODUCTS, INC., a) 12 California corporation,) 13) 14 Plaintiff,) 15 v.) 16 MONSTER MINI GOLF, LLC, a Connecticut) 17 limited liability company,) 18 MONSTER ENTERTAINMENT, LLC, a) 19 Connecticut limited liability company,) 20 CHRISTINA VITAGLIANO, an individual,) 21 SPOOK INC., a California Corporation,) 22 CHRIS STOECKLE, an individual d/b/a) 23 MONSTER MINI GOLF, CINDY) 24 STOECKLE, an individual d/b/a MONSTER) 25 MINI GOLF, and DOES 1-100 inclusive,) 26 Defendants.)</p> | <p>CASE NO.</p> <p>COMPLAINT FOR</p> <p>(1) FEDERAL TRADEMARK INFRINGEMENT;</p> <p>(2) FEDERAL UNFAIR COMPETITION;</p> <p>(3) CALIFORNIA UNFAIR COMPETITION</p> <p>JURY TRIAL DEMANDED</p> |
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Plaintiff, MONSTER CABLE PRODUCTS, INC. (hereafter "Plaintiff" or "Monster") alleges as follows:

JURISDICTION AND VENUE

1. This action arises under 15 U.S.C. §1125 et seq. Jurisdiction is therefore proper under 28 U.S.C. §§1331, 1332, and 1338.

1 10. Plaintiff is informed and believes, and based thereon alleges, that defendant
2 Cindy Stoeckle is an individual doing business under the name MONSTER MINI GOLF
3 in Rancho Cordova, California.

4 11. Plaintiff is ignorant of the true names and capacities of the defendants sued
5 herein as DOES 1 through 50, inclusive, and therefore sues said defendants by such
6 fictitious names. Plaintiff will amend this complaint when the true names and capacities
7 of said defendants have been ascertained. Plaintiff is informed and believes and thereon
8 alleges that said DOES, and each of them, are legally responsible in some manner for the
9 events and happenings referred to herein, and proximately caused or contributed to the
10 injuries and damages to Plaintiff as herein alleged.

11 12. Plaintiff is informed and believes and thereon alleges that each and every
12 defendant was the agent and employee of each of the remaining defendants, and in doing
13 the things herein alleged acted within the course and scope of said agency and
14 employment.

15 **FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

16 13. From and after 1978, and continuing to date, Plaintiff has been doing business
17 in the United States, using in commerce the mark “MONSTER” and related marks
18 (hereafter, the “Monster Marks”), incorporating that term as a trademark in connection
19 with the sale of consumer electronic goods and various licensing activities.

20 14. Plaintiff has acquired trademark rights to the Monster Marks, both at common
21 law from and after said date and further by virtue of registrations with the United States
22 Patent and Trademark Office.

23 15. From 2004 to the present, Plaintiff has the naming rights to the hometown
24 stadium of the San Francisco 49ers, “Monster Park.”

25 16. Plaintiff has an extensive family of Monster Marks including marks related to
26 the naming rights of the San Francisco baseball stadium “Monster Park”, including, inter

1 alia, U.S. Trademark Registration No. 3272808 for MONSTER PARK, U.S. Trademark
2 Registration No. 3298845 for MONSTERPARK.COM, and U.S. Trademark Registration
3 No. 3303478 for MONSTER PARK, true copies of which are attached hereto as Exhibit

4 A. These marks are a small sample of Plaintiff's large trademark portfolio.

5 17. Plaintiff has extensively advertised and promoted its vast portfolio of marks,
6 especially those for Monster Park. Additionally, games at Monster Park are televised and
7 the trademark is shown repeatedly from various camera angles for the duration of the
8 televised games.

9 18. Plaintiff has invested substantial time, energy and resources to develop its
10 marks. Each mark is a strong mark, being inherently arbitrary, fanciful, distinctive or
11 suggestive.

12 19. Defendant Monster Mini Golf ("Golf") applied filed trademark applications for
13 the marks MONSTER MINI GOLF (Serial No. 77/423406); MONSTER FAMILY
14 ENTERTAINMENT CENTERS (Serial No. 78/823977); MONSTER MINI GOLF (Serial
15 No. 77/093855); and MONSTER (Serial No. 77/055042).

16 20. As early as December 2006, Monster made it known to Defendant that the
17 pending trademark applications are objectionable to Monster and are likely to cause
18 confusion between Monster's marks and those of Defendant.

19 21. Monster instituted Opposition proceedings against Defendant's trademark
20 applications in the Trademark Trial and Appeal Board beginning in December of 2006.

21 22. Since December 2006, not only has Defendant continued use of the marks but
22 it has also engaged in franchising of its business, broadening the usage of the marks
23 "MONSTER MINI GOLF", "MONSTER FAMILY ENTERTAINMENT CENTERS",
24 "MONSTER ENTERTAINMENT" and "MONSTER."

25 23. Upon information and belief, Defendant has opened locations across the United
26 States including the following locations: Groton, Connecticut; Windsor Locks,

1 Connecticut; Rancho Cordova, California; Bakersfield, California; Orlando and Tampa
2 Area of Florida; Marietta, Georgia; Conyer/ Covington area of Georgia; Lafayette,
3 Indiana; Norwood, Massachusetts; Webster, Massachusetts; Seekonk, Massachusetts;
4 Danvers, Massachusetts; Natick/ Framingham area of Massachusetts; Fairhaven,
5 Massachusetts; Fairfield, New Jersey; Middletown, New York; Massapequa, New York;
6 Strongsville, Ohio; Cincinnati area of Ohio; Monroeville, Pennsylvania; Providence,
7 Rhode Island; and Warwick, Rhode Island.

8 **COUNT I**

9 (Violation of Lanham Act § 43(a), 15 U.S.C. §1125(a))

10 24. Plaintiff adopts, realleges and incorporates by reference all of the allegations
11 contained hereinabove in paragraphs 1 through the immediately preceding paragraph as
12 though fully set forth herein.

13 25. Plaintiff is informed and believes and based thereon alleges that defendants,
14 and each of them have created a likelihood of confusion with plaintiff's marks in the
15 relevant marketplace as to source, sponsorship, affiliation, or authorization to plaintiff
16 damage, thereby constituting infringement of plaintiff's registered and unregistered
17 trademarks and service marks.

18 26. As a proximate result of defendants' above-described conduct, plaintiff is
19 informed and believes and based thereon alleges that it has been damaged in an
20 unascertained amount. Plaintiff will seek leave to amend this Complaint when such
21 damages have been ascertained.

22 27. At all material times, defendants acted in bad faith, oppressively and
23 maliciously toward plaintiff, with willful intent for the purpose of trading upon plaintiff's
24 goodwill and business reputation, with knowledge of the lack of right to do so, and with
25 intent to injure plaintiff, thereby entitling plaintiff to treble damages against defendants,
26

1 and each of them, in an unascertained amount. Plaintiff will seek leave to amend this
2 Complaint when such damages have been ascertained.

3 28. The above described acts of defendants have caused and are continuing to
4 cause irreparable injury to plaintiff, for which plaintiff has no adequate remedy at law, and
5 defendants will continue to do so unless enjoined by this Court.

6 WHEREFORE, plaintiff prays for judgment as hereafter set forth.

7 **COUNT II**

8 (Violation of 15 U.S.C. §1125(a))

9 29. Plaintiff adopts, realleges and incorporates by reference all of the allegations
10 contained hereinabove in paragraphs 1 through the immediately preceding paragraph as
11 though fully set forth herein.

12 30. In connection with the goods and services Defendant offers in commerce,
13 Defendants have used false designations of origin, false or misleading descriptions of fact
14 and false or misleading representations of fact in violation of section 1125 (a)(1), which is
15 likely to cause confusion or mistake as to the affiliation, connection, authority or
16 association of Defendants with Plaintiff, or as to the origin, sponsorship or approval by
17 Plaintiff of the goods and services sold by Defendant.

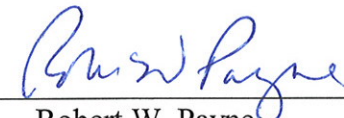
18 31. On information and belief, Plaintiff alleges that the aforesaid acts were
19 committed with willful intent for the purpose of trading upon Plaintiff's goodwill and
20 business reputation.

21 32. The foregoing actions constitute false designation of origin and other acts of
22 unfair competition, in violation of 15 U.S.C. §1125(a).

23 33. As a direct and proximate result of said unfair competition, plaintiff has been
24 damaged and defendant has been unjustly enriched in an uncertain amount, and said
25 damages will continue without adequate remedy at law unless defendant is enjoined by the
26 Court.

- 1 1. For damages, including Plaintiff's lost profits, Defendants' profits,
2 disgorgement, restitution or other compensation or monetary remedy, according to proof;
3 2. For punitive, exemplary and/or treble damages, according to proof;
4 3. For an award of attorneys' fees and costs;
5 4. For preliminary and permanent injunctive relief, enjoining Defendants, and
6 each of them, from directly or indirectly using Plaintiff's marks, or any design or mark
7 similar thereto, pursuant to 15 U.S.C. §1116(a). Additionally, for injunctive relief
8 enjoining Defendants from continuing to engage in the practice of unauthorized sales of
9 infringing products or services, infringement of Plaintiff's trademarks, interfering with
10 Plaintiff's prospective business advantage, engaging in unfair business practices or
11 engaging in false advertising.
12 5. For such other and further relief as the Court may deem just and proper.

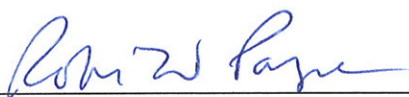
13 Dated: May 9, 2008

Respectfully submitted,
LARIVIERE, GRUBMAN & PAYNE, LLP
By 
Robert W. Payne
Attorneys for Plaintiff

JURY TRIAL DEMAND

18 Pursuant to Fed R. Civ. P. 38(b), 5(d) and Eastern District of California Local Rule
19 38-201, plaintiff demands a jury trial of all issues triable by jury.

21 Dated: May 9, 2008

Respectfully submitted,
LARIVIERE, GRUBMAN & PAYNE, LLP
By 
Robert W. Payne
Attorneys for Plaintiff