

CIVIL COVER SHEET

ORIGINAL

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS: Loopt, Inc., a Delaware corporation. DEFENDANTS: Sponsorhouse, Inc. dba Loop'd Network, a California corporation. (b) County of Residence of First Listed Plaintiff: Santa Clara County. County of Residence of First Listed Defendant: San Diego County. (c) Attorney's (Firm Name, Address, and Telephone Number): Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304-1050, Telephone: 650-493-9300.

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II. BASIS OF JURISDICTION (Place an "X" in One Box Only). III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant). Includes categories like U.S. Government Plaintiff/Defendant, Federal Question, Diversity, Citizen of This/Another State, Foreign Country, etc.

ADR

IV. NATURE OF SUIT (Place an "X" in One Box Only). Grid with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only). 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment.

VI. CAUSE OF ACTION. Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. §§ 1114 & 1125. Brief description of cause: Complaint for Trademark Infringement, Lanham Act Violations, Unlawful Business Practices and Related Claims.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23. DEMAND \$: CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No.

VIII. RELATED CASE(S) IF ANY: PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY). [] SAN FRANCISCO/OAKLAND [] SAN JOSE [X] I P Case

DATE: June 3, 2008. SIGNATURE OF ATTORNEY OF RECORD: [Signature]

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Attorneys for Plaintiff
LOOPT, INC.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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LOOPT, INC., a Delaware corporation,

Plaintiff,

v.

SPONSORHOUSE, INC., dba LOOP'D
NETWORK, a California corporation,

Defendant.

CASE NO.:

COMPLAINT FOR TRADEMARK
INFRINGEMENT, LANHAM ACT
VIOLATIONS, UNLAWFUL
BUSINESS PRACTICES AND
RELATED CLAIMS

DEMAND FOR JURY TRIAL

Plaintiff Loopt Inc. ("Loopt" or "Plaintiff") alleges as follows:

THE PARTIES

1. Loopt is a Delaware corporation with its principal place of business at 590 W. El Camino Real, Mountain View, California 94040.
2. Loopt is informed and believes, and therefore alleges, that Defendant SponsorHouse, Inc. is a California corporation doing business as Loop'd Network ("Loop'd" or "Defendant") with its principal place of business at 3560 Dunhill Street, Suite 100, San Diego, California 92121.

1 messaging or text messaging, and can view his or her friends' photographs and comments. The
2 Loopt service also provides information about local restaurants, attractions, and other points of
3 interest to the user, including the user's friends' favorite local attractions.

4 10. Loopt has partnered with various wireless carriers, including Boost Mobile, Sprint
5 Nextel, and Verizon Wireless to offer its service to users on these mobile networks.

6 11. Loopt is also available to any user of the Facebook social networking service.

7 12. Loopt has been promoting its products and services under the LOOPT® mark and
8 trade name in the United States since at least as early as September 11, 2006. Loopt's use of the
9 LOOPT mark and trade name has been valid and continuous since the date of first use and has
10 not been abandoned.

11 13. Loopt owns two federal registrations for the mark LOOPT (the LOOPT
12 Registrations), with priority based on a filing date of July 25, 2006.

13 14. Loopt is the owner of Registration No. 3,354,370 for the mark LOOPT, filed July
14 25, 2006 and registered December 11, 2007, for the following goods and services:

15 software for locating persons via global positioning or other location
16 technology; downloadable software for use in wireless telecommunications
17 devices, namely, software for electronic map display, travel planning and event
18 planning; downloadable software, namely, software for displaying location and
19 physical presence information in wireless telecommunications devices, in
20 International Class 9;

21 business networking services conducted via wireless telecommunications
22 networks and via electronic and optical communications networks, in
23 International Class 35;

24 text and numeric digital wireless messaging services, in International
25 Class 38;

26 online social networking services conducted via wireless
27 telecommunications networks and via electronic and optical communications
28 networks, in International Class 45.

1 15. Loopt is the owner of Registration No. 3,372,654 for a stylized version of the
2 LOOPT mark:



3
4 The application for this mark was filed June 6, 2007 and registered January 22, 2008 for the
5 following goods and services:

6 software for searching, locating, navigating to, and messaging to or about
7 certain persons, events, places, and other points of interests and to display
8 relevant, location-informed advertisements and promotions via global positioning
9 or other location information-based technology; downloadable software for use in
10 wireless telecommunications devices, namely, software for electronic map display
11 that includes display of certain individuals and points of interest, travel planning
12 and event planning and to display relevant, location-informed advertisements and
13 promotions and that allows users to synchronize the same with a web or internet-
14 based application; downloadable software, namely, software for displaying
15 location and physical presence information in wireless telecommunications
16 devices that allows persons to synchronize the same with a web or internet-based
17 application, in International Class 9;

18 business networking services conducted via wireless telecommunications
19 networks and via electronic and optical communications networks; promoting and
20 advertising the goods and services of others, in International Class 35;

21 text and numeric digital wireless messaging services, in International
22 Class 38

23 online and mobile social networking services conducted via wireless
24 telecommunications networks and via electronic and optical communications
25 networks; social mapping services, namely, providing social networking services
26 with location-based functions, in International Class 45.

1 16. The LOOPT Registrations are valid and constitute prima facie evidence of
2 Loopt's exclusive right to use the LOOPT mark in commerce in connection with the goods and
3 services specified in the registrations.

4 17. Loopt promotes and offers its products and services, in part, through a website at
5 the domain name www.loopt.com.

6 **Defendant's Use of the LOOP'D and LOOP'D NETWORK Marks and the "loopd.com"**

7 **Domain Name**

8 18. Loopt is informed and believes, and therefore alleges, that Loop'd uses the marks
9 LOOP'D and LOOP'D NETWORK in connection with online social networking services.

10 19. On information and belief, Defendant's social networking service allows its users
11 to communicate about common areas of interest, send messages to each other, and review and
12 discuss various products, attractions, or events.

13 20. On information and belief, Loop'd did not use the LOOP'D or LOOP'D
14 NETWORK marks in commerce before February 2007 at the earliest, after Loopt first filed an
15 application for the LOOPT trademark in the United States and after Loopt began use of its
16 LOOPT trademark in commerce in the United States.

17 21. On information and belief, Loop'd provides its online social networking service at
18 the domain name www.loopd.com.

19 22. On information and belief, Loop'd filed a trademark application at the U.S. Patent
20 and Trademark Office for the mark LOOP'D NETWORK and Design (Application Ser. No.
21 77/268213) (the "Loop'd Application"). The mark in the application includes a stylized version
22 of the LOOP'D NETWORK mark in red, white, and beige with the "LOOP'D" portion of the
23 mark in much larger type, along with a depiction of a "white man figure outlined in brown,
24 wearing a red cap." The application claims a first use date of February 1, 2007 for the goods in
25 International Class 9, and July 1, 2007 for the services listed in class 42. This application was
26 published on February 12, 2008 with the following listing of goods and services:

27 Downloadable software for the development of websites, in International

28 Class 9;

1 Computer services, namely, hosting an online community network
2 featuring individual websites in the field of sports, athletes, apparel, sporting
3 goods and equipment, in International Class 42.

4 23. On November 6, 2007, Loopt sent a cease and desist letter to Loop'd, demanding
5 that Loop'd cease use of the LOOP'D trademark for Defendant's social networking service.

6 24. In a November 15, 2007 e-mail message to Loopt's counsel, Loop'd
7 acknowledged receipt of the November 6, 2007 letter, but declined to comply with Loopt's
8 demands.

9 25. On information and belief, since its acknowledged receipt of Loopt's letter,
10 Loop'd has willfully continued to use the LOOP'D and LOOP'D NETWORK trademarks in
11 connection with its online social networking service.

12 26. On information and belief, Loop'd redesigned its website and its logo in May
13 2008. In connection with this redesign, Loop'd began use of a logo that incorporates the stylized
14 type of LOOP'D NETWORK mark in the Loop'd Application, but does not include the design
15 element of the logo, namely, the figure of a man in a red cap.

16 27. In view of the near identity of Defendant's marks LOOP'D NETWORK and
17 LOOP'D with the LOOPT mark of Loopt, for use in connection with highly similar goods and
18 services, among other factors, Defendant's use of the LOOP'D and LOOP'D NETWORK marks
19 is likely to cause confusion in the marketplace. The resulting confusion will cause damage to
20 Loopt, and will injure its reputation in the trade and with the public.

21 **FIRST CAUSE OF ACTION**

22 (Infringement of Registered Trademarks, 15 U.S.C. § 1114)

23 28. Plaintiff realleges and incorporates by reference paragraphs 1 through 27 above as
24 though fully set forth herein.

25 29. Plaintiff is the owner of the LOOPT Registrations.

26 30. Defendant has used in commerce, without Plaintiff's consent, marks that are
27 highly similar to Plaintiff's federally registered trademarks. Taking into account the extremely
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1 similar commercial activities of the parties, among other factors, Defendant's use of such
2 trademarks is likely to cause confusion, deception, or mistake among consumers.

3 31. As a consequence of Defendant's infringement of the marks in the Loopt
4 Registrations, Plaintiff is entitled to an injunction as set forth below, an order of destruction of all
5 of Defendant's infringing materials, Defendant's profits, Plaintiff's damages, and Plaintiff's
6 costs of action.

7 32. Defendant's willful and unauthorized use of the LOOP'D and LOOP'D
8 NETWORK marks has damaged Plaintiff in an amount to be proved at trial. As a consequence
9 of Defendant's willful conduct, Plaintiff has suffered irreparable harm and will continue to do so
10 unless Defendant's unlawful conduct is enjoined.

11 33. As a consequence of Defendant's willful infringement, Plaintiff is entitled to
12 recover from Defendant treble damages, treble profits, and Plaintiff's costs and attorneys' fees
13 incurred in connection with this action.

14 **SECOND CAUSE OF ACTION**

15 (False Representation and False Designation of Origin, 15 U.S.C. § 1125(a))

16 34. Plaintiff realleges and incorporates by reference paragraphs 1 through 33 above as
17 though fully set forth herein.

18 35. Defendant's acts described above, including its use in commerce of marks that are
19 highly similar to the LOOPT trademark, are likely to cause confusion, mistake, or deception as to
20 the source, sponsorship, affiliation or approval of Defendant's services. Further, Defendant's
21 acts described above constitute false representations of fact that are likely to cause confusion,
22 mistake, or deception as to the source, sponsorship, affiliation, or approval of Defendant's
23 services.

24 36. As a consequence of Defendant's violation, Plaintiff is entitled to an injunction as
25 set forth below, an order of destruction of all of Defendant's infringing materials, Defendant's
26 profits, Plaintiff's damages and Plaintiff's costs of action.

1 and any other mark, word, name or domain name that is likely to cause confusion
2 with Plaintiff's trademarks;

- 3 b. That the Court require Defendant and all others holding by, through or under
4 them, to deliver up for destruction all products, labels, signs, prints, packages,
5 wrappers, receptacles, advertisements, website content, television advertisements
6 and other electronic forms of data in its possession or control bearing the
7 LOOP'D mark, the LOOP'D NETWORK mark and related trademarks, the
8 www.loopd.com domain name, and any other variation of Plaintiff's marks;
- 9 c. That the Court order the Director of the U.S. Patent and Trademark Office to
10 refuse registration of the Loop'd Application;
- 11 d. That the Court order Defendant to take all actions necessary to transfer to Plaintiff
12 all domain names registered by Defendant containing Plaintiff's trademarks or
13 marks confusingly similar thereto, including the www.loopd.com domain name;
- 14 e. That the Court order Defendant to pay the maximum statutory damages available
15 for the registration and/or use of the www.loopd.com domain name;
- 16 f. That the Court order Defendant, and all others enjoined in this action, jointly and
17 severally, to file with the Court and serve on Plaintiff an affidavit setting forth in
18 detail the manner and form in which they have complied with the terms of the
19 injunction;
- 20 g. That the Court require Defendant to account for and pay to Plaintiff treble the
21 amount of all profits derived by Defendant as a result of the acts alleged in this
22 action;
- 23 h. That the Court order Defendant to pay to Plaintiff treble the amount of all
24 damages incurred by Plaintiff by reason of Defendant's acts alleged in this action;
- 25 i. That the Court award Plaintiff the costs of this action, together with reasonable
26 attorneys' fees and disbursements; and
- 27 j. That the Court grant such other and further relief as the Court deems just and
28 equitable.

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Dated: June 3, 2008

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: 
John L. Slafsky
Hollis Beth Hire

Attorneys for Plaintiff
LOOPT, INC.

DEMAND FOR JURY TRIAL

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Pursuant to Federal Rule of Civil Procedure 38, Plaintiff hereby demands a jury trial of all issues triable by a jury.

Dated: June 3, 2008

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: 
John L. Slafsky
Hollis Beth Hire

Attorneys for Plaintiff
LOOPT, INC.