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 6 *BBDO Worldwide, Inc.*

7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

10 ZORRO PRODUCTIONS, INC., a  
 California Corporation,  
 11  
 Plaintiff,  
 12 v.  
 13 MARS, INC., a Delaware corporation;  
 and BBDO WORLDWIDE, INC., a New  
 14 York corporation,  
 15 Defendants.

No. C10-01179-SC

**DEFENDANTS' ANSWER AND  
 AFFIRMATIVE DEFENSES TO  
 PLAINTIFF'S COMPLAINT**

16 Defendants Mars, Inc. ("Mars") and BBDO Worldwide, Inc. ("BBDO")  
 17 (collectively "Defendants"), as and for their answer (the "Answer") to plaintiff Zorro  
 18 Productions, Inc.'s ("Zorro" or "Plaintiff") Complaint (the "Complaint"), hereby state as  
 19 follows:<sup>1</sup>

20 **JURISDICTION**

21 1. Paragraph 1 of the Complaint contains legal conclusions, to which no  
 22 response should be required. To the extent that the Court determines any response is  
 23 required, however, Defendants admit that Plaintiff purports to bring this action in this Court  
 24 pursuant to the cited statues but deny the validity of the underlying claims set forth in the

25 \_\_\_\_\_  
 26 <sup>1</sup> The various headings that appear throughout the Complaint require no answer. To the extent said headings  
 require an answer, Defendants deny any allegations contained therein.

1 Complaint, and otherwise deny each and every allegation contained in paragraph 1 of the  
2 Complaint.

### 3 **INTRADISTRICT ASSIGNMENT**

4 2. Paragraph 2 of the Complaint contains legal conclusions, to which no  
5 response is required. To the extent that the Court determines any response is required,  
6 however, Defendants admit that Plaintiff purports to bring this action in this Court pursuant  
7 to the cited rule and admit that Defendants transact business and purposefully avail  
8 themselves of the benefits of being in this judicial district, but lack knowledge or  
9 information sufficient to form a belief as to the allegation that a substantial part of the  
10 property that is the subject of the action is situated in Alameda county and therefore deny  
11 same. Defendants deny the validity of the underlying claims set forth in the Complaint, and  
12 otherwise deny each and every allegation contained in paragraph 2 of the Complaint.

### 13 **VENUE**

14 3. Paragraph 3 of the Complaint contains legal conclusions, to which no  
15 response should be required. To the extent that the Court determines any response is  
16 required, however, Defendants admit that Plaintiff purports to bring this action in this Court  
17 pursuant to the cited statute but deny that a substantial part of the events giving rise to the  
18 putative causes of action occurred in Alameda County, and lack knowledge or information  
19 sufficient to form a belief as to the allegation that a substantial part of the property that is  
20 the subject of the action is situated in Alameda county and therefore deny same.  
21 Defendants deny the validity of the underlying claims set forth in the Complaint, and  
22 otherwise deny each and every allegation contained in paragraph 3 of the Complaint.

### 23 **PARTIES**

24 4. Defendants Lack knowledge or information sufficient to form a  
25 belief as to the allegations contained in paragraph 4 of the Complaint, and therefore deny  
26 same.

5. Defendants admit the allegations contained in paragraph 5 of the  
Complaint.



1 (Against All Defendants)

2 17. Defendants repeat, reallege and incorporate by reference their various  
3 responses in paragraphs 1 through 16 of this Answer as if set forth more fully herein.

4 18. Defendants lack knowledge or information sufficient to form a belief  
5 as to the allegations contained in paragraph 18 of the Complaint, and therefore deny same.

6 19. Paragraph 19 of the Complaint contains legal conclusions, to which  
7 no response should be required. To the extent that the Court determines any response is  
8 required, however, Defendants lack knowledge or information sufficient to form a belief as  
9 to the allegations contained in paragraph 19, and therefore deny same.

10 20. Defendants lack knowledge or information sufficient to form a belief  
11 as to the allegations contained in paragraph 20, and therefore deny same.

12 21. Paragraph 21 of the Complaint refers to a certain television  
13 commercial, the content of which speaks for itself. Defendants respectfully refer the Court  
14 to that commercial for the content thereof. Defendants otherwise deny each and every  
15 allegation contained in Paragraph 21 of the Complaint.

16 22. Defendants deny each and every allegation contained in Paragraph 22  
17 of the Complaint.

18 23. Defendants deny each and every allegation contained in Paragraph 23  
19 of the Complaint.

20 24. Defendants deny each and every allegation contained in Paragraph 24  
21 of the Complaint.

22 25. Defendants deny each and every allegation contained in Paragraph 25  
23 of the Complaint.

24 **THIRD CAUSE OF ACTION**  
**Dilution Under Lanham Act § 43(c)**  
25 **(Against All Defendants)**

26 26. Defendants repeat, reallege and incorporate by reference their various  
responses in paragraphs 1 through 25 of this Answer as if set forth more fully herein.







1 Plaintiff with Defendants' goods, or as to the origin, sponsorship, or approval of  
2 Defendants' goods, services, or commercial activities.

3 **FIFTH AFFIRMATIVE DEFENSE**

4 Plaintiff's claims are barred, in whole or in part, because Defendants have not used  
5 Plaintiff's mark in a manner that misrepresents the nature, characteristics, qualities, or  
6 geographic origin of either Plaintiff's or Defendants' goods, services, or commercial  
7 activities.

8 **SIXTH AFFIRMATIVE DEFENSE**

9  
10 Plaintiff's claims are barred, in whole or in part, because Defendants'  
11 alleged use of Plaintiff's mark has caused no confusion among the public, and is not likely  
12 to cause such confusion.

13 **SEVENTH AFFIRMATIVE DEFENSE**

14 Plaintiff's claims are barred, in whole or in part Plaintiff has not suffered any  
15 irreparable injury.

16 **EIGHTH AFFIRMATIVE DEFENSE**

17  
18 Plaintiff's claims are barred, in whole or in part, because Plaintiff has  
19 suffered no damages as a result of any matters alleged in the Complaint.

20 **NINTH AFFIRMATIVE DEFENSE**

21 Plaintiff's claims are barred, in whole or in part, because the goods and  
22 services of Plaintiff and Defendants are noncompetitive and unrelated.  
23  
24  
25  
26



