

Exhibit A

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25 Attorneys for Plaintiff
26 THE FREECYCLE NETWORK, INC.

27 IN THE UNITED STATES DISTRICT COURT
28 DISTRICT OF ARIZONA

29 THE FREECYCLE NETWORK, INC.,
30 an Arizona non-profit organization,

31 Plaintiff,

32 v.

33 TIM OEY and JANE DOE OEY,

34 Defendants.

Case No.

COMPLAINT FOR TRADEMARK
DISPARAGEMENT, INJURIOUS
FALSEHOOD, DEFAMATION,
INTENTIONAL INTERFERENCE
WITH BUSINESS RELATIONS

DEMAND FOR JURY TRIAL

Assigned to:

35 Plaintiff The Freecycle Network, Inc. ("Plaintiff" or "The Freecycle Network")
36 hereby alleges for its Complaint against Defendant Tim Oey ("Defendant" or "Mr. Oey")

1 and Defendant Jane Doe Oey (“Mrs. Oey”), on personal knowledge as to its own
2 activities and on information and belief as to the activities of others, as follows:

3 **The Parties**

4 1. The Freecycle Network is an incorporated Arizona non-profit organization
5 with its principal place of business in Tucson, Arizona. The Freecycle Network promotes
6 recycling by providing support to and acting as a central organizing point for local
7 community-based recycling efforts throughout the United States and several countries
8 abroad.

9 2. Defendants are residents of Sunnyvale, California. Defendant is a former
10 member of The Freecycle Network. Defendant Jane Doe Oey is, on information and
11 belief, the spouse of Defendant Mr. Oey, and all actions taken by Defendant were taken
12 on behalf of the marital community.

13 **Jurisdiction and Venue**

14 3. This Court has jurisdiction over the subject matter of this action pursuant to
15 28 U.S.C. §§ 1331 and 1338, as this action arises under the trademark laws of the United
16 States.

17 4. This Court has further jurisdiction under 28 U.S.C. § 1332, in that The
18 Freecycle Network and Defendant are citizens of different states and the matter in
19 controversy exceeds the sum of \$75,000, exclusive of interests and costs.

20 5. This Court has original jurisdiction over The Freecycle Network’s state law
21 claims under 28 U.S.C. § 1332(a), as well as supplemental jurisdiction over these claims
22 under 28 U.S.C. § 1367(a).

23 6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a), as this is a
24 district in which a substantial part of the events giving rise to the claims occurred.

25 **Background Facts**

26 7. The Freecycle Network is a non-profit organization that provides local,
27 community-based recycling and gifting forums throughout the United States. Starting
28 with a single recycling community in Tucson, The Freecycle Network has grown to a

1 worldwide organization with thousands of local recycling, reusing, and gifting groups
2 and more than two million individual members. The Freecycle Network maintains an
3 Internet Web site, located at www.freecycle.org, which maintains a directory of local
4 recycling groups throughout the world and provides resources for volunteers to create
5 new local recycling groups.

6 8. The Freecycle Network has been using the distinctive and famous
7 trademarks FREECYCLE, THE FREECYCLE NETWORK, and the distinctive and
8 famous “The Freecycle Network” logo (collectively “The Freecycle Network’s Marks”)
9 exclusively and continuously since at least May 1, 2003. The Freecycle Network’s
10 Marks comprise the core of The Freecycle Network’s intellectual property.

11 9. In addition to The Freecycle Network’s long and continuous use of The
12 Freecycle Network’s Marks, registration of The Freecycle Network’s Marks is currently
13 pending before the United States Patent and Trademark Office.

14 10. As a result of its use and promotion of The Freecycle Network’s Marks,
15 The Freecycle Network has built up and now owns valuable goodwill that is symbolized
16 by these trademarks.

17 11. The Freecycle Network enters into contractual relationships with local
18 recycling organizations and with corporate sponsors. The Freecycle Network provides
19 corporate sponsors a limited non-exclusive license to use its intellectual property and
20 recycling know-how, in exchange for monetary donations.

21 12. The Freecycle Network provides local volunteers with a limited non-
22 exclusive license to use The Freecycle Network’s Marks for local promotions. The
23 Freecycle Network’s Marks are used to identify local recycling groups that belong
24 generally to The Freecycle Network organization. The Freecycle Network’s Marks are
25 further used by The Freecycle Network to promote recycling and reuse of usable items
26 within a community. Individual recyclers rely on The Freecycle Network’s Marks to
27 know that they are dealing with a local organization affiliated with The Freecycle
28 Network.

1 13. Defendant was an active member of The Freecycle Network from early
2 2004 until late 2005, holding a variety of positions during this time including, but not
3 limited to, (1) membership in The Freecycle Network's intellectual property working
4 group, and (2) leader of the New Website Planning Group, tasked with developing The
5 Freecycle Network's next-generation Internet Web site.

6 14. Defendant vigorously defended The Freecycle Network's rights to The
7 Freecycle Network's Marks in public e-mail exchanges and various Internet fora while he
8 was a member of The Freecycle Network. Examples include:

9 (a) In an e-mail dated September 17, 2004, Defendant stated, in
10 pertinent part, "Everyone in the Freecycle network needs to protect the
11 "Freecycle" trademark." (*See Exhibit A.*)

12 (b) In an e-mail dated January 5, 2005, Defendant provided a list of
13 guidelines entitled "How To Protect the Freecycle Trademark" that includes
14 detailed instructions for proper use of the FREECYCLE mark. (*See Exhibit B.*)

15 (c) In an e-mail dated May 5, 2005, Defendant stated, in pertinent part,
16 "...the Freecycle trademark [] ...is real, Freecycle is using it, and has the right to
17 defend it to a degree even without registration. The reason that the Freecycle
18 trademark is important is that people are associating it with an excellent service.
19 People join The Freecycle Network because they trust it. So the more we work to
20 make Freecycle trustworthy, distinct, and useful, the more people recognize it, the
21 more people join it, and the more power the network has to generate gifts rather
22 than trash – which is THE goal." (*See Exhibit C.*)

23 15. On or around September 15, 2005, Defendant was asked to resign from his
24 position at The Freecycle Network due to behavior from Defendant contrary to the
25 mission of The Freecycle Network Organization. (*See Exhibit D.*)

26 16. Since terminating his membership in The Freecycle Network, Defendant
27 has engaged in a systematic campaign to destroy the value of The Freecycle Network's
28 intellectual property, particularly The Freecycle Network's Marks.

1 17. Defendant has intentionally made false statements about The Freecycle
2 Network's operations and the validity of The Freecycle Network's intellectual property,
3 including The Freecycle Network's Marks. These statements include assertions that The
4 Freecycle Network does not possess valid trademark rights in The Freecycle Network's
5 Marks, assertions that The Freecycle Network's Marks, specifically the FREECYCLE
6 mark, is a generic term, and assertions that third parties can freely use The Freecycle
7 Network's Marks. Examples include:

8 (a) In a Yahoo! Groups message, Defendant stated, in pertinent part,
9 "...it is legal for everyone to use the term freecycle...so have fun with it!" (*See*
10 Exhibit E.)

11 (b) In an e-mail dated September 20, 2005, Defendant stated, in
12 pertinent part, "...I have encouraged people to use the term freecycle as a generic
13 term which would block The Freecycle Network (The Freecycle Network), and all
14 others, from holding a trademark..." (*See* Exhibit F.)

15 (c) In a Yahoo! Groups message dated February 23, 2006, Defendant
16 stated, in pertinent part, "...please contact all the freecycle groups in your state
17 and surrounding states to let them know that freecycle is a generic term..." (*See*
18 Exhibit G.)

19 18. Defendant has published false and misleading statements regarding The
20 Freecycle Network and The Freecycle Network's Marks to third parties, through public
21 e-mail lists and public Yahoo! Groups Web sites. (*See generally* Exhibits A-F).

22 19. Defendant has attempted to intentionally and maliciously induce local
23 recycling organizations to terminate their association with The Freecycle Network and
24 misuse The Freecycle Network's trademarks. Examples include:

25 (a) In a Yahoo! Groups message dated February 23, 2006, Defendant
26 maliciously encouraged others to misuse The Freecycle Network's Marks in a
27 manner that will "[d]rive The Freecycle Network nuts." (*See* Exhibit G.)
28

1 (b) In the same Yahoo! Groups message, Defendant intentionally
2 encouraged others to misuse the Marks “[b]ecause [The Freecycle Network] are
3 doing bad things.” *Id.*

4 (c) In a Yahoo! Groups message dated September 20, 2005, Defendant
5 stated “I have actually encouraged people to use the term freecycle as a generic
6 term which would block The Freecycle Network (The Freecycle Network), and all
7 others, from holding a trademark...” (*See Exhibit F.*)

8 **FIRST CLAIM FOR RELIEF**

9 (Contributory Trademark Infringement, 15 U.S.C. § 1125(a))

10 20. The Freecycle Network repeats and re-alleges the allegations of paragraphs
11 1 through 19 of the Complaint as if fully set forth herein.

12 21. Defendant has been knowingly inducing third parties to infringe The
13 Freecycle Network’s Marks.

14 22. Such knowing inducement of infringement of The Freecycle Network’s
15 Marks by Defendant constitutes contributory trademark infringement in violation of
16 Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)).

17 23. The Freecycle Network is informed and believes that Defendant’s past and
18 continuing contributory trademark infringement of The Freecycle Network’s Marks has
19 been deliberate and willful, and was calculated to harm the goodwill of The Freecycle
20 Network’s Marks, and of The Freecycle Network’s reputation and goodwill.

21 24. Defendant’s contributory infringing conduct has damaged The Freecycle
22 Network in an amount to be determined at trial, and will continue to damage The
23 Freecycle Network, unless restrained by this Court. The Freecycle Network is entitled to
24 an injunction, as set forth below, and as a consequence of Defendant’s willful conduct, to
25 an award against Defendant in an amount of three times The Freecycle Network’s
26 damages, and The Freecycle Network’s attorneys’ fees and costs incurred in connection
27 with this action.

28 ///

SECOND CLAIM FOR RELIEF

(Trademark Disparagement, 15 U.S.C. § 1125(a))

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2
3 25. The Freecycle Network repeats and re-alleges the allegations of paragraphs
4 1 through 24 of the Complaint as if fully set forth herein.

5 26. Defendant has intentionally made false statements about The Freecycle
6 Network's operations and the validity of The Freecycle Network's intellectual property,
7 including The Freecycle Network's Marks. These statements include assertions that The
8 Freecycle Network does not possess valid trademark rights in The Freecycle Network's
9 Marks, and assertions that The Freecycle Network's Marks, specifically the
10 FREECYCLE mark, is a generic term.

11 27. Defendant made such false statements with malice, in an attempt to harm
12 The Freecycle Network's right to its intellectual property, harm the goodwill of The
13 Freecycle Network's Marks, and harm The Freecycle Network's reputation and goodwill.

14 28. The Freecycle Network has suffered special damages due to Defendant's
15 false statements in an amount to be determined at trial, including, but not limited to, a
16 loss of goodwill, decreased membership, loss of potential corporate sponsorship, and
17 potential loss of intellectual property right in The Freecycle Network's Marks.
18 Defendant will continue to damage The Freecycle Network, unless restrained by this
19 Court. The Freecycle Network is entitled to an injunction, as set forth below, and as a
20 consequence of Defendant's willful conduct, to an award against Defendant in an amount
21 of three times The Freecycle Network's damages, and The Freecycle Network's
22 attorneys' fees and costs incurred in connection with this action.

THIRD CLAIM FOR RELIEF

(Injurious Falsehood, Arizona Common Law)

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24
25 29. The Freecycle Network repeats and re-alleges the allegations of paragraphs
26 1 through 28 of the Complaint as if fully set forth herein.

27 30. Defendant has published false statements to third parties, through public e-
28 mail lists and public Yahoo! Groups Web sites, regarding The Freecycle Network and

1 The Freecycle Network's Marks. The Freecycle Network's false statements in this
2 regard include, but are not limited to, assertions that The Freecycle Network's Marks are
3 generic, that The Freecycle Network does not have valid trademark rights in The
4 Freecycle Network's Marks, and that third parties can freely use the FREECYCLE mark.

5 31. Defendant intentionally made such false statements with the knowledge
6 that they were false.

7 32. Defendant made such false statements in an effort to dissuade the readers of
8 these statements from entering into or maintaining business and volunteer relationships
9 with The Freecycle Network.

10 33. The Freecycle Network has suffered pecuniary loss due to Defendant's
11 false statements in an amount to be determined at trial, including, but not limited to, a
12 loss of goodwill, decreased membership, loss and/or reduction of potential corporate
13 sponsorship, and potential loss of intellectual property right in The Freecycle Network's
14 Marks. Defendant will continue to damage The Freecycle Network, unless restrained by
15 this Court. The Freecycle Network is entitled to an injunction, as set forth below, and as
16 a consequence of Defendant's willful conduct, to an award against Defendant in an
17 amount of three times The Freecycle Network's damages, and The Freecycle Network's
18 attorneys' fees and costs incurred in connection with this action.

19 **FOURTH CLAIM FOR RELIEF**

20 (Defamation, Arizona Common Law)

21 34. The Freecycle Network repeats and re-alleges the allegations of paragraphs
22 1 through 33 of the Complaint as if fully set forth herein.

23 35. Defendant has made false and misleading public statements concerning The
24 Freecycle Network and The Freecycle Network's Marks. The Freecycle Network's false
25 statements in this regard include, but are not limited to, assertions that The Freecycle
26 Network's Marks are generic, that The Freecycle Network does not have valid trademark
27 rights in The Freecycle Network's Marks, and that third parties can freely use the
28 FREECYCLE mark.

1 36. Defendant has published these false and misleading statements without
2 authorization from The Freecycle Network, on public e-mail lists and public Yahoo!
3 Groups Web sites.

4 37. Defendant intentionally made such false and misleading statements with the
5 knowledge that such statements were false and misleading.

6 38. Defendant made such false and misleading statements with malice, in an
7 attempt to harm The Freecycle Network's right to its intellectual property, harm the
8 goodwill of The Freecycle Network's Marks, and harm The Freecycle Network's
9 reputation and goodwill.

10 39. The Freecycle Network has suffered special harm due to Defendant's false
11 statements in an amount to be determined at trial, including, but not limited to, a loss of
12 goodwill, decreased membership, loss of potential corporate sponsorship, and potential
13 loss of intellectual property right in The Freecycle Network's Marks. Defendant will
14 continue to damage The Freecycle Network, unless restrained by this Court. The
15 Freecycle Network is entitled to an injunction, as set forth below, and as a consequence
16 of Defendant's willful conduct, to an award against Defendant in an amount of three
17 times The Freecycle Network's damages, and The Freecycle Network's attorneys' fees
18 and costs incurred in connection with this action.

19 **FIFTH CLAIM FOR RELIEF**

20 (Intentional Interference with Business Relationship, Arizona Common Law)

21 40. The Freecycle Network repeats and re-alleges the allegations of paragraphs
22 1 through 39 of the Complaint as if fully set forth herein.

23 41. The Freecycle Network enters into contractual relationships with its local
24 recycling, reusing, and gifting groups, and with corporate sponsors.

25 42. Due to his prior involvement in The Freecycle Network, Defendant has
26 personal knowledge of The Freecycle Network's contractual relationships with its local
27 recycling, reusing, and gifting groups, and with corporate sponsors.

28

1 in privity or acting in concert with Defendant, from interfering with The Freecycle
2 Network's business relationships;

3 C. An award of damages to The Freecycle Network adequate to compensate
4 The Freecycle Network for Defendant's acts of infringement, disparagement,
5 interference, injurious falsehood, and defamation, together with interest thereon, and an
6 increase in the amount of damages to three times the amount found or assessed by this
7 Court because of the willful and deliberate nature of Defendant's acts, as provided by
8 35 U.S.C. § 284;

9 D. An award of The Freecycle Network's costs incurred in this action,
10 together with reasonable attorneys' fees;

11 E. Granting such other and further relief as this Court may deem just and
12 proper.

13 **DEMAND FOR JURY TRIAL**

14 The Freecycle Network demands a jury trial on all issues.

15 Dated this 4th day of April, 2006.

16 DECONCINI McDONALD
17 YETWIN & LACY, P.C., and
18 PERKINS COIE LLP

19 By: 
20 Lisa Anne Smith
21 Shefali Milczarek-Desai

22 Paul J. Andre
23 Lisa Kobialka
24 Esha Bandyopadhyay
25 Sean Boyle

26 Attorneys for Plaintiff
27 The Freecycle Network, Inc.
28

VERIFICATION

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STATE OF ARIZONA)
) ss.
County of Pima)

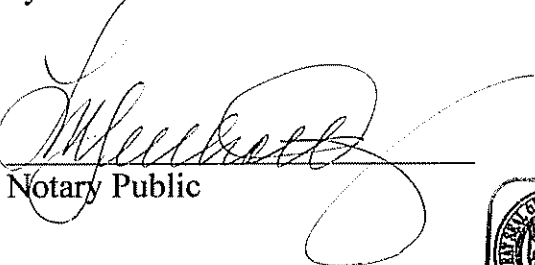
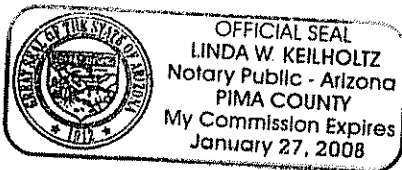
I, Deron Beal, upon penalty of perjury, depose and say that:

- 1. I am the Executive Director and Board Chair of The Freecycle Network, Inc.
- 2. I have reviewed The Freecycle Network, Inc.'s Complaint for Trademark Disparagement, Injurious Falsehood, Defamation, and Intentional Interference with Business Relations.
- 3. To the best of my knowledge, the contents of this document are true and correct.

DATED this 4th day of April, 2006.



Subscribed and sworn to before me
this 4th day of April, 2006,
by Deron Beal.


Notary Public

My Commission Expires:

1-27-08

Exhibit B

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

THE FREECYCLE NETWORK, INC., an
Arizona non-profit organization,

Plaintiff,

vs.

TIM OEY and JANE DOE OEY,

Defendant.

No. CV 06-173-TUC-RCC

ORDER

On April 24, 2006, the Court held oral argument regarding a motion for a Temporary Restraining Order against Defendant Tim Oey ("Oey"). That motion was granted (Docket # 18). Now pending before the Court is Plaintiff The Freecycle Network, Inc.'s Notice of *Ex Parte* Motion and *Ex Parte* Motion for Order to Show Cause Against Defendant Tim Oey Regarding Contempt Due to Failure to Comply with Temporary Restraining Order (Docket # 20) as well as whether a preliminary injunction should be issued on The Freecycle Network's ("Freecycle") behalf enjoining Oey from making comments that infringe on Freecycle's Trademark.

I. BACKGROUND

The Freecycle Network is a nonprofit Arizona corporation with member groups throughout the world dedicated to encouraging and coordinating the reusing, recycling,

1 and gifting of goods. Starting with a single community in Tucson, Freecycle has grown
2 to a worldwide organization with thousands of local recycling groups and more than two
3 million members.

4 Freecycle has been using the trademarks FREECYCLE, THE FREECYCLE
5 NETWORK and "The Freecycle Network" logo since May 2003. On November 22,
6 2005, Freecycle's trademark and logo were approved for publication on the Principal
7 Register by the United States Patent and Trademark Office ("USPTO"). A notice of
8 publication was issued on December 28, 2005, but that registration is being opposed by a
9 group in California making the trademark's application pending.

10 Defendant Oey was actively involved with Freecycle from early 2005 until late
11 2005. Part of Defendant's duties included participating in an intellectual property group
12 tasked with developing guidelines for protecting Freecycle's intellectual property. As part
13 of his duties, Defendant has authored emails which have defended Freecycle's trademark
14 rights.

15 In mid-September 2005 Defendant resigned from his position with Freecycle.
16 Subsequently, Defendant began making public remarks disagreeing with the validity
17 Freecycle's trademark rights. In support of this, Defendant has emailed remarks
18 disparaging Freecycle's trademark as well as posting comments on the internet
19 disparaging Freecycle's trademark.

20 Freecycle filed this action against Defendant claiming that he had made remarks
21 that infringed upon their trademark. In accordance with this, Plaintiff moved for a
22 temporary restraining order which was granted by this court. Now, Plaintiffs are asking
23 for a preliminary injunction as well as an order to show cause as to why Defendant should
24 not be held in contempt of court for not removing previously posted comments on the
25 internet that infringe upon Freecycle's trademark.

26 Defendant claims that the term "freecycle" is a generic term and thus not able to be
27 trademarked. Defendant points to the fact that the trademark is still pending with the
28 USPTO and that there is an objection to the pending trademark that must be resolved by

1 the USPTO. With regard to the motion for contempt filed by Freecycle, Defendant
2 asserts that it did not relate to past comments made by Defendant before the Complaint in
3 this case was even filed.

4
5 **II. DISCUSSION**

6 The moving party carries the burden for demonstrating the need for injunctive
7 relief. *Huang v. Holiday Inns, Inc.*, 594 F.Supp. 352, 355 (C.D.Cal. 1984).

8 Factors to consider in determining whether to grant a preliminary injunction are:

9 (1) the likelihood of plaintiff's success on the merits; (2) the possibility of
10 plaintiff's suffering irreparable injury if relief is not granted; (3) the extent
11 to which the balance of hardships favors the respective parties; and (4) in
certain cases, whether the public interest will be advanced by the provision
of preliminary relief.

12 *Dollar Rent A Car of Wash., Inc. v. Travelers Indemnity Co.*, 774 F.2d 1371, 1374 (9th
13 Cir. 1985).

14 In a trademark infringement case, a plaintiff is entitled to a preliminary injunction
15 if it can show "either (1) a combination of 'probable success on the merits' and 'the
16 possibility of irreparable injury' or (2) the existence of 'serious question going to the
17 merits' and that 'the balance of hardships tips sharply in [its] favor.'" *GoTo.com, Inc. v.*
18 *Walt Disney Co.*, 202 F.3d 1199, 1205 (9th Cir. 2000) (quoting *Sardi's Rest. Corp. v.*
19 *Sardie*, 755 F.2d 719, 723 (9th Cir. 1985)).

20 *1. Likelihood of Success on the Merits*

21 Freecycle argues that it is likely to succeed on the merits. The Lanham Act
22 prohibits the unauthorized use of a "registered mark in connection with the sale . . . or
23 advertising of any goods . . . [where] such use is likely to cause confusion, or to cause
24 mistake, or to deceive." 15 U.S.C. § 1114. Section 43 of the act makes any person who,
25 in connection with the sale of goods, uses any term, name, or symbol in a way that is
26 likely to cause confusion, mistake or to deceive, liable in a civil action to any person
27 damaged by the act. 15 U.S.C. § 1125. In order to establish trademark infringement or
28 unfair competition under the Lanham Act, a plaintiff must show that the defendant "is

1 using a mark similar to a valid, protectable trademark of [plaintiff's]." *Brookfield*
2 *Communications, Inc. v. W. Coast Entm't Corp.*, 174 F.3d 1036, 1046 (9th Cir. 1999).
3 Freecycle argues that even though its trademark is still pending, it has established a
4 recognizable logo and name that is protectable through over three years of use as well as
5 the USPTO's approval of publication in its Principal Register.

6 Additionally, Freecycle argues that its legitimate trademark rights have been
7 recognized by Defendant when he was associated with The Freecycle Network. This is
8 born out by the record. While Defendant was associated with The Freecycle Network, he
9 actively undertook to protect its trademark and logo. *See* Complaint, Exh. A-C; *see also*
10 Beal Decl. ¶ 8. Then, after his separation from the organization, he began to publicly
11 encourage the disparagement of the Freecycle trademark. *See* Complaint, Exh. D-G; *see*
12 *also* Beal Decl. ¶ 9.

13 All of these factors lead to the conclusion that Plaintiff has a significant chance to
14 succeed on the merits of the case.

15 2. Irreparable Injury

16 Irreparable injury may be presumed by a showing of likelihood of success on the
17 merits of a trademark infringement claim. *El Pollo Loco, Inc. v. Hashim*, 316 F.3d 1032,
18 1038 (9th Cir. 2003). Because The Freecycle Network has shown a likelihood of success
19 on the merits, a preliminary injunction is appropriate as to the trademark claims.

20 3. Balance of Hardships

21 The balance of hardships falls in Freecycle's favor. If a preliminary injunction is
22 granted, then Defendant is merely prohibited from making public comments that could
23 disparage Freecycle's trademark during the pendency of this case. There would be no or
24 very little cost to Defendant of not being able to do this. If the preliminary injunction is
25 not granted then The Freecycle Network could very well suffer loss of goodwill and
26 confusion with respect to its trademark rights (assuming it does in fact have those
27 trademark rights). It is clear though that currently, the balance of hardships clearly falls
28 within Freecycle's favor.

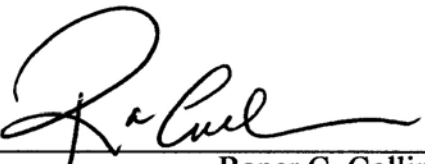
1 **III. CONCLUSION**

2 Accordingly IT IS HEREBY ORDERED that the motion for Preliminary
3 Injunction is GRANTED in Freecycle's Favor. Defendant is prohibited from making any
4 comments that could be construed as to disparage upon Freecycle's possible trademark
5 and logo. Additionally, Defendant IS FURTHER ORDERED to remove all postings
6 from the internet and any other public forums that he has previously made that disparage
7 Freecycle's possible trademark and logo. This Order specifically refers to, but is not
8 limited to, the exhibits used by Freecycle in this case.

9 Finally, IT IS ORDERED that Plaintiff The Freecycle Network, Inc.'s Notice of *Ex*
10 *Parte* Motion and *Ex Parte* Motion for Order to Show Cause Against Defendant Tim Oey
11 Regarding Contempt Due to Failure to Comply with Temporary Restraining Order
12 (Docket # 20) is DENIED. However, Defendant is forewarned that if he refused to
13 comply with the terms of this preliminary injunction and continues to publicly disparage
14 Freecycle's trademark rights and logo then he could be found to be held in contempt of
15 court.

16
17 DATED this 11th day of May, 2006.

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Raner C. Collins
United States District Judge

Exhibit C



P.O. Box 294 Tucson, AZ 85705 www.freecycle.org

Attn: Michael Meneses

Hello again, Michael.

Thanks so much for all of your help.

Attached (4 pages including this one) please find our latest list of groups to report for infringement. Please note that we have recently revamped the process by which users are instructed to create new Freecycle Groups using the Yahoo! Groups system, and we hope that the new process will make it clear when it is, and is not, appropriate to create a group. This should cut down significantly on the number of "rogue" groups that are created and our reports should slow to a trickle in the near future.

Thank you!

Sarah & Iron Beal
Noun

FROM :The Freecycle Network

FAX NO. :5203273771

Nov. 21 2005 12:27PM P5



P.O. Box 294 Tucson, AZ 85705 www.freecycle.org

Attn: Michael Meneses

Hello again, Michael.

Thanks so much for all of your help.

Attached (4 pages including this one) please find our latest list of groups to report for infringement. Please note that we have recently revamped the process by which users are instructed to create new Freecycle Groups using the Yahoo! Groups system, and we hope that the new process will make it clear when it is, and is not, appropriate to create a group. This should cut down significantly on the number of "rogue" groups that are created and our reports should slow to a trickle in the near future.

Thank you!

Sarah & Iron Beal
Don

ATTN: Michael Meneses

Hello, Michael. Thank you for your continued assistance. Below are some more groups infringing on the Freecycle(TM) protected property and refusing to cease. Thanks much!

> 1. A description of the copyrighted work or other intellectual property that you claim has been infringed;

The name Freecycle(TM) is protected, as are the Freecycle(TM) logo, and all of the materials supplied to Freecycle(TM) groups when they are first created. The group in question is currently using those materials without permission.

> 2. A description of the location where the material that you claim is infringing is located;

<http://groups.yahoo.com/group/GreaterActonMAFreecycle/>
http://groups.yahoo.com/group/Freecycle_Durham/
<http://groups.yahoo.com/group/FreecycleBaldwin/>
<http://groups.yahoo.com/group/Catonsvillefreecycle/>
<http://uk.groups.yahoo.com/group/cheerfulandfree/>
<http://groups.yahoo.com/group/ChristianCounty-ILfreecycle/>
<http://uk.groups.yahoo.com/group/Durhamfreecyclers/>
<http://uk.groups.yahoo.com/group/freecyclenewcastleupontyne/>
<http://groups.yahoo.com/group/herfordazfreecycle/>
<http://groups.yahoo.com/group/FreecycleMarionSC/>
<http://groups.yahoo.com/group/FreeCycleOklahomaCity/>
<http://groups.yahoo.com/group/OrcuttFreecycle/>
<http://groups.yahoo.com/group/freecyclesunnyvale/>
<http://groups.yahoo.com/group/wofreecycle/>
<http://groups.yahoo.com/group/GLBTFreecycle/>
<http://groups.yahoo.com/group/Freecyclingmoms/>
<http://groups.yahoo.com/group/lakewoodfreecycling/>

> 3. A statement by you that you have a good faith belief that the reported use is not authorized by the copyright or intellectual property owner, its agent, or the law;

I am the Copyright Agent for The Freecycle Network(TM) and am subsequently authorized to represent Freecycle in this matter. The groups in question either applied to be Freecycle groups but were rejected, or never applied and have been operating without permission from the start. If they were rejected, they were served with a notice asking them to either delete the group or remove the protected Freecycle name, etc. When they

FROM :The Freecycle Network

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didn't do either (or if they never went through the approval process in the first place) they were sent two letters asking them to cease & desist using the protected Freecycle name, logo, and materials. The letters were sent at least two weeks apart (to account for people being away on vacation, medical emergencies, etc.) and 48 hours after the second one was sent the groups were manually checked again. All of the groups that had not been deleted or appropriately edited at that time are listed above. These groups are therefore currently infringing on The Freecycle Network's copyrights and trademark and we ask you now to take the appropriate action with all of them.

> 4. Your address, telephone number, and, if available, e-mail address;

THE FOLLOWING NAME AND CONTACT INFORMATION ARE PERSONAL AND FOR YAHOO'S USE ONLY- *NOT* TO BE SHARED WITH THE OFFENDER OR ANYONE ELSE, PLEASE:

Sarah Blouin
978-772-0375

PLEASE USE THIS CONTACT INFORMATION IF YOU HAVE TO SHARE IT WITH THE OFFENDER OR ANYONE ELSE:

The Freecycle Network
P.O. Box 294
Tucson, AZ 85705
520-631-2171
trademark@freecycle.org

> 5. A statement by you, made under penalty of perjury, that the above information is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf; and

I hereby state that the information I have supplied in this message is complete and accurate to the best of my knowledge, and that I am authorized to act on the copyright owner's behalf.

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FAX NO. :5203273771

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> 6. An electronic or physical signature by the person making the submission (i.e., you or such other person authorized to act on behalf of [Complainant]). If the submission is made electronically, to satisfy the signature requirement please designate the electronic signature by typing a forward slash before and after the name of the authorized person making the submission (e.g., /Jane Doe/) and follow this electronic signature with the typed name of the person.

PLEASE DO NOT DISCLOSE MY LAST NAME TO ANYONE. THANK YOU.

Signed,
/Sarah Blouin/
Sarah Blouin

Trademark Agent,
The Freecycle Network
www.freecycle.org

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