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 8 FREECYCLESUNNYVALE,

9
 10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT**
 12 **OAKLAND DIVISION**

13 FREECYCLESUNNYVALE,
 a California unincorporated association,

14 Plaintiff,

15 v.

16 THE FREECYCLE NETWORK,
 an Arizona corporation,

17 Defendant.

Case No. C06-00324 CW

**[PROPOSED] ORDER DISMISSING
 COUNTERCLAIMANT THE
 FREECYCLE NETWORK, INC.'S
 COUNTERCLAIMS UNDER
 FED.R.CIV.P. 12(b)(6) AND STRIKING
 THE STATE-LAW COUNTERCLAIM
 UNDER CAL. CODE. CIV. PROC. §
 425.16**

Date: June 9, 2006
 Time: 1:30 p.m.
 Before: Hon. Claudia Wilken
 Location: Courtroom 2

21 THE FREECYCLE NETWORK, INC., an
 Arizona Corporation,

22 Counterclaimant,

23 v.

24 FREECYCLESUNNYVALE, a California
 unincorporated association,

25 Counterdefendant.

1 On June 9, 2006, Plaintiff and Counterdefendant FreecycleSunnyvale's Motion to Dismiss
2 Counterclaims under Fed.R.civ.P. 12(b)(6) and Motion to Strike State-Law Counterclaim under
3 Cal.Code.Civ.Proc § 425.16 came on for hearing before this Court. Having considered all papers
4 filed in support of and in opposition to Plaintiff and Counterdefendant's Motions, and good
5 cause appearing, the COURT GRANTS the Motions.

6 IT IS HEREBY ORDERED THAT:

7 (1) Defendant and Counterclaimant The Freecycle Network, Inc.'s
8 counterclaim for infringement under § 32(1) of the Lanham Act is dismissed with
9 prejudice;

10 (2) Defendant and Counterclaimant The Freecycle Network, Inc.'s
11 counterclaim for contributory trademark infringement under § 43(a) of the
12 Lanham Act is dismissed;

13 (3) Defendant and Counterclaimant The Freecycle Network, Inc.'s
14 counterclaim for unfair competition under § 43(a) of the Lanham Act is
15 dismissed;

16 (4) Defendant and Counterclaimant The Freecycle Network, Inc.'s
17 counterclaim for unfair competition under Cal. Bus. & Prof. Code §§ 17200 and
18 17500 is dismissed; and

19 (5) Defendant and Counterclaimant The Freecycle Network, Inc.'s
20 state-law counterclaim for unfair competition is stricken or, in the alternative,
21 Defendant and Counterclaimant The Freecycle Network, Inc., must demonstrate a
22 probability of prevailing under Cal. Civ. Proc. Code § 425.16.

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24 Dated: _____

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26 _____
27 Honorable Claudia Wilken
28 United States District Court Judge
Northern District of California

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