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8 Attorneys for Defendant and Counterclaimant  
 The Freecycle Network, Inc.

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

FREECYCLESUNNYVALE, a California  
 unincorporated association,

Plaintiff,

v.

THE FREECYCLE NETWORK, INC., an  
 Arizona corporation,

Defendant.

CASE NO. C 06-00324 CW

**DECLARATION OF ESHA BANDYOPADHYAY  
 IN SUPPORT OF THE FREECYCLE  
 NETWORK, INC.'S OPPOSITION TO  
 FREECYCLESUNNYVALE'S MOTIONS TO  
 DISMISS COUNTERCLAIMS UNDER  
 FED.R.CIV.P. 12(b)(6) AND TO STRIKE  
 STATE-LAW COUNTERCLAIM UNDER CAL.  
 CODE CIV. PROC. § 425.16**

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AND RELATED COUNTERCLAIMS

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1 I, ESHA BANDYOPADHYAY, declare:

2 1. I am an attorney with the law firm of Perkins Coie LLP, counsel of record for  
3 Defendant and Counterclaimant The Freecycle Network, Inc. (“The Freecycle Network”). I have  
4 personal knowledge of the facts set forth in this declaration and can testify competently to those  
5 facts.

6 2. On April 24, 2006, a District Court in Arizona held a hearing on an *Ex Parte*  
7 Motion for Temporary Restraining Order (“TRO Motion”) filed by The Freecycle Network against  
8 the individual Mr. Tim Oey (“Mr. Oey”). Counsel for Counterdefendant FreecycleSunnyvale  
9 (“Counterdefendant”) in this matter, the law firm of Mayer, Brown, Rowe & Maw LLP (“Mayer  
10 Brown”) made a telephonic appearance on behalf of Mr. Oey at the hearing on the TRO Motion.  
11 Mayer Brown’s appearance on behalf of Mr. Oey is reflected in the Court’s minutes from the  
12 hearing. Attached hereto as Exhibit 1 is a true and correct copy of the Court’s minutes from the  
13 April 24<sup>th</sup> hearing.

14 3. On April 28, 2006, I wrote to Ian Feinberg of Mayer Brown, indicating that Mr.  
15 Oey had refused and failed to comply with the Court’s Order granting The Freecycle Network’s  
16 TRO Motion (“Order”). Attached hereto as Exhibit 2 is a true and correct copy of my April 28,  
17 2006, letter to Ian Feinberg (without attachments).

18 4. On May 1, 2006, I received a response from Mr. Dennis Corgill of Mayer Brown,  
19 indicating that their firm is not representing Mr. Oey as an individual. Attached to this declaration  
20 as Exhibit 3 is a true and correct copy of Mr. Corgill’s May 1, 2006 letter.

21 5. On May 2, 2006, I wrote to Mr. Oey’s counsel in Arizona, Ms. Ashley Lynn Kirk,  
22 reiterating that Mr. Oey had refused and failed to comply with the Court’s Order, and requesting  
23 that Mr. Oey immediately comply with the Court’s Order. Attached to this declaration as  
24 Exhibit 4 is a true and correct copy of my May 2, 2006, letter to Ms. Kirk.

25 6. On May 9, 2006, the Arizona Court held a hearing on a Motion for Preliminary  
26 Injunction (“PI Motion”) filed by The Freecycle Network against the individual Mr. Tim Oey  
27 (“Mr. Oey”). The Arizona Court granted the PI Motion on May 12, 2006.

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1           7.       Several postings by Counterdefendant or members of Counterdefendant encourage  
2 others to use the trademarks at issue in this case in a manner that infringes upon The Freecycle  
3 Network's rights. Attached hereto as Exhibits 5-7 are examples of such postings by  
4 Counterdefendant or members of Counterdefendant.

5           I declare under penalty of perjury under the laws of the United States of America that the  
6 foregoing is true and correct. Executed in Menlo Park, California on May 19, 2006.

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By           /s/ Esha Bandyopadhyay            
Esha Bandyopadhyay  
Attorney for Defendant and Counterclaimant  
The Freecycle Network, Inc.

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