

1 MAYER, BROWN, ROWE & MAW LLP
 Ian N. Feinberg (SBN 88324)
 2 ifeinberg@mayerbrownrose.com
 Dennis S. Corgill (SBN 103429)
 3 dcorgill@mayerbrownrose.com
 Eric B. Evans (SBN 232476)
 4 eevans@mayerbrownrose.com
 Two Palo Alto Square, Suite 300
 5 3000 El Camino Real
 Palo Alto, CA 94306-2112
 6 Telephone: (650) 331-2000
 Facsimile: (650) 331-2060

7 Attorneys for Plaintiff
 8 FREECYCLESUNNYVALE,

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

13 FREECYCLESUNNYVALE,
 a California unincorporated association,
 14
 15 Plaintiff,

16 v.

17 THE FREecycle NETWORK,
 an Arizona corporation,
 18
 19 Defendant.

Case No. C06-00324 CW

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

20 THE FREecycle NETWORK, INC., an
 Arizona Corporation,
 21
 22 Counterclaimant,

23 v.

24 FREECYCLESUNNYVALE, a California
 unincorporated association,
 25
 26 Counterdefendant.

Date: October 6, 2006
 Time: 10:00 a.m.
 Before: Hon. Claudia Wilken
 Location: Courtroom 2, 4th Floor

1 On October 6, 2006, Plaintiff and Counterdefendant FreecycleSunnyvale's Motion to
2 Dismiss Counterclaims under FED.R.CIV.P. 12(b)(6), Motion to Strike State-Law Counterclaim
3 under CAL. CIV.PROC. § 425.16, and Motion to Strike Immaterial Allegations under
4 FED.R.CIV.P. 12(f) came on for hearing before this Court. Having considered all papers filed in
5 support of and in opposition to Plaintiff and Counterdefendant's Motions, and good cause
6 appearing, the COURT GRANTS the Motions.

7 IT IS HEREBY ORDERED THAT:

8 (1) Defendant and Counterclaimant The Freecycle Network, Inc.'s
9 counterclaims are dismissed without leave to amend under FED.R.CIV.P. 12(b)(6);

10 (2) Defendant and Counterclaimant The Freecycle Network, Inc.'s
11 California state-law unfair competition counterclaim is stricken under CAL. CIV.
12 PROC. § 425.16.; and

13 (3) Defendant and Counterclaimant The Freecycle Network, Inc.'s
14 allegations pertaining to the status of its trademark registration application is
15 stricken under FED.R.CIV.P. 12(f).

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17 Dated: _____
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21 _____
22 Honorable Claudia Wilken
23 United States District Court Judge
24 Northern District of California
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