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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

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FREECYCLESUNNYVALE, a California unincorporated association.

Plaintiff,

V.

THE FREECYCLE NETWORK, INC., an Arizona corporation,

Defendant.

CASE NO. C 06-00324 CW

DEFENDANT THE FREECYCLE **NETWORK, INC.'S REQUEST FOR** JUDICIAL NOTICE TO DISMISS **COMPLAINT UNDER RULE 12(b)(6)**

Date: Time: March 31, 2006 10:00 a.m.

Place:

Courtroom 2 (Oakland)

Judge: Honorable Claudia Wilkin

Defendant The Freecycle Network hereby request the Court to take judicial notice of the following documents.

Attached hereto as Exhibit 1 is a true and correct copy of the Notice of Opposition filed by

the Plaintiff FreecycleSunnyvale on January 18, 2006, in the United States Patent and Trademark

Office before the Trademark Trial and Appeal Board ("TTAB"). The Notice of Opposition is

DEFENDANT FREECYCLE REQUEST FOR JUDICIAL NOTICE CASE NO. 06-00324 CW

[60383-0001/BY060530.071]

| 1 | relevant to determining the necessity of the present action in light of the already proceeding action |
|----------|---|
| 2 | before the TTAB. |
| 3 | Attached hereto as Exhibit 2 is a true and correct copy of the SunnyvaleFree Yahoo! Group |
| 4 | opening webpage, as of February 22, 2006. The webpage is relevant in that it contains a statement |
| 5 | that the SunnyvaleFree Yahoo! Group is the successor to the defunct FreecycleSunnyvale Yahoo! |
| 6 7 | Group. |
| 8 | For the reasons stated above, The Freecycle Network respectfully request the Court to take |
| 9 | notice of the above-identified documents. |
| 10 | |
| 11 | DATED: February 22, 2006. PERKINS COIE LLP |
| 12 | |
| 13 | By <u>/s/</u> Paul J. Andre |
| 14 | Lisa Kobialka Sean Boyle |
| 15 | Attorneys for Defendant The Freecycle Network |
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| 28 | DEFENDANT FREECYCLE REQUEST FOR |

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