

1 NATE A. GARHART (CA Bar No. 196872)  
 2 ([nate@cobaltlaw.com](mailto:nate@cobaltlaw.com))  
 3 VIJAY K. TOKE (CA Bar No. 215079)  
 4 ([vijay@cobaltlaw.com](mailto:vijay@cobaltlaw.com))

5 COBALT LLP  
 6 918 Parker Street, Bldg. A21  
 7 Berkeley, CA 94710  
 8 Telephone: (510) 841-9800  
 9 Facsimile: (510) 295-2401

10 Attorneys for Plaintiff  
 11 NOODLES RAW CATERING LLC

12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**  
 14 **SAN JOSE DIVISION**

15 NOODLES RAW CATERING LLC,  
 16  
 17 Plaintiff,  
 18  
 19 v.  
 20 SAISON GROUP LLC,  
 21  
 22 Defendant.

Case No.: 5:15-cv-00316-PSG

**NOODLES RAW CATERING LLC'S  
 CASE MANAGEMENT STATEMENT**

23 Plaintiff Noodles Raw Catering LLC submits this CASE MANAGEMENT STATEMENT  
 24 & PROPOSED ORDER pursuant to the Standing Order for All Judges of the Northern District of  
 25 California dated July 1, 2011 and Civil Local Rule 16-9. Plaintiff submits this statement on its  
 26 behalf only as Defendant has not yet filed a responsive pleading in this case.

27 1. Jurisdiction and Service

28 As a preliminary matter, Defendant was served with the complaint on January 28, 2015.  
 Since that time the parties have actively engaged in fruitful settlement discussions. The parties have  
 agreed to an extension of time for Defendant to respond to the complaint. At this time, the parties  
 have reached a settlement and have fully negotiated the language of a settlement agreement except  
 as to one remaining item in dispute, which they are actively working to resolve.

1 This Court has subject matter jurisdiction over Plaintiff's federal law claims pursuant to 28  
2 U.S.C. Sections 1331, 1338(a), and 1338(b). The Court may exercise jurisdiction over Plaintiff's  
3 unfair competition claim under 28 U.S.C. Section 1367. Venue is proper in this District under 28  
4 U.S.C. Section 1391 because the parties conduct business within this District, the alleged  
5 infringement arose within this District, and all parties were subject to personal jurisdiction in this  
6 District at the time this action was commenced.

7 Plaintiff reserves its right to add additional parties as needed after conducting discovery, but  
8 states that no parties remain to be served at this time.

9 2. Facts

10 Plaintiff has operated a successful chain of restaurants—currently with two locations—in  
11 San Francisco under the mark CHUBBY NOODLE since 2011. In late 2012, Defendant filed an  
12 intent-to-use trademark application with the USPTO for the mark FAT NOODLE. In or about  
13 September, 2014 Defendant began marketing its to-be-opened restaurant under the name FAT  
14 NOODLE, including from the domain name [www.fatnoodle.com](http://www.fatnoodle.com). Plaintiff contacted Defendant  
15 and attempted to resolve the matter informally, but the parties were unable to do so. Plaintiff  
16 therefore filed and served this action.

17 3. Legal Issues

- 18 • Whether Defendant's name FAT NOODLE infringes Plaintiff's CHUBBY  
19 NOODLE mark.
- 20 • Whether Defendant's trademark application for the name FAT NOODLE should be  
21 abandoned
- 22 • Whether Defendant's adoption and use of the domain name [www.fatnoodle.com](http://www.fatnoodle.com)  
23 constitutes cybersquatting
- 24 • Whether Defendant's [www.fatnoodle.com](http://www.fatnoodle.com) domain name should be transferred to  
25 Plaintiff

26 ///

27 ///

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1           4.       Motions

2           At this time Plaintiff does not anticipate the need for filing any motions. If Defendant is  
3 required to respond to the complaint, Plaintiff understands that Defendant reserves its right to file  
4 any motion that Defendant deems necessary or desirable to file.

5           5.       Amendment of Pleadings

6           At this time, Plaintiff does not anticipate amending the pleadings as plaintiff expects this  
7 case will settle shortly with the parties' execution of a written settlement agreement whose language  
8 is already largely agreed upon.

9           6.       Evidence Preservation

10          Plaintiff has taken steps to preserve evidence relevant to the issues reasonably evident in this  
11 action, including interdiction of any document destruction program and any ongoing erasure of  
12 emails, voice mails and other electronically recorded materials.

13          7.       Disclosures

14          Because Defendant has not yet appeared in this action, the parties have not engaged in a  
15 Rule 26(f) conference and have not had the opportunity to discuss the timing of initial disclosures.  
16 Plaintiff believes the Rule 26(f) conference and the exchange of initial disclosures will be  
17 unnecessary as Plaintiff anticipates that the case will settle shortly.

18          8.       Discovery

19          Because Defendant has not yet appeared in this action, the parties have not engaged in a  
20 Rule 26(f) conference and have not had the opportunity to discuss a discovery plan. Plaintiff  
21 believes that the Rule 26(f) conference and the need to conduct discovery will be unnecessary as  
22 Plaintiff anticipates that the case will settle shortly.

23          9.       Class Actions

24          This is not a class action.

25          10.       Related Cases

26          Plaintiff is not aware of any related cases.

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1           11.    Relief

2           Plaintiff seeks damages and injunctive relief, as set forth in the complaint. Plaintiff also  
3 reserves its rights to opt for statutory damages under the Lanham Act in connection with Plaintiff's  
4 anti-cybersquatting claim for relief.

5           12.    Settlement and ADR

6           The parties have reached a settlement as to nearly all the items in dispute between them as  
7 relates to Plaintiff's Complaint except for one item. The parties are actively working to resolve that  
8 remaining issue and have agreed on the language of a settlement agreement as to all remaining  
9 items in dispute.

10          13.    Consent to Magistrate Judge for All Purposes

11          Plaintiff has consented to have a magistrate judge assigned to this case for all purposes.

12          14.    Other References

13          Because Defendant has not yet appeared in this case, the parties have not discussed whether  
14 this action is suitable for reference to binding arbitration, a special master, or to the Judicial Panel  
15 on Multidistrict Litigation. However, at this time Plaintiff does not believe this action is so suitable.  
16 Plaintiff further believes that any such reference will be unnecessary as Plaintiff anticipates that the  
17 case will settle shortly.

18          15.    Narrowing of Issues

19          Because Defendant has not yet appeared in this action, the parties have not had the  
20 opportunity to discuss a narrowing of the issues in this case.

21          16.    Expedited Trial Procedure

22          Because Defendant has not yet appeared in this action, the parties have not discussed  
23 whether this action is suitable for an expedited trial schedule. However, at this time Plaintiff does  
24 not believe this action is so suitable. Plaintiff believes that the use of an expedited trial procedure  
25 will be unnecessary as Plaintiff anticipates that the case will settle shortly.

26          17.    Scheduling

27          Because Defendant has not yet appeared in this case, Plaintiff does not believe discussing a  
28 schedule of deadlines is appropriate at this time.

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18. Trial

Because Defendant has not yet appeared in this case, Plaintiff is not currently able to provide a meaningful estimate of time that will be required for trial of this matter. Plaintiff believes that a trial will be unnecessary as Plaintiff anticipates that the case will settle shortly.

19. Disclosure of Non-party Interested Entities or Persons

Plaintiff has filed its "Certification of Interested Entities or Persons," as required by Civil Local Rule 3-16. Because Defendant has not yet appeared in this case, it has not yet done so.

20. Professional Conduct

Nothing at this time.

21. Other

None.

DATED: May 5, 2015

COBALT LLP

By: /s/ Vijay K. Toke  
Vijay K. Toke

Attorneys for Plaintiff  
NOODLES RAW CATERING LLC

CASE MANAGEMENT ORDER

Based on the CASE MANAGEMENT STATEMENT & PROPOSED ORDER filed by Plaintiff on May 5, 2015, the Court hereby continues the Case Management Conference for this case for 60 days until July 21, 2015 at 10:00 am. All related deadlines under Federal Rules of Civil Procedure 16 and 25 and applicable case management and discovery local rules and standing orders shall be continued to accord with the new conference date.

Dated: May 8, 2015

Paul S. Grewal  
Hon. Paul Singh Grewal

UNITED STATES MAGISTRATE JUDGE