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 10 UNITED BRANDS COMPANY, INC.

11 UNITED STATES DISTRICT COURT
 12 SOUTHERN DISTRICT OF CALIFORNIA

13
 14 UNITED BRANDS COMPANY, INC.,
 15 Plaintiff,
 16 v.
 17 ANHEUSER-BUSCH, INC.
 18 Defendant.

CASE NO. '10CV2281 BEN WMc

COMPLAINT FOR:

**FEDERAL TRADEMARK AND TRADE
 DRESS INFRINGEMENT AND DILUTION;
 FALSE DESIGNATION OF ORIGIN IN
 VIOLATION OF THE LANHAM ACT
 SECTION 43(A); FEDERAL COPYRIGHT
 INFRINGEMENT; CALIFORNIA
 TRADEMARK INFRINGEMENT AND
 DILUTION; UNFAIR COMPETITION
 UNDER CALIFORNIA BUSINESS AND
 PROFESSIONS CODE SECTION 17200 ET
 SEQ.; COMMON LAW TRADEMARK
 INFRINGEMENT; COMMON LAW
 UNFAIR COMPETITION**

DEMAND FOR TRIAL BY JURY

1 3. Recently, however, Defendant completely changed the design and began
2 selling TILT in cans featuring a dragon design that closely resembles the design of
3 Plaintiff's DRAGON JOOSE cans (see below for new design). Defendant's use of these
4 intentionally similar and infringing design elements is likely to or has caused confusion
5 as to source, affiliation, or connection with Plaintiff, and also constitutes copyright
6 infringement. Plaintiff brings this action to prevent Defendant from infringing Plaintiff's
7 marks and copyrights, and prevent confusion in the marketplace, and to address related
8 state claims.



18 JURISDICTION AND VENUE

19 4. This is an action for: (a) federal trademark infringement arising under 15
20 U.S.C. § 1114; (b) federal dilution arising under 15 U.S.C. § 1125(c); (c) federal trade
21 dress infringement and false designation of origin arising under 15 U.S.C. § 1125(a); (d)
22 copyright infringement arising under 17 U.S.C. §§ 101 and 501; (e) dilution arising
23 under California Business & Professions Code § 14330 *et seq.*; (f) trademark
24 infringement arising under California Business & Professions Code § 14245 *et seq.*; (g)
25 unfair competition arising under California Business & Professions Code § 17200 *et*
26 *seq.*, (h) trademark infringement arising under the common law of the State of
27 California; and (i) unfair competition arising under the common law of the State of
28 California.

1 packaging design which sets the DRAGON JOOSE brand product apart from its
2 competition.

3 12. United Brands' use of the distinct color schemes, stylized, archaic-style
4 font, and dragon motif, makes the trade dress created by United Brands inherently
5 distinctive ("DRAGON JOOSE Trade Dress"). Some of the elements in the DRAGON
6 JOOSE Trade Dress that make it inherently distinctive include without limitation the
7 following:

- 8 a. Prominent stylized graphic of a dragon surrounding the
9 word mark JOOSE;
- 10 b. The mark JOOSE in large white letters in a stylized, archaic
11 font;
- 12 c. The prominent use of a one-syllable word mark;
- 13 d. The mark JOOSE is surrounded by a "crown" design as
14 shown in the JOOSE and Design mark;
- 15 e. The mark DRAGON JOOSE is also in a stylized font below
16 the JOOSE mark and is centered on the face of the can toward the bottom;
- 17 f. The alcohol volume content is displayed at the top of the
18 face of the can (e.g., "9.9% ALC/VOL"), above the logo, centered in a zig-zag line;
- 19 g. The alcohol volume content is also displayed within a small
20 badge or banner just below the mark JOOSE; and
- 21 h. The color scheme is purple and black.

22 13. The DRAGON JOOSE Marks, including the copyrighted dragon design,
23 are prominently featured in virtually all advertisements and promotions for the
24 DRAGON JOOSE flavored malt beverage. The DRAGON JOOSE Marks are used
25 uniformly and consistently in every product and promotion in commerce in connection
26 with United Brands' DRAGON JOOSE product.

27 14. In addition to the trademark rights in the DRAGON JOOSE Marks,
28 United Brands also owns copyrights in the images and appearance of its Dragon Design.

1 United Brands currently owns federal copyright registration numbers VA 1-737-466 and
2 VA 1-736-747 for its Dragon Design.

3 15. Since the launch of the original JOOSE flavored malt beverage in 2006
4 and the DRAGON JOOSE product in 2007, and prior to the acts of Defendant described
5 herein, United Brands has continuously used the marks JOOSE and Design, DRAGON
6 JOOSE, and DRAGON JOOSE and Design in interstate commerce in connection with its
7 marketing, distribution and sales of flavored malt beverage products.

8 16. United Brands is the owner of federal trademark registrations and
9 applications for its JOOSE Marks, including the following:

10 Registration No. 3,263,454 for the mark JOOSE

11 Registration No. 3,465,813 for the mark JOOSE and Design

12 Application Ser. No. 85/139,185 for the mark Dragon Design

13 The marks JOOSE, JOOSE and Design, and Dragon Design, and each of them, are
14 collectively referred to as the “DRAGON JOOSE Marks”.

15 17. The DRAGON JOOSE Marks are inherently distinctive. In the
16 alternative, because of United Brands’ exclusive and extensive use of the DRAGON
17 JOOSE Marks, they have acquired considerable value and have become well known to
18 the consuming public as identifying United Brands exclusively, and uniquely, as the
19 source of products to which the DRAGON JOOSE Marks are applied. In this way, the
20 DRAGON JOOSE Marks have acquired secondary meaning and distinctiveness.

21 18. United Brands has spent substantial dollars in promoting its JOOSE
22 flavored malt beverages, including the DRAGON JOOSE Marks, both in California and
23 nationwide. United Brands’ promotional efforts include, for example, sales promotions,
24 print media, internet advertising, point-of-sale materials, contests, specialty items and
25 attendance at trade shows. The DRAGON JOOSE Marks are prominently featured in
26 advertisements and promotions for the DRAGON JOOSE flavored malt beverages and
27 are prominently displayed on United Brands’ specialty items.

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1 19. United Brands' line of JOOSE flavored malt beverages has been
2 tremendously successful, with sales of flavored malt beverages totaling over
3 \$160,000,000 dollars.

4 20. United Brands' line of JOOSE flavored malt beverages is sold in 47
5 states, including California.

6 21. United Brands, its distributors and retailers have continuously and
7 exclusively used the DRAGON JOOSE Marks to distinguish themselves as the source of
8 goods and services in connection with the DRAGON JOOSE Marks.

9 22. As a result of United Brands' substantial use and promotion of the
10 flavored malt beverages bearing the DRAGON JOOSE Marks, the DRAGON JOOSE
11 Marks have become famous. The JOOSE Marks have acquired great value as identifiers
12 of United Brands' products and serve to distinguish United Brands' JOOSE flavored
13 malt beverages from those of others. Customers in this Judicial District and elsewhere
14 readily recognize United Brands' JOOSE Marks as distinctive designations of the origin
15 of United Brands' JOOSE flavored malt beverage. The JOOSE Marks are assets of
16 enormous value as symbols of United Brands and its quality products and goodwill. The
17 success of the JOOSE flavored malt beverages has made United Brands the second
18 largest seller of flavored malt beverages in the United States.

19 23. United Brands has never authorized or consented to any use by Defendant
20 of the DRAGON JOOSE Marks.

21 **B. Defendant's Infringement of United Brands' DRAGON JOOSE**
22 **Marks**

23 24. United Brands is informed and believes, and on that basis alleges, that
24 Defendant is engaged in the business of producing, selling and/or distributing malt
25 beverages, including flavored malt beverages (hereinafter "Defendant's Products"), in
26 this Judicial District and elsewhere.

27 25. United Brands is informed and believes, and on that basis alleges, that in
28 or about August 2005 Defendant began marketing an alcoholic, caffeinated, malt-based

1 flavored beverage, under the mark TILT. The TILT product came in two flavors and
2 was sold in 16 ounce silver cans which featured a stylized letter “T” which was tilted to
3 the left, as shown below.



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11 26. United Brands is informed and believes, and on that basis alleges, that for
12 approximately five years since launch, Defendant sold the TILT product using such
13 silver cans with the tilted “T”, at which time Defendant began using a new can and
14 design for the TILT product. This new can featured a radically different look and design,
15 as shown below. The new can was also sold in a 16 ounce size, only.



1 27. United Brands is informed and believes, and on that basis alleges, that on
2 or about July 2010, Defendant began selling Defendant's Products in the new, radically
3 different looking can in a 24 ounce size. United Brands is further informed and believes,
4 and on that basis alleges, that Defendant has introduced several new TILT colors and
5 cans using the same look and design as shown below.



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16 28. In particular, the new TILT designs and colors are substantially similar to
17 United Brands' JOOSE products – which have always been sold only in a 24 ounce can –
18 including DRAGON JOOSE, as shown below.



1 29. In this way, Defendant’s product packaging has progressively become
2 more and more similar to that of United Brands. United Brands is further informed and
3 believes, and on that basis alleges, that Defendant willfully and intentionally infringed its
4 DRAGON JOOSE Marks, directly copying elements of the DRAGON JOOSE Marks
5 and cans (including the size of the cans), in order to cause confusion among distributors,
6 retailers and consumers and trade upon the goodwill created by United Brands in its
7 DRAGON JOOSE Marks and products.

8 30. Notably, the new TILT Design shares many similarities with the
9 DRAGON JOOSE Marks, both in overall appearance and in individual features.
10 Among other similar features:

11 (i) the TILT cans feature a stylized depiction of two dragons that surround
12 the trademark, just as the DRAGON JOOSE and Design mark and can prominently
13 feature a dragon surrounding the JOOSE and Design mark;

14 (ii) the word mark TILT is in a stylized archaic font similar to the one used
15 for the DRAGON JOOSE Marks, a marked change from the streamlined font previously
16 used;

17 (iii) the word mark TILT is in white as is the mark JOOSE in white, and it
18 is in a stylized font similar to the font used on the JOOSE cans for the mark JOOSE and
19 for the particular product name (e.g., DRAGON JOOSE) and centered on the face of the
20 can toward the bottom;

21 (iv) Defendant’s cans have a large letter “T” in a stylized font that
22 resembles the “J” in “JOOSE”;

23 (v) there is a crown-like graphic above the “T” that is similar to the crown-
24 like design in the center of the JOOSE can, in which the mark JOOSE is displayed;

25 (vi) the new TILT cans use a color scheme consisting of a black
26 background with colored elements in the design features of the can, which the DRAGON
27 JOOSE products also employ.

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1 31. In addition, the cans share other similarities such as on the TILT cans
2 there is a description of the product in plain font on the bottom of the face of the can, just
3 as there is on the DRAGON JOOSE cans, and the alcohol volume content of the TILT
4 cans is displayed at the top of the face of the can in the same manner as the DRAGON
5 JOOSE cans (e.g., “12% ALC/VOL”) within a badge or banner that has a zig-zag line,
6 similar to how the alcohol content appears on the DRAGON JOOSE cans.

7 32. These similarities are further exacerbated when Defendant’s TILT cans
8 are situated adjacent to United Brands’ JOOSE cans, which often happens at the retail
9 stores. These similarities are even more noticeable when Defendant’s TILT cans are
10 situated in refrigerators and coolers that are decorated with JOOSE labels, display ads
11 and other marketing and promotional materials.

12 33. Notably, these new cans bearing the TILT Design do not feature any
13 tilting “T” like the original TILT cans, nor any tilting object or design.

14 34. United Brands is further informed and believes, and on that basis alleges,
15 that Defendant’s use of the TILT Design is in commerce and without the permission or
16 authority of United Brands.

17 35. United Brands is further informed and believes, and on that basis alleges,
18 that Defendant markets, distributes and sells its TILT beverage products to the same
19 consumers and distributors, and in the same sales channels and retail stores, as United
20 Brands. The parties’ products described herein are directly competitive products.

21 **C. Defendant’s Unlawful Moving and Removal of JOOSE Products**

22 36. In addition to the foregoing conduct by Defendant, United Brands is
23 further informed and believes, and on that basis alleges, that Defendant, either directly or
24 through its agent distributors or both, has moved or removed, and continues to move or
25 remove, United Brands’ JOOSE products where they are set for display and sale in
26 various retail establishments located in California.

27 37. United Brands is further informed and believes, and on that basis alleges,
28 that Defendant, directly or through its agent distributors, either moves JOOSE products

1 to a less prominent position at these retailers, or removes the products completely from
2 the shelves.

3 38. In either moving or removing JOOSE products, Defendant's conduct
4 violates the California Alcoholic Beverage Control Act, Federal Alcohol Administration
5 Act, and related state and federal regulations.

6 **D. Effect of Defendant's Activities on United Brands and the Consuming**
7 **Public**

8 39. Defendant's unauthorized use of the new TILT Design falsely indicates to
9 the purchasing public that Defendant, its business, and/or its products, originate with
10 United Brands, or are affiliated, connected or associated with United Brands, or are
11 sponsored, endorsed or approved by United Brands, or are in some manner related to
12 United Brands and its products.

13 40. Defendant's unauthorized use of the TILT Design is likely to cause
14 confusion, to cause mistake, or to deceive customers and potential customers of the
15 parties, at least as to the affiliation, connection or association of Defendant with United
16 Brands, or as to the origin, sponsorship, or approval of Defendant's products and
17 commercial activities by United Brands.

18 41. Defendant's unauthorized use of the TILT Design falsely designates the
19 origin of Defendant's products. Defendant's unauthorized use of the TILT Design
20 enables it to trade on and receive the benefit of goodwill built up at a great effort and
21 expense over many years by United Brands, and to gain acceptance for its business and
22 products not solely on their own merits, but on the reputation and goodwill of United
23 Brands and its products.

24 42. Defendant has been and will continue to be unjustly enriched at United
25 Brands' expense by its unauthorized use of the new TILT Design.

26 43. Defendant's unauthorized use of the new TILT Design in the manner
27 described deprives United Brands of the ability to control the nature and quality of
28 products provided under the JOOSE Marks, and places the valuable reputation and

1 goodwill of United Brands in the hands of Defendant, over which United Brands has no
2 control.

3 44. Unless restrained by this Court, these acts of Defendant will continue, and
4 will continue to cause irreparable injury to United Brands and to the public, for which
5 there is no adequate remedy at law.

6 45. United Brands is informed and believes, and on that basis alleges, that
7 without permission or authority from United Brands, Defendant has infringed United
8 Brands' DRAGON JOOSE Marks in interstate commerce by producing and marketing
9 Defendant's Products bearing the new TILT Design.

10 46. United Brands is informed and believes, and on that basis alleges, that
11 Defendant's unauthorized use of the new TILT Design is intended to trade upon the
12 goodwill and substantial recognition associated with United Brands' DRAGON JOOSE
13 and JOOSE flavored malt beverages.

14 47. United Brands is informed and believes, and on that basis alleges, that
15 Defendant is using the new TILT Design in an attempt to associate its products with
16 United Brands or otherwise trade upon United Brands' reputation.

17 48. United Brands is informed and believes, and on that basis alleges, that
18 Defendant's use of the new TILT Design is designed to cause confusion, mistake or
19 deception.

20 49. By virtue of the acts complained of herein, Defendant has created a
21 likelihood of injury to United Brands' business reputation, caused a strong likelihood of
22 consumer confusion as to the source of origin or relationship of United Brands' and
23 Defendant's goods, diluted United Brands' famous DRAGON JOOSE Marks, and has
24 otherwise competed unfairly with United Brands.

25 50. United Brands is informed and believes, and on that basis alleges, that
26 Defendant's acts complained of herein are willful and deliberate.

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1 51. Defendant's acts complained of herein have caused damage to United
2 Brands in an amount to be determined at trial, and such damages will continue to
3 increase unless Defendant is enjoined from its wrongful actions.

4 52. Defendant's acts complained of herein have caused United Brands to
5 suffer irreparable injury to its business. United Brands will suffer substantial loss of
6 goodwill and reputation unless and until Defendant is preliminarily and permanently
7 enjoined from the wrongful actions complained of herein.

8 **I. FIRST CLAIM FOR RELIEF**

9 **(Trademark Infringement Under 15 U.S.C. § 1114)**

10 53. United Brands hereby repeats, realleges, and incorporates by reference
11 Paragraphs 1 through 51 of this Complaint as though fully set forth herein.

12 54. United Brands is the owner of the federally registered JOOSE Marks
13 listed above.

14 55. Defendant has used in commerce, without permission of United Brands,
15 trade marks, including product packaging that is identical to and/or confusingly similar
16 to United Brands' federally registered JOOSE Marks. Defendant has infringed United
17 Brands' federally registered JOOSE Marks and created a false designation of origin by
18 using United Brands' JOOSE Marks and/or confusingly similar marks in connection
19 with the manufacturing, distributing, selling and/or promoting of Defendant's Products
20 without the permission of United Brands. Defendant's acts are designed to trade upon
21 United Brands' reputation and goodwill by causing confusion and mistake among
22 customers and the public, and to deceive the public into believing that Defendant's
23 Products are associated with, sponsored by or approved by United Brands, when they are
24 not.

25 56. United Brands is informed and believes, and on that basis alleges, that
26 Defendant had actual knowledge of United Brands' ownership and prior use of United
27 Brands' federally registered JOOSE Marks, and without the consent of United Brands,
28 has willfully and intentionally violated 15 U.S.C. § 1114.

1 57. Defendant's aforementioned acts have injured United Brands and
2 damaged United Brands in an amount to be determined at trial. By its actions, Defendant
3 has irreparably injured United Brands. Such irreparable injury will continue unless
4 Defendant is preliminarily and permanently enjoined by this Court from further violation
5 of United Brands' rights, for which United Brands has no adequate remedy at law.

6 **II. SECOND CLAIM FOR RELIEF**

7 **(Federal Dilution Under 15 U.S.C. § 1125(c))**

8 58. United Brands repeats, realleges, and incorporates by reference the
9 allegations set forth in Paragraphs 1 through 57 of this Complaint as though fully set
10 forth herein.

11 59. United Brands' DRAGON JOOSE Marks are famous, and became
12 famous prior to the acts of Defendant complained of herein.

13 60. Defendant's unauthorized commercial use of the DRAGON JOOSE
14 Marks in connection with the advertisement, offering for sale and/or sale of Defendant's
15 Products has caused and is likely to continue to cause dilution of the distinctive quality
16 of the famous JOOSE Marks.

17 61. Defendant's aforementioned acts are likely to tarnish, injure, or trade
18 upon United Brands' business, reputation or goodwill, and to deprive United Brands of
19 the ability to control its DRAGON JOOSE Marks.

20 62. Defendant's aforementioned acts have injured United Brands and
21 damaged United Brands in an amount to be determined at trial.

22 63. By its actions, Defendant has irreparably injured United Brands. Such
23 irreparable injury will continue unless Defendant is preliminarily and permanently
24 enjoined by this Court from further violation of United Brands' rights, for which United
25 Brands has no adequate remedy at law.

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1 **III. THIRD CLAIM FOR RELIEF**

2 **(Trade Dress Infringement and False Designation of Origin**

3 **Under 15 U.S.C. § 1125(a))**

4 64. United Brands repeats, realleges, and incorporates by reference the
5 allegations set forth in Paragraphs 1 through 63 of this Complaint as though fully set
6 forth herein.

7 65. United Brands has used in interstate commerce an inherently distinctive
8 product design in connection with the sale and marketing of DRAGON JOOSE brand
9 flavored malt beverage. The DRAGON JOOSE product packaging contains inherently
10 distinctive, nonfunctional features which are protected under section 43(a) of the
11 Lanham Act.

12 66. Defendant's use of the infringing trade dress has confused and is likely to
13 continue to cause confusion or to cause mistake, or to deceive the consuming public into
14 believing that Defendant's goods are authorized, sponsored, affiliated with or approved
15 by United Brands. These acts constitute trade dress infringement of the DRAGON
16 JOOSE Trade Dress in violation of 15 U.S.C. § 1125(a).

17 67. Defendant created a false designation of origin by using in commerce,
18 without United Brands' permission, the new TILT Design in connection with the
19 advertisement, offering for sale and/or sale of Defendant's Products. Defendant did so
20 with the intent to trade upon United Brands' reputation and goodwill by causing
21 confusion and mistake among customers and the public, and to deceive the public into
22 believing that Defendant's products are associated with, sponsored by or approved by
23 United Brands, when they are not. These acts constitute false designation of origin in
24 violation of 15 U.S.C. § 1125(a).

25 68. United Brands is informed and believes, and on that basis alleges, that
26 Defendant had actual knowledge of United Brands' ownership and prior use of its
27 DRAGON JOOSE Marks, and without the consent of United Brands, has willfully
28 violated 15 U.S.C. § 1125(a).

1 from, and/or publicly displaying TILT product cans featuring the TILT Design on the
2 product, packaging and advertising, in violation of the copyright laws.

3 77. Furthermore, pursuant to 17 U.S.C. § 504, United Brands is entitled to
4 recover from Defendant the damages United Brands has sustained and will sustain, and
5 all profits, gains and advantages derived by Defendant as a result of Defendant's
6 infringement of the Dragon Design Copyrights, in amount to be proven at trial.

7 78. By its actions, Defendant has irreparably injured United Brands. Such
8 irreparable injury will continue unless Defendant is preliminarily and permanently
9 enjoined by this Court from further violation of United Brands' rights, for which United
10 Brands has no adequate remedy at law.

11 **V. FIFTH CLAIM FOR RELIEF**

12 **(California Statutory Dilution Under**

13 **Business & Professions Code § 14245, et seq.)**

14 79. United Brands repeats, realleges, and incorporates by reference the
15 allegations set forth in Paragraphs 1 through 78 of this Complaint as though fully set
16 forth herein.

17 80. This is an action for trademark dilution arising under California Business
18 & Professions Code § 14247.

19 81. United Brands' DRAGON JOOSE Marks are distinctive. The JOOSE
20 and design mark and the Dragon Design mark are inherently distinctive. The JOOSE
21 mark has acquired distinctiveness through United Brands' marketing and promotion
22 efforts in California.

23 82. United Brands' line of JOOSE flavored malt beverages, including
24 DRAGON JOOSE, has been tremendously successful both nationally and in California.

25 83. As a result of United Brands' substantial use and promotion of the
26 flavored malt beverages bearing the DRAGON JOOSE Marks, the DRAGON JOOSE
27 Marks have become famous, and became famous prior to the acts of Defendant
28 complained of herein. The JOOSE Marks have acquired great value as identifiers of

1 United Brands' products and serve to distinguish United Brands' JOOSE flavored malt
2 beverages from those of others. Customers in this Judicial District and elsewhere in
3 California readily recognize United Brands' JOOSE Marks as distinctive designations of
4 the origin of United Brands' JOOSE flavored malt beverage. Defendant's unauthorized
5 commercial use of the new TILT Design in connection with the advertisement, offering
6 for sale and/or sale of Defendant's Products, has caused and is likely to continue to cause
7 dilution of the distinctive quality of the famous DRAGON JOOSE Marks.

8 84. Defendant's aforementioned acts are likely to tarnish, injure or trade upon
9 United Brands' business, reputation or goodwill, and to deprive United Brands of the
10 ability to control its DRAGON JOOSE Marks.

11 85. United Brands is informed and believes, and on that basis alleges, that
12 Defendant had actual knowledge of United Brands' ownership and prior use of United
13 Brands' federally registered JOOSE Marks, and without the consent of United Brands,
14 has willfully violated California Business and Professions Code § 14247.

15 86. Defendant's aforementioned acts have injured United Brands and
16 damaged United Brands in an amount to be determined at trial.

17 87. By its actions, Defendant has irreparably injured United Brands. Such
18 irreparable injury will continue unless Defendant is preliminarily and permanently
19 enjoined by this Court from further violation of United Brands' rights, for which United
20 Brands has no adequate remedy at law.

21 88. Pursuant to California Business & Professions Code § 14247 et seq.,
22 United Brands is entitled to injunctive relief throughout the State of California.

23 89. Pursuant to California Business & Professions Code § 14247 et seq.,
24 Defendant may be required to pay to United Brands up to three times its profits from,
25 and up to three times all damages suffered by reason of, the wrongful manufacture, use,
26 display or sale of its new TILT design.

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1 **VI. SIXTH CLAIM FOR RELIEF**

2 **(California Statutory Trademark Infringement Under**
3 **Business & Professions Code § 14245)**

4 90. United Brands hereby repeats, realleges, and incorporates by reference
5 Paragraphs 1 through 89 of this Complaint as though fully set forth herein.

6 91. United Brands is the owner of the federally registered JOOSE Marks
7 listed above.

8 92. This is an action for trademark infringement arising under California
9 Business & Professions Code § 14245.

10 93. Defendant has used in commerce, without permission of United Brands,
11 trade marks, including product packaging that is identical to and/or confusingly similar
12 to United Brands' federally registered JOOSE Marks. Defendant has infringed United
13 Brands' federally registered JOOSE Marks and created a false designation of origin by
14 using United Brands' JOOSE Marks and/or confusingly similar marks in connection
15 with the manufacturing, distributing, selling and/or promoting of Defendant's Products
16 without the permission of United Brands. Defendant's acts are designed to trade upon
17 United Brands' reputation and goodwill by causing confusion and mistake among
18 customers and the public, and to deceive the public into believing that Defendant's
19 Products are associated with, sponsored by or approved by United Brands, when they are
20 not.

21 94. United Brands is informed and believes, and on that basis alleges, that
22 Defendant had actual knowledge of United Brands' ownership and prior use of United
23 Brands' federally registered JOOSE Marks, and without the consent of United Brands,
24 has willfully violated California Business and Professions Code § 14245.

25 95. Defendant's aforementioned acts have injured United Brands and
26 damaged United Brands in an amount to be determined at trial.

27 96. By its actions, Defendant has irreparably injured United Brands. Such
28 irreparable injury will continue unless Defendant is preliminarily and permanently

1 enjoined by this Court from further violation of United Brands' rights, for which United
2 Brands has no adequate remedy at law.

3 97. Pursuant to California Business & Professions Code § 14247 et seq.,
4 United Brands is entitled to injunctive relief throughout the State of California.

5 98. Pursuant to California Business & Professions Code § 14247 et seq.,
6 Defendant may be required to pay to United Brands up to three times its profits from,
7 and up to three times all damages suffered by reason of, the wrongful manufacture, use,
8 display or sale of its TILT products.

9 **VII. SEVENTH CLAIM FOR RELIEF**

10 **(California Statutory Unfair Competition Under**
11 **Business & Professions Code § 17200)**

12 99. United Brands repeats, realleges, and incorporates by reference the
13 allegations set forth in Paragraphs 1 through 98 of this Complaint as though fully set
14 forth herein.

15 100. This is an action for unfair competition arising under California Business
16 & Professions Code § 17200 *et seq.*

17 101. United Brands is informed and believes, and on that basis alleges, that by
18 adopting product packaging that resembles and infringes the trademark, trade dress, and
19 copyrights of United Brands, Defendant's unlawful conduct has deceived or is likely to
20 deceive purchasers into believing that Defendant's TILT product and United Brands'
21 JOOSE product are related, and/or that Defendant's TILT product is affiliated with,
22 associated with, and/or sold by United Brands. Defendant has intentionally caused a
23 likelihood of confusion among the purchasing public in this Judicial District and
24 elsewhere, thereby unfairly competing with United Brands in violation of California
25 Business & Professions Code § 17200 *et seq.*

26 102. Further, and as a separate basis for liability, United Brands is informed
27 and believes, and on that basis alleges, that Defendant has unlawfully and unfairly
28 moved or removed JOOSE products to the detriment of United Brands and to the benefit

1 of Defendant, in violation of the California Alcoholic Beverage Control Act, Federal
2 Alcohol Administration Act, and related state and federal regulations. Defendant has
3 thus engaged in unfair competition and an unlawful and/or unfair business practice in
4 violation of Sections 17200 *et sequitur* of the California Business and Professions Code.

5 103. Defendant's aforesaid actions constitute unlawful, unfair, malicious or
6 fraudulent practices. As a result of Defendant's acts of unfair competition, United
7 Brands has been injured and lost money or property in an amount to be determined at
8 trial.

9 104. Further, by these actions, Defendant has irreparably injured United
10 Brands. Such irreparable injury will continue unless Defendant is preliminarily and
11 permanently enjoined by this Court from further violation of United Brands' rights, for
12 which United Brands has no adequate remedy at law.

13 **VIII. EIGHTH CLAIM FOR RELIEF**

14 **(California Common Law Trademark Infringement)**

15 105. United Brands hereby repeats, realleges, and incorporates by reference
16 Paragraphs 1 through 104 of this Complaint as though fully set forth herein.

17 106. By virtue of the acts complained of herein, Defendant has intentionally
18 infringed United Brands' DRAGON JOOSE Marks and caused a likelihood of confusion
19 among the consuming public, thereby committing common law trademark infringement.

20 107. Defendant's aforementioned acts have been fraudulent, oppressive and
21 malicious, and have injured United Brands and damaged United Brands in an amount to
22 be determined at trial.

23 108. By its actions, Defendant has irreparably injured United Brands. Such
24 irreparable injury will continue unless Defendant is preliminarily and permanently
25 enjoined by this Court from further violation of United Brands' rights, for which United
26 Brands has no adequate remedy at law.

27 ////

28 ////

1 **IX. NINTH CLAIM FOR RELIEF**

2 **(California Common Law Unfair Competition)**

3 109. United Brands repeats, realleges, and incorporates by reference the
4 allegations set forth in Paragraphs 1 through 108 of this Complaint as though fully set
5 forth herein.

6 110. United Brands is informed and believes, and on that basis alleges, that by
7 adopting product packaging that resembles and infringes the trademark, trade dress, and
8 copyrights of United Brands, Defendant's unlawful conduct has deceived or is likely to
9 deceive purchasers into believing that Defendant's TILT product and United Brands'
10 JOOSE product are related, and/or that Defendant's TILT product is affiliated with,
11 associated with, and/or sold by United Brands. By deceiving the purchasing public as to
12 the source of origin of its TILT product, Defendant unfairly competes against United
13 Brands in violation of California common law.

14 111. By its actions, Defendant has irreparably injured United Brands. Such
15 irreparable injury will continue unless Defendant is preliminarily and permanently
16 enjoined by this Court from further violation of United Brands' rights, for which United
17 Brands has no adequate remedy at law.

18 112. Defendant's willful acts of unfair competition under the common law of
19 the State of California constitute fraud, oppression and malice. Accordingly, United
20 Brands is entitled to exemplary damages pursuant to California Civil Code § 3294(a).

21 **PRAYER FOR RELIEF**

22 WHEREFORE, United Brands prays for relief as follows:

23 1. That Defendant be adjudged to have infringed United Brands' DRAGON
24 JOOSE and DRAGON JOOSE and Design Marks, in violation of federal and California
25 state law;

26 2. That Defendant be adjudged to have willfully and deliberately infringed
27 United Brands' DRAGON JOOSE and DRAGON JOOSE and Design Marks in violation
28 of federal and California state law;

1 3. That Defendant be adjudged to have competed unfairly with United Brands
2 and used a false designation of origin, false or misleading description of fact, and/or false
3 or misleading representation of fact in violation of federal and California state law;

4 4. That Defendant be adjudged to have willfully and deliberately competed
5 unfairly with, and used a false designation of origin, false or misleading description of
6 fact, and/or false or misleading representation of fact, in violation of federal and
7 California state law;

8 5. That Defendant be adjudged to have diluted United Brands' DRAGON
9 JOOSE and DRAGON JOOSE and Design Marks, in violation of federal and California
10 state law;

11 6. That Defendant be adjudged to have willfully and deliberately diluted
12 United Brands' DRAGON JOOSE and DRAGON JOOSE and Design Marks in violation
13 of federal and California state law;

14 7. That Defendant, its officers, agents, employees and all persons acting or
15 claiming to act on its behalf under its direction or authority, and all persons acting or
16 claiming to act in concert or in participation with it or any of them, be preliminarily and
17 permanently enjoined and restrained from infringing United Brands' DRAGON JOOSE
18 Marks in any manner in the sale, promotion, distribution, purchase, or advertising of
19 Defendant's products, and specifically, enjoined from using the TILT Design;

20 8. That Defendant, its officers, agents, employees and all persons acting or
21 claiming to act on its behalf under its direction or authority, and all persons acting or
22 claiming to act in concert or in participation with it or any of them, be permanently
23 enjoined and restrained from or engaging in acts of unfair competition with United Brands
24 relating to use of the TILT Design by Defendant in any manner, in the sale, promotion,
25 distribution, purchase or advertising of Defendant's goods;

26 9. That Defendant be required to turn over and deliver up to the Court or to a
27 Court-designated party during the pendency of this action all infringing materials in its
28 custody and control (including records documenting the manufacture, sale or receipt of

1 infringing items) and to turn over for destruction all infringing matters and all matters
2 used to make infringing materials as well as turn over and deliver any and all materials in
3 its possession, custody or control, or that of its owners, officers, agents, brokers, or
4 employees, that would, if used, or marketed or otherwise distributed, violate the injunctive
5 relief granted herein, for ultimate destruction of such items;

6 10. That Defendant be required to publish notice to all distributors, brokers,
7 retailers, tradeshow, sellers, and other customers or others in the trade who may have
8 seen, or heard of Defendant's use of the TILT Design, or registered for or purchased any
9 of Defendant's products which were marketed using the TILT Design, which notice shall
10 disclaim any connection with United Brands and shall advise them of the Court's
11 injunction order and of Defendant's discontinuance from all use of the TILT Design;

12 11. That Defendants be ordered to pay the costs of corrective advertising;

13 12. That Defendant be ordered to pay damages in the amount of their
14 infringing profits and/or reasonable royalties, increased by the Court by such amount as
15 the Court deems to be just, together with United Brands' actual damages, which,
16 according to the circumstances of this case, should be increased or trebled, including
17 trebling of damages pursuant to 15 U.S.C. § 1117(b);

18 13. That Defendant be ordered to pay damages in the amount of their
19 infringing profits and/or reasonable royalties, increased by the Court by such amount as
20 the Court deems to be just, together with its profits from, the wrongful manufacture, use,
21 display or sale of its TILT products, and that Defendant be ordered to pay United Brands'
22 actual damages, which, according to the circumstances of this case, should be increased or
23 trebled, including trebling of damages pursuant to California Business & Professions
24 Code § 14250.

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- 14. For an award of costs and reasonable attorneys' fees; and
- 15. For all other relief the Court deems just and proper.

Dated: November 4, 2010

DLA PIPER LLP (US)

By: s/Nancy O. Dix
NANCY O. DIX (BAR NO. 129150)
nancy.dix@dlapiper.com
BRIAN L. BEHMER (BAR NO. 156978)
Brian.behmer@dlapiper.com
Attorneys for Plaintiff
UNITED BRANDS COMPANY, INC.

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JURY TRIAL DEMAND

Pursuant to Rule 38(a) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury of all issues triable of right by a jury.

Dated: November 4, 2010

DLA PIPER LLP (US)

By: s/Nancy O. Dix
NANCY O. DIX (BAR NO. 129150)
nancy.dix@dlapiper.com
BRIAN L. BEHMER (BAR NO. 156978)
brian.behmer@dlapiper.com
Attorneys for Plaintiff
UNITED BRANDS COMPANY, INC.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS UNITED BRANDS COMPANY, INC.	ANHEUSER-BUSCH, INC.
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(b) County of Residence of First Listed Plaintiff <u>San Diego</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
(c) Attorney's (Firm Name, Address, and Telephone Number) Nancy O. Dix DLA Piper LLP (US) 401 B Street, Suite 1700 San Diego, CA 92101-4297 619-699-2700	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

PTF	DEF	
<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Citizen of This State
<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Citizen of Another State
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Citizen or Subject of a Foreign Country
<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4	Incorporated or Principal Place of Business In This State
<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Incorporated and Principal Place of Business In Another State
<input type="checkbox"/> 6	<input type="checkbox"/> 6	Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES																						
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<table style="width:100%;"> <tr> <th style="width:50%;">PERSONAL INJURY</th> <th style="width:50%;">PERSONAL INJURY</th> </tr> <tr> <td><input type="checkbox"/> 310 Airplane</td> <td><input type="checkbox"/> 362 Personal Injury—</td> </tr> <tr> <td><input type="checkbox"/> 315 Airplane Product Liability</td> <td>Med. Malpractice</td> </tr> <tr> <td><input type="checkbox"/> 320 Assault, Libel & Slander</td> <td><input type="checkbox"/> 365 Personal Injury —</td> </tr> <tr> <td><input type="checkbox"/> 330 Federal Employers' Liability</td> <td>Product Liability</td> </tr> <tr> <td><input type="checkbox"/> 340 Marine</td> <td><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</td> </tr> <tr> <td><input type="checkbox"/> 345 Marine Product Liability</td> <td>PERSONAL PROPERTY</td> </tr> <tr> <td><input type="checkbox"/> 350 Motor Vehicle</td> <td><input type="checkbox"/> 370 Other Fraud</td> </tr> <tr> <td><input type="checkbox"/> 355 Motor Vehicle Product Liability</td> <td><input type="checkbox"/> 371 Truth in Lending</td> </tr> <tr> <td><input type="checkbox"/> 360 Other Personal Injury</td> <td><input type="checkbox"/> 380 Other Personal Property Damage</td> </tr> <tr> <td></td> <td><input type="checkbox"/> 385 Property Damage Product Liability</td> </tr> </table>	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—	<input type="checkbox"/> 315 Airplane Product Liability	Med. Malpractice	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 365 Personal Injury —	<input type="checkbox"/> 330 Federal Employers' Liability	Product Liability	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 345 Marine Product Liability	PERSONAL PROPERTY	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
PERSONAL INJURY	PERSONAL INJURY																									
<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—																									
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REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC 7609																						

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. §1114; 15 U.S.C. §1125(c); 15 U.S.C §1125(a); 17 U.S.C. §§ 101 and 501.

Brief description of cause:
Trademark and Copyright Infringement and Dilution

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: November 4, 2010

SIGNATURE OF ATTORNEY OF RECORD: s/Nancy O. Dix

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example:

U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.