

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

OBAMA FOR AMERICA

Plaintiff,

v.

DEMSTORE.COM and WASHINGTON
PROMOTIONS & PRINTING, INC.,

Defendants.

Civil Action No.

Jury Trial Demanded

DECLARATION OF JEREMY BUXBAUM

1. I am over 18 years of age and make this Declaration based upon personal knowledge of the facts set forth below except as to those matters stated on information and belief, and as to those matters, I believe them to be true. If called upon to testify, I could and would testify competently as to the matters set forth herein.

2. I am an attorney licensed to practice law under the laws of the State of Illinois and am an associate with the law firm of Perkins Coie LLP, attorneys for Plaintiff Obama for America ("OFA") in the above-captioned matter. I am seeking admission Pro Hac Vice to the United States District Court for the District of Columbia for participation in this matter. This Declaration is filed in support of OFA's Motion for Preliminary Injunction.

3. Attached as **Exhibit 1** to OFA's Statement of Points and Authorities In Support of Motion for Preliminary Injunction, filed concurrently herewith, are true and correct copies of the registration and application for the Rising Sun Trademarks.

4. Upon information and belief, Defendants have operated their business since 1985, and, since 2004, Defendants have operated their website located at www.demstore.com, at which they sell election and campaign merchandise. Through Demstore.com Defendants sell and have sold merchandise bearing the Rising Sun Trademarks.

5. Defendants sell and have sold bumper stickers, pins, yard signs, and t-shirts, among other items, bearing the Rising Sun Trademarks. Attached as **Exhibit 2** to OFA's Statement of Points and Authorities In Support of Motion for Preliminary Injunction, filed concurrently herewith, are true and correct copies of screen shots captured from Defendants' Demstore.com website, including a diagram comparing images of merchandise sold on OFA's website, and Defendants' Demstore.com website. The screen shots were captured from the respective websites under my direction and supervision, and accurately reflect the webpages viewed at the time of capture.

6. Defendants effectively market and sell exact, or extremely similar, copies of the campaign merchandise that OFA sells at its website.

7. The vast majority of merchandise promoted on Demstore.com bears the Rising Sun Trademarks.

8. On or around April 22, 2011, counsel for OFA sent a demand letter to Defendants, requesting *inter alia* that they "immediately cease and desist from any further commercial use of the Rising Sun Trademarks in connection with advertising, promotion, offer or sale of any goods or services."

9. After communicating by telephone and email with representatives and counsel for Demstore, OFA sent a follow up demand letter to Defendants, renewing OFA's cease and desist request, on or around July 29, 2011.

10. On October 26, 2011, OFA filed a complaint against Defendants in the United States District Court for the Northern District of Illinois, case number 1:11-cv-07646, alleging trademark infringement, false designation of origin, unfair competition, and other related claims.

11. On December 30, 2012, Defendants filed a Motion to Dismiss for lack of personal jurisdiction.

12. In order to avoid costs associated with disputing issues unrelated to the merits of the case, OFA voluntarily dismissed the Northern District of Illinois action on January 27, 2012.

13. To date, Defendants have not complied with or indicated a willingness to comply with OFA's demands to cease infringement.

14. Defendants continue to promote, distribute, offer for sale, and sell merchandise bearing the Rising Sun Trademarks even after they were put on actual notice.


15. Upon information and belief, Defendants are using the Rising Sun Trademarks on merchandise in a deliberate and willful attempt to draw on the goodwill and commercial magnetism of the Rising Sun Trademarks and the Campaign.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED: June 4, 2012

PERKINS COIE LLP

By: /s/



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