

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.

09 - 80343

MICROSOFT CORPORATION, a
Washington Corporation,

Plaintiff,

v.

INSTACLICK, INC., a Florida Corporation;
and DAN TRAINA, individually,

Defendants.

CIV - DIMITROULEAS

ROSENBAUM

FILED by 103 D.C.

FEB 27 2009

STEVEN M. LARIMORE
CLERK U. S. DIST CT
S. D. of FLA. - MIAMI

COMPLAINT FOR DAMAGES AND EQUITABLE RELIEF

Plaintiff Microsoft Corporation (“Microsoft”) brings this action against Defendants INSTACLICK, INC., and DAN TRAINA (collectively “Defendants”), and alleges as follows:

I. JURISDICTION AND VENUE

1. This is a complaint for an injunction, damages and other appropriate relief to stop Defendants from infringing Microsoft’s trade and service marks by registering Internet domain names that are identical or confusingly similar to Microsoft’s trademarks and service marks, and by using those domain names in bad faith to profit from Microsoft’s marks.

2. In this action, Microsoft asserts violations of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d); of sections 32 and 43 of the Lanham Act, 15 U.S.C. § 1114 (Trademark Infringement) and 1125(a) (False Designation of Origin, Unfair Competition/False Advertising).

3. This Court has subject matter jurisdiction over Microsoft's claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338.

4. This court has personal jurisdiction over Defendants who have: (a) committed intentional and tortious acts within the state; (b) conducted substantial business within this state related to the unlawful activity at issue in this Complaint; and (c) reside within the state.

5. Venue is proper in this court pursuant to 28 U.S.C. § 1391 because Defendants reside within this judicial district, conduct substantial business within this judicial district related to the unlawful activity at issue in this Complaint and because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

II. THE PARTIES

6. Plaintiff Microsoft is a Washington corporation with its principal place of business in Redmond, Washington.

7. Defendant INSTACLICK, INC. is a Florida corporation and resides in Palm Beach County, Florida.

8. Upon information and belief, Defendant DAN TRAINA is a Florida resident and resides in Palm Beach County, Florida.

III. MICROSOFT'S BUSINESS AND TRADEMARKS

9. Microsoft is a world leader in the market for software and related products. Microsoft offers a wide range of products and services, including but not limited to computer software such as the Microsoft Windows operating system and Microsoft Office; computer hardware and accessories including keyboards and mice; gaming systems such as the Microsoft

XBOX and Microsoft XBOX 360; and Internet service and electronic mail services such as the MSN and Windows Live Hotmail services, to name a few.

10. Microsoft owns registrations for a number of trademarks and service marks that it uses to identify its products and services in the marketplace. Among the marks owned by Microsoft are the following registered marks (collectively the "Microsoft Marks"): ENCARTA; HOTMAIL; WINDOWS; XBOX; XBOX360; and XBOX LIVE.

11. Since at least March 1993, Microsoft has used in commerce the trademark / service mark "ENCARTA" to promote multimedia encyclopedias, online information services and other related products.

12. On December 9, 1992, Microsoft filed an "intent to use" application to register the ENCARTA mark. Based upon actual use beginning in March 1993, the United States Patent and Trademark Office issued Registration No. 1,864,262 to Microsoft on November 22, 1994 for the ENCARTA mark. The ENCARTA mark is also the subject of United States Trademark Registration Nos. 1,874,547, 1,995,180, and 2,304,532. *See* Exhibit A. The ENCARTA mark is broadly recognized as a brand identifier for Microsoft's reference guides, encyclopedias, online information services and other related products.

13. Since at least July 4, 1996, Microsoft's predecessor has used in commerce the service mark "HOTMAIL" to promote electronic mail services as well as promoting the goods and services of others by placing advertisements and promotional displays in an electronic site accessed through computer networks and by delivering advertisements and promotional materials to others via electronic mail.

14. On April 10, 1997, Microsoft's predecessor applied to register the HOTMAIL mark, and on June 16, 1998, the United States Patent and Trademark Office issued Registration

No. 2,165,601 to Microsoft's predecessor for the HOTMAIL mark. *See* Exhibit B. The HOTMAIL mark is broadly recognized as a brand identifier for Microsoft's electronic mail services as well as promoting the goods and services of others by placing advertisements and promotional displays in an electronic site accessed through computer networks and by delivering advertisements and promotional materials to others via electronic mail.

15. Since at least October 18, 1983, Microsoft has used in commerce the trademark / service mark "WINDOWS" to promote computer hardware and software products, and other electronic services.

16. On August 20, 1990, Microsoft applied to register the WINDOWS mark, and on January 10, 1995 the United States Patent and Trademark office issued Registration No. 1,872,264 to Microsoft for the WINDOWS mark. The WINDOWS mark is also the subject of United States Trademark Registration Nos. 1,989,386, 2,005,901, 2,463,509, 2,463,510, 2,463,526 and others. *See* Exhibit C. The WINDOWS mark is broadly recognized as a brand identifier for Microsoft's software and hardware products and for other electronic services.

17. Since at least December 1998, Microsoft has used in commerce the trademark / service mark "XBOX" to promote video game software and hardware and related products, including the Xbox home entertainment system.

18. On October 18, 1999, Microsoft applied to register the XBOX mark, and on November 5, 2002, the United States Patent and Trademark Office issued Registration No. 2,646,465 to Microsoft for the XBOX mark. The XBOX mark is also the subject of United States Trademark Registration Nos. 2,663,880, 2,730,847, 2,775,859, 2,786,794, 2,792,744 and others. *See* Exhibit D. The XBOX mark is broadly recognized as a brand identifier for Microsoft's entertainment products.

19. Since at least November 22, 2005, Microsoft has used in commerce the trademark “XBOX 360” to promote interactive game devices.

20. On May 12, 2005, Microsoft applied to register the XBOX 360 mark, and on June 12, 2007, the United States Patent and Trademark Office issued Registration No. 3,252,556 to Microsoft for the XBOX 360 mark. The XBOX 360 mark is also the subject of United States Trademark Registration No. 3,300,210. *See* Exhibit E. The XBOX 360 mark is broadly recognized as a brand identifier for Microsoft’s interactive game devices.

21. Since at least November 15, 2002, Microsoft has used in commerce the trademark / service mark “XBOX LIVE” to promote downloadable computer programs and entertainment services over networks.

22. On September 27, 2002, Microsoft filed an “intent to use” application to register the XBOX LIVE mark. Based upon actual use beginning in November 2002, the United States Patent and Trademark Office issued Registration No. 2,902,268 to Microsoft on November 9, 2004 for the XBOX LIVE mark. The XBOX LIVE mark is also the subject of United States Trademark Registration Nos. 2,940,679 and 2,940,682. *See* Exhibit F. The XBOX LIVE mark is broadly recognized as a brand identifier for Microsoft’s downloadable computer programs and entertainment services over networks.

23. The Microsoft Marks, as well as others owned by Microsoft, are used in interstate commerce in connection with the sale, offering for sale, distribution, and advertising of Microsoft’s products and services. The Microsoft Marks are distinctive and were distinctive at the time of all acts alleged herein. As a result of Microsoft’s substantial investment, the Microsoft Marks have developed extensive goodwill in the market. Accordingly, the Microsoft Marks are extremely valuable to Microsoft.

IV. MICROSOFT'S INTERNET PRESENCE

24. Microsoft also maintains a substantial presence on the Internet. Via the Internet, Microsoft advertises its products and services, transacts business with its customers, offers its customers access to many of its services, and provides product support, among other things.

25. In order to provide its customers with easy access to its online products and services, Microsoft has registered a number of Internet domain names. Many of these domain names correspond to Microsoft's trademarks and service marks. Examples of such domain names are <microsoft.com>; <microsoftwindows.com>; <xbox.com>; <msn.com>.

26. Each of these domain names, as well as others registered to Microsoft, resolves to a Microsoft-created website that provides Microsoft's customers with information related to Microsoft's products and services. These websites generate business for Microsoft and allow Microsoft to maintain relationships with its customers.

V. DEFENDANTS' UNLAWFUL ACTIONS

27. Defendants are the registrants and users of numerous Internet domain names that contain or consist of Microsoft's marks and/or intentional misspellings of Microsoft's marks. These domain names are hereinafter referred to as the "Infringing Domain Names." A representative, though not necessarily exhaustive, list of defendants' 9 Infringing Domain Names is attached hereto as **Appendix A**.

28. The Infringing Domain Names are identical or confusingly similar to Microsoft's marks. The Infringing Domain Names do not resolve to websites owned or endorsed by Microsoft.

29. Many of the Infringing Domain Names resolve to websites that are controlled by Defendants (collectively referred to as “Defendants’ websites”). Defendants’ websites contain numerous advertisements for and/or hyperlinks to a variety of products and services.

30. When a person looking for a Microsoft website lands on one of Defendants’ websites, that person may click on one of the advertisements or hyperlinks on the site either because the person finds it easier to click on the advertisement or hyperlink than to continue searching for the Microsoft site, or because the person mistakenly believes Microsoft has authorized or endorsed the advertisements or hyperlinks. In either case, the person has been diverted from the Microsoft website he or she was seeking to visit, and Microsoft has lost the opportunity to interact with that person.

31. Defendants use the Infringing Domain Names to profit from the Microsoft Marks. Defendants receive a payment when Internet users click on one or more links or advertisements on the websites of the Infringing Domain Names. Defendant receives these payments from one or more advertisers, affiliate programs, or search engines.

32. Defendants are not affiliated with, or sponsored by, Microsoft and have not been authorized by Plaintiff to use the Microsoft Marks. Defendants have not now or ever been authorized by Plaintiff to use or register any name or mark that includes the Microsoft Marks.

33. Upon information and belief, Defendants’ registration and use of the Infringing Domain Names is to primarily capitalize on the goodwill associated with the Microsoft Marks.

34. Defendants registered and used the Infringing Domain Names willfully and with bad faith intent to profit from the Microsoft Marks.

35. The actions alleged herein to have been undertaken by the Defendants were undertaken by each Defendant individually, were actions that each Defendant caused to occur,

were actions that each Defendant authorized, controlled, directed, or had the ability to authorize, control or direct, and/or were actions in which each Defendant assisted, participated, aided and abetted or otherwise encouraged, and are actions for which each Defendant is liable.

COUNT I
**(Cybersquatting under the Anti-Cybersquatting
Consumer Protection Act – 15 U.S.C. § 1125(d))**

36. Microsoft realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 35 above.

37. The Microsoft Marks were distinctive at the time Defendants registered the Infringing Domain Names and remain distinctive today.

38. The Infringing Domain Names were identical or confusingly similar to the Microsoft Marks at the time Defendants registered the Infringing Domain Names, and remain so today.

39. Defendants have registered and used the Infringing Domain Names with bad faith intent to profit from the goodwill established by Microsoft in the Microsoft Marks.

40. As a result of their wrongful conduct, Defendants are liable to Microsoft for violation of the Anticybersquatting Consumer Protection Act.

41. Each defendant also has contributory and vicarious liability for these acts. With knowledge of the illegal activity, each defendant intentionally induced the conduct described above and continued to undertake these acts. Similarly, each defendant had the right and ability to control the illegal activity and received a direct financial benefit from the activity.

42. Defendants' registration and use of the Infringing Domain Names has caused and will continue to cause damage to Microsoft, in an amount to be proved at trial, and is causing

irreparable harm to Microsoft, for which there is no adequate remedy at law. Therefore, Plaintiff is entitled to injunctive relief.

43. Microsoft is entitled to recover Defendants' profits, actual damages and costs in an amount to be proven at trial or statutory damages of up to \$100,000 per domain name, treble damages, attorneys' fees and transfer of the Infringing Domain Names to Microsoft.

COUNT II

(Trademark Infringement Under the Lanham Act - 15 U.S.C. § 1114)

44. Microsoft realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 43 above.

45. Defendants' wrongful and unauthorized use of the Microsoft Marks and counterfeits of the Microsoft Marks to promote, market, or sell products and services constitutes trademark infringement pursuant to 15 U.S.C. § 1114.

46. Each defendant also has contributory and vicarious liability for these acts of trademark infringement. With knowledge of the infringing activity, each defendant intentionally induced the infringing conduct described above and continued to distribute the infringing material. Similarly, each defendant had the right and ability to control the infringing activity and received a direct financial benefit from the infringement.

47. Defendants' intentional and willful infringement of the Microsoft Marks has caused and will continue to cause damage to Microsoft, in an amount to be proved at trial, and is causing irreparable harm to Microsoft for which there is no adequate remedy at law.

48. Microsoft is entitled to recover damages and to recover its costs herein in an amount to be proven at trial. Microsoft is also entitled to injunctive relief against Defendants.

49. Microsoft is further entitled to recovery of statutory damages, treble damages and attorneys' fees.

COUNT III

(False Designation of Origin Under the Lanham Act - 15 U.S.C. § 1125(a))

50. Microsoft realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 49 above.

51. The Microsoft Marks are distinctive marks that are associated with Microsoft and exclusively identify Microsoft's business, products, and services.

52. Defendants have used and continue to use the Microsoft Marks in connection with goods or services, in commerce, in a manner that is likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of such goods or services.

53. As a result of their wrongful conduct, Defendants are liable to Microsoft for violation of this provision of the Lanham Act.

54. Each defendant also has contributory and vicarious liability for these acts. With knowledge of the illegal activity, each defendant intentionally induced the conduct described above and continued to undertake these acts. Similarly, each defendant had the right and ability to control the illegal activity and received a direct financial benefit from the activity.

55. Microsoft has been damaged by these acts in an amount to be proved at trial. Microsoft is also entitled to injunctive and other equitable relief against Defendants.

COUNT IV

(Unfair Competition/False Advertising Under the Lanham Act - 15 U.S.C. § 1125(a))

56. Microsoft realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 55 above.

57. Defendants have used and continue to use the Microsoft Marks in connection with goods or services with false and misleading descriptions or representations of fact in commercial advertising or promotion, thereby misrepresenting the nature, characteristics, and qualities of their or another person's goods, services, or commercial activities.

58. As a result of their wrongful conduct, Defendants are liable to Microsoft for violation of this provision of the Lanham Act.

59. Each defendant also has contributory and vicarious liability for these acts. With knowledge of the illegal activity, each defendant intentionally induced the conduct described above and continued to undertake these acts. Similarly, each defendant had the right and ability to control the illegal activity and received a direct financial benefit from the activity.

60. Microsoft is entitled to damages in an amount to be proved at trial and attorneys' fees. Microsoft is also entitled to injunctive relief and other equitable relief against Defendants.

PRAYER FOR RELIEF

WHEREFORE, Microsoft respectfully requests that the Court enter judgment against Defendants as follows:

1. That the Court issue temporary and permanent injunctive relief against Defendants and that Defendants, their officers, agents, representatives, servants, employees, attorneys, successors and assignees, and all others in active concert or participation with Defendants, be enjoined and restrained from:

- a) infringing Microsoft's trademarks and service marks;
- b) registering, using or trafficking any domain names that are identical or confusingly similar to the Microsoft Marks, including but not limited to domain names

containing the Microsoft Marks and domain names containing misspellings of the Microsoft Marks; and

c) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs a) through b) above.

2. That the Court orders the forfeiture or cancellation of the Infringing Domain Names and the transfer of the Infringing Domain Names to Microsoft;

3. That the Court award Microsoft actual damages, liquidated damages and statutory damages, in amount to be proven at trial;

4. That the Court award Microsoft treble damages in an amount to be proven at trial;

5. That the Court award Microsoft its attorneys' fees and costs incurred herein, including prejudgment and post-judgment interest; and

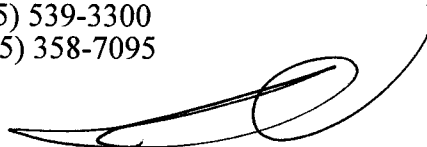
6. That the Court grants Microsoft all other relief to which it is entitled and such other or additional relief as is just and proper under these circumstances.

DATED this 27th day of February, 2009.

K&L GATES LLP

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By: _____



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APPENDIX A – DEFENDANTS’ INFRINGING DOMAIN NAMES

cheatsxbox360.com
encarta98.com
facexbox.com
joinxboxlive.com
myxbox360deal.com
registermyxbox.com
windwslivemessenger.com
xboxlivesetup.com
xboxmydeal.com

EXHIBIT A

Int. Cl.: 16

Prior U.S. Cl.: 38

United States Patent and Trademark Office

Reg. No. 1,864,262

Registered Nov. 22, 1994

**TRADEMARK
PRINCIPAL REGISTER**

ENCARTA

**MICROSOFT CORPORATION (DELAWARE
CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399**

**FIRST USE 3-0-1993; IN COMMERCE
3-0-1993.**

SN 74-338,465, FILED 12-9-1992.

**FOR: INSTRUCTION MANUALS, USER
GUIDES AND REFERENCE GUIDES FOR A
MULTI-MEDIA ENCYCLOPEDIA ON A VARI-
ETY OF SUBJECTS, IN CLASS 16 (U.S. CL. 38).**

**CHRISTOPHER KELLY, EXAMINING ATTOR-
NEY**

Int. Cl.: 9

Prior U.S. Cl.: 38

United States Patent and Trademark Office Reg. No. 1,874,547
Registered Jan. 17, 1995

**TRADEMARK
PRINCIPAL REGISTER**

ENCARTA

MICROSOFT CORPORATION (DELAWARE
CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399

ETY OF SUBJECTS, STORED ON A COMPACT
DISC, IN CLASS 9 (U.S. CL. 38).
FIRST USE 3-0-1993; IN COMMERCE
3-0-1993.

FOR: COMPUTER PROGRAM AND GENER-
AL REFERENCE DATA IN THE FORM OF A
MULTI-MEDIA ENCYCLOPEDIA ON A VARI-

SN 74-338,460, FILED 12-9-1992.

CHRISTOPHER KELLY, EXAMINING ATTOR-
NEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 1,995,180
Registered Aug. 20, 1996

**SERVICE MARK
PRINCIPAL REGISTER**

ENCARTA

**MICROSOFT CORPORATION (WASHINGTON
CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399**

**FOR: ON-LINE INFORMATION SERVICES,
NAMELY PROVIDING REFERENCE AND EN-
CYCLOPEDIA DATA IN ELECTRONIC FORM,
IN CLASS 41 (U.S. CLS. 100, 101 AND 107).**

**FIRST USE 5-26-1995; IN COMMERCE
5-26-1995.**

**OWNER OF U.S. REG. NOS. 1,864,262 AND
1,874,547.**

SER. NO. 74-698,189, FILED 7-7-1995.

ANNE MADDEN, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, and 50

Reg. No. 2,304,532

United States Patent and Trademark Office

Registered Dec. 28, 1999

**TRADEMARK
PRINCIPAL REGISTER**

ENCARTA

**MICROSOFT CORPORATION (WASHINGTON
CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399**

**FOR: PUBLICATIONS, NAMELY, BOOKS,
MAGAZINES, NEWSLETTERS, BROCHURES,
PAMPHLETS, ATLASES, MAPS, USER GUIDES
FOR ATLASES AND MAPS, ALL ON A VARIETY
OF SUBJECTS; DICTIONARIES; THESAURUSES;
INSTRUCTION MANUALS, USER
GUIDES AND REFERENCE GUIDES FOR A**

**MULTI-MEDIA ENCYCLOPEDIA ON A VARIETY
OF SUBJECTS, IN CLASS 16 (U.S. CLS. 2, 5,
22, 23, 29, 37, 38 AND 50).**

**FIRST USE 7-20-1999; IN COMMERCE
7-20-1999.**

**OWNER OF U.S. REG. NOS. 1,864,262,
1,874,547, AND 1,995,180.**

SN 75-285,350, FILED 5-2-1997.

DAVID C. REIHNER, EXAMINING ATTORNEY

EXHIBIT B

Int. Cls.: 35 and 38

Prior U.S. Cls.: 100, 101, 102 and 104

Reg. No. 2,165,601

United States Patent and Trademark Office

Registered June 16, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

HOTMAIL

HOTMAIL CORPORATION (CALIFORNIA
CORPORATION)
1290 OAKMEAD PARKWAY, SUITE 218
SUNNYVALE, CA 94086

FOR: ADVERTISING AND MARKETING
SERVICES, NAMELY, PROMOTING THE
GOODS AND SERVICES OF OTHERS BY
PLACING ADVERTISEMENTS AND PROMO-
TIONAL DISPLAYS IN AN ELECTRONIC SITE
ACCESSED THROUGH COMPUTER NET-
WORKS AND BY DELIVERING ADVERTISE-
MENTS AND PROMOTIONAL MATERIALS TO

OTHERS VIA ELECTRONIC MAIL, IN CLASS
35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 7-4-1996; IN COMMERCE
7-4-1996.

FOR: ELECTRONIC MAIL SERVICES, IN
CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 7-4-1996; IN COMMERCE
7-4-1996.

SER. NO. 75-272,783, FILED 4-10-1997.

EDWARD NELSON, EXAMINING ATTORNEY

EXHIBIT C

Int. Cl.: 9

Prior U.S. Cl.: 38

United States Patent and Trademark Office **Reg. No. 1,872,264**
Registered Jan. 10, 1995

**TRADEMARK
PRINCIPAL REGISTER**

WINDOWS

**MICROSOFT CORPORATION (DELAWARE
CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399**

**FOR: COMPUTER PROGRAMS AND MANU-
ALS SOLD AS A UNIT; NAMELY, GRAPHICAL
OPERATING ENVIRONMENT PROGRAMS
FOR MICROCOMPUTERS, IN CLASS 9 (U.S.
CL. 38).**

**FIRST USE 10-18-1983; IN COMMERCE
10-18-1983.**

SEC. 2(F).

SER. NO. 74-090,419, FILED 8-20-1990.

**ESTHER BELENKER, EXAMINING ATTOR-
NEY**

Int. Cl.: 9

Prior U.S. Cls.: 21 and 38

United States Patent and Trademark Office

Reg. No. 1,989,386

Registered July 30, 1996

**TRADEMARK
PRINCIPAL REGISTER**

WINDOWS

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 98052, BY MERGER, MERGER
AND CHANGE OF NAME FROM MICROSOFT CORPORATION (DELAWARE CORPORATION) REDMOND, WA 980526399

FOR: SOUND SYSTEM FOR PERSONAL COMPUTERS COMPRISING CIRCUIT BOARD, MICROPHONE, HEADPHONES, COMPUTER PROGRAMS FOR RECORDING AND GENERATING SOUNDS FOR USE THEREWITH AND

MANUALS THEREFOR SOLD AS A UNIT, IN CLASS 9 (U.S. CLS. 21 AND 38).

FIRST USE 10-1-1992; IN COMMERCE 10-1-1992.

OWNER OF U.S. REG. NOS. 1,872,264 AND 1,875,069.

SEC. 2(F).

SER. NO. 74-413,669, FILED 7-16-1993.

ESTHER BELENKER, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

United States Patent and Trademark Office

Reg. No. 2,005,901
Registered Oct. 8, 1996

**TRADEMARK
PRINCIPAL REGISTER**

WINDOWS

MICROSOFT CORPORATION (WASHINGTON
CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399

FOR: PUBLICATIONS, NAMELY USER
MANUALS, INSTRUCTION GUIDES, REFER-
ENCE GUIDES, NEWSLETTERS, MAGAZINES,
BOOKS ABOUT COMPUTER PROGRAMS, IN
CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND
50).

FIRST USE 11-0-1985; IN COMMERCE
11-0-1985.

OWNER OF U.S. REG. NOS. 1,872,264 AND
1,947,103.

SEC. 2(F).

SER. NO. 74-716,365, FILED 8-16-1995.

ESTHER BELENKER, EXAMINING ATTOR-
NEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,463,509

Registered June 26, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

WINDOWS

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 98052

FOR: MAIL ORDER AND ON-LINE DISTRIBUTORSHIP SERVICES FEATURING COMPUTER SOFTWARE AND PUBLICATIONS ON COMPUTER HARDWARE AND SOFTWARE; ON-LINE RETAIL SERVICES FEATURING COMPUTER HARDWARE, SOFTWARE AND PUBLICATIONS ON COMPUTER HARDWARE AND SOFTWARE; LICENSING OF COMPUTER SOFTWARE; ARRANGING AND CONDUCTING TRADE SHOWS FEATURING COMPUTERS, COMPUTER SOFTWARE AND COMPUTER

SOFTWARE RELATED PRODUCTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-0-1991; IN COMMERCE 5-0-1991.

OWNER OF U.S. REG. NOS. 1,872,264, 2,212,784 AND OTHERS.

SEC. 2(F).

SER. NO. 75-868,853, FILED 12-10-1999.

ROBERT LORENZO, EXAMINING ATTORNEY

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,463,510

United States Patent and Trademark Office

Registered June 26, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

WINDOWS

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 98052

FOR: COMPUTER SERVICES, NAMELY PROVIDING TECHNICAL SUPPORT, INFORMATION AND CONSULTATION SERVICES IN THE FIELDS OF COMPUTER HARDWARE, COMPUTER SOFTWARE AND COMPUTER OPERATING SYSTEMS, ALL OFFERED VIA COMPUTER NETWORKS AND GLOBAL COMMUNICATIONS NETWORKS; COMPUTER HARDWARE AND SOFTWARE TESTING SERVICES; COMPUTER SERVICES, NAMELY PROVIDING SOFTWARE UPDATES VIA COMPUTER NETWORKS AND GLOBAL COMMUNICATION NETWORKS; COMPUTER SERVICES, NAMELY PROVIDING AN ON-LINE MAGAZINE IN THE

FIELD OF COMPUTERS AND COMPUTER SOFTWARE; INTERNET SEARCH ENGINES SERVICES; PROVIDING ONLINE RESEARCH SERVICES FOR OTHERS IN VARIOUS FIELDS; LICENSING OF INTELLECTUAL PROPERTY, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 5-0-1996; IN COMMERCE 5-0-1996.

OWNER OF U.S. REG. NOS. 1,872,264, 2,212,784 AND OTHERS.

SEC. 2(F).

SER. NO. 75-868,854, FILED 12-10-1999.

ROBERT LORENZO, EXAMINING ATTORNEY

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 2,463,526

Registered June 26, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

WINDOWS

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 98052

FIRST USE 1-26-1998; IN COMMERCE 1-26-1998.

OWNER OF U.S. REG. NOS. 1,872,264, 2,212,784 AND OTHERS.

FOR: PROVIDING INFORMATION OVER COMPUTER NETWORKS AND GLOBAL COMMUNICATION NETWORKS IN THE FIELDS OF ENTERTAINMENT, MUSIC, AND INTERACTIVE GAMES; EDUCATION SERVICES, NAMELY ONLINE TUTORIALS IN THE FIELD OF COMPUTERS AND COMPUTER SOFTWARE, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

SEC. 2(F).

SER. NO. 75-879,977, FILED 12-22-1999.

ESTHER BELENKER, EXAMINING ATTORNEY

EXHIBIT D

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,646,465

United States Patent and Trademark Office

Registered Nov. 5, 2002

**TRADEMARK
PRINCIPAL REGISTER**

XBOX

**MICROSOFT CORPORATION (WASHINGTON
CORPORATION)
LEGAL DEPARTMENT
ONE MICROSOFT WAY
REDMOND, WA 980526399**

**FOR USE WITH THE ABOVE REFERENCED MA-
CHINES; USER MANUALS THEREFOR SOLD AS A
UNIT THEREWITH, IN CLASS 9 (U.S. CLS. 21, 23, 26,
36 AND 38).**

**FOR: VIDEO GAME PLAYER MACHINES FOR
USE WITH TELEVISIONS AND COMPUTERS; COM-
PUTER AND VIDEO GAME CONTROLLERS; COM-
PUTER SOFTWARE FOR PLAYING COMPUTER
AND VIDEO GAMES; OPERATING SYSTEM SOFT-
WARE PROGRAMS AND UTILITY PROGRAMS**

FIRST USE 11-21-2001; IN COMMERCE 11-21-2001.

SN 75-981,476, FILED 10-18-1999.

LYNN A. LUTHEY, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,663,880

United States Patent and Trademark Office

Registered Dec. 17, 2002

**TRADEMARK
PRINCIPAL REGISTER**

XBOX

**MICROSOFT CORPORATION (WASHINGTON
CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 98052**

**WARE FOR OPERATING GAME CONTROLLERS,
IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).**

FIRST USE 11-21-2001; IN COMMERCE 11-21-2001.

**FOR: INTERACTIVE VIDEO GAME DEVICES
COMPRISED OF COMPUTER HARDWARE AND
SOFTWARE AND ACCESSORIES, NAMELY, GAME
CONSOLES, GAME CONTROLLERS, AND SOFT-**

SN 75-982,801, FILED 2-25-2000.

**CHRISTOPHER BUONGIORNO, EXAMINING AT-
TORNEY**

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,730,847

United States Patent and Trademark Office

Registered June 24, 2003

**TRADEMARK
PRINCIPAL REGISTER**



**MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399**

FOR: VIDEO GAME PLAYER MACHINES FOR USE WITH TELEVISIONS AND COMPUTERS, AND OPERATING SYSTEM SOFTWARE PROGRAMS AND COMPUTER UTILITY PROGRAMS FOR USE THEREWITH; ELECTRONIC DEVICES, NAMELY, COMPUTER HARDWARE FOR ACCESSING GLOBAL COMPUTER AND COMMUNICATION NETWORKS; AND OPERATING SYSTEM SOFTWARE PROGRAMS AND COMPUTER AND COMMUNICATION NETWORKS, AND OPERATING SYSTEM SOFTWARE PROGRAMS AND COMPUTER UTILITY PROGRAMS FOR USE THEREWITH; COMPUTER HARDWARE AND PERIPHERALS; COMPUTER GAME CONTROLLERS; COMPUTER GAME PADS AND CONTROLLERS; COMPUTER SOFTWARE FOR PLAYING VIDEO GAMES AND

COMPUTER GAMES AND FOR ACCESSING AND BROWSING GLOBAL COMPUTER AND COMMUNICATION NETWORKS; COMPUTER SOFTWARE FOR COMPRESSING AND DECOMPRESSING DATA AND VIDEO IMAGES, WORD TEXT EDITING; COMPUTER GAME PROGRAMS AND COMPUTER VIDEO GAME PROGRAMS DOWNLOADABLE FROM GLOBAL COMPUTER NETWORKS AND GLOBAL COMMUNICATIONS NETWORKS; AND USER MANUALS FOR ALL THE AFOREMENTIONED SOFTWARE AND DEVICES SOLD AS A UNIT THEREWITH, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 11-21-2001; IN COMMERCE 11-21-2001.

SN 78-975,045, FILED 9-8-2000.

IRENE D. WILLIAMS, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

United States Patent and Trademark Office

Reg. No. 2,775,859

Registered Oct. 21, 2003

**TRADEMARK
PRINCIPAL REGISTER**

XBOX

MICROSOFT CORPORATION (WASHINGTON
CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399

OWNER OF U.S. REG. NO. 2,646,465.

FOR: TV AND VIDEO CONVERTERS, IN CLASS 9
(U.S. CLS. 21, 23, 26, 36 AND 38).

SER. NO. 78-193,098, FILED 12-10-2002.

FIRST USE 12-0-1998; IN COMMERCE 12-0-1998.

PRISCILLA MILTON, EXAMINING ATTORNEY

Int. Cls.: 35 and 41

Prior U.S. Cls.: 100, 101, 102, and 107

United States Patent and Trademark Office

Reg. No. 2,786,794

Registered Nov. 25, 2003

**SERVICE MARK
PRINCIPAL REGISTER**

XBOX

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 98052

FOR: ARRANGING AND CONDUCTING TRADE SHOWS RELATING TO THE VIDEO GAME AND COMPUTER GAME INDUSTRIES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 11-1-2001; IN COMMERCE 11-1-2001.

FOR: ENTERTAINMENT SERVICES, NAMELY, FEATURING GENERAL VIDEO GAME AND COM-

PUTER GAME INFORMATION VIA THE INTERNET ARRANGING AND CONDUCTING EXHIBITIONS IN THE NATURE OF COMPUTER GAMING TOURNAMENTS AND DEVELOPER CONFERENCES, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 11-1-2001; IN COMMERCE 11-1-2001.

SN 75-928,026, FILED 2-25-2000.

CHRISTOPHER BUONGIORNO, EXAMINING ATTORNEY

Int. Cls.: 38 and 41

Prior U.S. Cls.: 100, 101, 104, and 107

United States Patent and Trademark Office

Reg. No. 2,792,744

Registered Dec. 9, 2003

**SERVICE MARK
PRINCIPAL REGISTER**

XBOX

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399

FOR: PROVIDING ON-LINE CHAT ROOMS FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING INTERACTIVE GAMES PLAYED OVER COMPUTER NETWORKS AND GLOBAL COMMUNICATIONS NETWORKS, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 8-23-2002; IN COMMERCE 8-23-2002.

FOR: ENTERTAINMENT SERVICES, NAMELY, PROVIDING ON-LINE INTERACTIVE MULTI-

PLAYER COMPUTER GAMES PLAYED VIA COMPUTER NETWORKS AND GLOBAL COMMUNICATIONS NETWORKS; PROVIDING INFORMATION ON-LINE RELATING TO COMPUTER GAMES, VIDEO GAMES AND COMPUTER AND VIDEO GAME RELATED PRODUCTS; AND ORGANIZING AND CONDUCTING EXHIBITIONS FOR USERS OF VIDEO AND COMPUTER GAMES, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 11-1-2001; IN COMMERCE 11-1-2001.

SN 78-025,108, FILED 9-8-2000.

ESTHER A. BORSUK, EXAMINING ATTORNEY

EXHIBIT E

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 3,252,556

United States Patent and Trademark Office

Registered June 12, 2007

**TRADEMARK
PRINCIPAL REGISTER**

XBOX 360

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399

FOR: INTERACTIVE VIDEO GAME DEVICES COMPRISED OF COMPUTER HARDWARE AND SOFTWARE AND ACCESSORIES, NAMELY, GAME CONSOLES, GAME CONTROLLERS AND SOFTWARE FOR OPERATING GAME CONTROLLERS; ELECTRONIC DEVICES, NAMELY, COMPUTER HARDWARE FOR ACCESSING GLOBAL COMPUTER AND COMMUNICATION NETWORKS; COMPUTER HARDWARE AND COMPUTER PERIPHERALS; CAMERAS; COMPUTER SOFTWARE FOR PLAYING VIDEO GAMES AND COMPUTER GAMES WITH OTHERS VIA A GLOBAL COMPUTER OR COMMUNICATION NETWORK AND FOR ACCESSING AND BROWSING GLOBAL COMPUTER AND COMMUNICATION NETWORKS; COMPUTER SOFTWARE FOR COMPRESSING AND DECOMPRESSING DATA AND VIDEO IMAGES, WORD TEXT EDITING AND FOR COM-

POSING, TRANSMITTING AND RECEIVING EMAIL; OPERATING SYSTEM SOFTWARE PROGRAMS AND UTILITY PROGRAMS FOR USE WITH THE ABOVE REFERENCED MACHINES; USER MANUALS THEREFORE SOLD AS A UNIT THEREWITH; COMPUTER PROGRAMS, NAMELY, GAME SOFTWARE FOR USE ON COMPUTERS AND VIDEO GAME PLAYERS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 11-22-2005; IN COMMERCE 11-22-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,646,465 AND 2,698,179.

SN 78-977,810, FILED 5-12-2005.

ARETHA SOMERVILLE, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, and 50

Reg. No. 3,300,210

United States Patent and Trademark Office

Registered Sep. 25, 2007

**TRADEMARK
PRINCIPAL REGISTER**

XBOX 360

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: PUBLICATIONS, NAMELY, STRATEGY GUIDES, USER MANUALS, AND MAGAZINES ALL IN THE FIELD OF COMPUTER GAMES, SCIENCE FICTION, GAMES AND ENTERTAINMENT; PENS, NOTEBOOKS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

OWNER OF U.S. REG. NOS. 2,776,769 AND 2,817,709.

SN 78-978,669, FILED 5-12-2005.

FIRST USE 12-0-2006; IN COMMERCE 12-0-2006.

JASON ROTH, EXAMINING ATTORNEY

EXHIBIT F

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 2,902,268

Registered Nov. 9, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

XBOX LIVE

**MICROSOFT CORPORATION (WASHINGTON
CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399**

FIRST USE 11-15-2002; IN COMMERCE 11-15-2002.

**OWNER OF U.S. REG. NOS. 2,646,465 AND
2,663,880.**

**FOR: ENTERTAINMENT SERVICES, NAMELY,
PROVIDING INTERACTIVE, MULTIPLAYER
GAME SERVICES FOR GAMES PLAYED OVER
THE INTERNET; PROVIDING INFORMATION
ABOUT ONLINE COMPUTER GAMES AND VIDEO
GAMES VIA THE INTERNET; AND ARRANGING
AND CONDUCTING COMPETITIONS FOR VIDEO
GAMERS AND COMPUTER GAME PLAYERS, IN
CLASS 41 (U.S. CLS. 100, 101 AND 107).**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "LIVE", APART FROM THE MARK
AS SHOWN.**

SN 78-168,878, FILED 9-27-2002.

**NORA BUCHANAN WILL, EXAMINING ATTOR-
NEY**

Int. Cl.: 38

Prior U.S. Cls.: 100, 101, and 104

United States Patent and Trademark Office

Reg. No. 2,940,679

Registered Apr. 12, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

XBOX LIVE

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399

OWNER OF U.S. REG. NOS. 2,646,465 AND 2,663,880.

FOR: PROVIDING MULTIPLE-USER ACCESS TO THE INTERNET VIA CABLE AND TELEPHONE NETWORKS; VOICE CHAT AND WEB MESSAGING SERVICES; AND TRANSMISSION OF INTERACTIVE AUDIO AND VIDEO SERVICES, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LIVE", APART FROM THE MARK AS SHOWN.

SN 78-168,877, FILED 9-27-2002.

FIRST USE 11-15-2002; IN COMMERCE 11-15-2002.

NORA BUCHANAN WILL, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,940,682

United States Patent and Trademark Office

Registered Apr. 12, 2005

**TRADEMARK
PRINCIPAL REGISTER**

XBOX LIVE

MICROSOFT CORPORATION (WASHINGTON CORPORATION)
ONE MICROSOFT WAY
REDMOND, WA 980526399

FOR: DOWNLOADABLE COMPUTER PROGRAMS FOR PLAYING COMPUTER GAMES AND VIDEO GAMES OVER THE INTERNET; COMPUTER PROGRAMS FOR COMPUTER GAME AND VIDEO GAME USERS TO USE IN ACCESSING AND PLAYING ONLINE COMPUTER GAMES AND VIDEO GAMES; HEADSETS, NAMELY, HEADPHONES AND MICROPHONE UNITS FOR USE WITH ONLINE COMPUTER GAME AND VIDEO GAME SERVICES; ELECTRONIC DEVICES FOR USE WITH ONLINE COMPUTER GAME AND VIDEO GAME SERVICES; AND DEVICES USED TO FACILITATE INTERACTIVE GAME PLAY OVER

COMPUTER NETWORKS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 11-15-2000; IN COMMERCE 11-15-2002.

OWNER OF U.S. REG. NOS. 2,646,465 AND 2,663,880.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LIVE", APART FROM THE MARK AS SHOWN.

SN 78-168,881, FILED 9-27-2002.

NORA BUCHANAN WILL, EXAMINING ATTORNEY

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 by the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
MICROSOFT CORPORATION, a Washington Corporation

(b) County of Resident of First Listed Plaintiff KING
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Jonathan B. Morton, Esq.
 K&L Gates, LLP
 200 S. Biscayne Boulevard, 39th Floor
 Miami, Florida 33131
Dimitraleas Rosenbaum
09-cv-80343-Rosenbaum

DEFENDANTS
INSTACLICK, INC., a Florida Corporation; and DAN TRAINA, individually

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) _____

FILED by AS D.C.

FEB 27 2009

STEVEN M. LARIMORE
 CLERK U.S. DISTRICT COURT
 S. D. of FLA. - MIAMI

II. BASIS OF JURISDICTION (Place an "X" in one box only)

1 U.S. Government Plaintiff

3 Federal Questions (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)

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

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"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input checked="" type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 710 Fair labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 740 Railway Labor Act		<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 790 Other Labor Litigation	FEDERAL TAX SUITS	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations Welfare	IMMIGRATION	<input type="checkbox"/> 871 IRS - Third Party 28 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Other Civil Rights	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability		<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
				<input type="checkbox"/> 899 Prison Condition

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, 1125

Brief description of cause:
Trademark and Unfair Competition

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 2/27/09 SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # 995973 AMOUNT \$ 350.00

APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

02/27/09