

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

KING TACO RESTAURANT, INC., a
California corporation,

Plaintiff,

v.

RAUL SANTOS, individually and doing
business as KING TACOS; KING TACOS,
LLC, a Massachusetts limited liability
company; KING TACOS II, LLC, a
Massachusetts limited liability company;
KING TACOS III, CORP., a Massachusetts
corporation; KING TACOS, a business entity
of unknown form; and DOES 1-10, inclusive,

Defendants.

Civil Action No.

COMPLAINT FOR:

- (1) FEDERAL TRADEMARK
INFRINGEMENT;
- (2) FEDERAL UNFAIR COMPETITION
AND FALSE ADVERTISING;
- (3) UNFAIR METHODS OF
COMPETITION/DECEPTIVE ACTS
OR PRACTICES (ALM GL CH. 93A §
2);
- (4) MASSACHUSETTS COMMON LAW
TRADEMARK INFRINGEMENT;
- (5) MASSACHUSETTS COMMON LAW
UNFAIR COMPETITION.

JURY TRIAL DEMANDED

Plaintiff KING TACO RESTAURANT, INC. (hereinafter “Plaintiff” or “King Taco”), complains against Defendants RAUL SANTOS, individually and doing business as KING TACOS, KING TACOS, LLC, KING TACOS II, LLC, KING TACOS III, CORP., and KING TACOS (hereinafter collectively “Defendants”), and alleges upon personal knowledge as to its own acts and as to events taking place in its presence, and upon information and belief as to all other facts, as follows:

NATURE OF THIS ACTION

1. This is an action for trademark infringement and false advertising arising under the Lanham Act, 15 U.S.C., § 1051, *et seq.*, as well as related state law claims arising from the Defendants’ willful infringement of trademarks owned and used by King Taco. As described more fully below, Defendants have knowingly sold, offered for sale, and used King Taco’s trademarks in commerce to unlawfully profit and in violation of King Taco’s exclusive rights to use its federally registered trademarks.

2. Defendants' conduct has produced and, unless enjoined by this Court, will continue to produce a likelihood of consumer confusion and deception, to the irreparable injury of King Taco.

3. As a result of Defendants' actions, King Taco is suffering a loss of the enormous goodwill King Taco has created in its trademarks. This action seeks permanent injunctive relief and damages for Defendants' infringement of King Taco's intellectual property rights and unfair and deceptive practices.

PARTIES

4. Plaintiff King Taco Restaurant, Inc. is a corporation duly organized and incorporated under the laws of the state of California, with its principal place of business at 6055 East Washington Blvd., #750, Commerce, California 90040.

5. Plaintiff is informed and believes, and thereon alleges, that defendant Raul Santos ("Defendant Santos") is an individual residing in or around Chelsea, Massachusetts, and is the owner and/or operator of Defendants King Tacos, LLC, King Tacos II, LLC, King Tacos III, Corp., and King Tacos, and is doing business under the name "King Tacos."

6. Plaintiff is informed and believes and thereon alleges that Defendant King Tacos, LLC ("Defendant King Tacos") is a Massachusetts limited liability company with its principal place of business at 312 Princeton Street, Boston, Massachusetts 02128.

7. Plaintiff is informed and believes and thereon alleges that Defendant King Tacos II, LLC ("Defendant King Tacos II") is a Massachusetts limited liability company with its principal place of business at 107 Shirley Avenue, Revere, Massachusetts 02151.

8. Plaintiff is informed and believes and thereon alleges that Defendant King Tacos III, Corp. (“Defendant King Tacos III”) is a Massachusetts corporation, with a principal place of business at 964 Saratoga Street, Boston, Massachusetts 02128.

9. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein as Does 1 through 10, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of these Defendants when ascertained. Plaintiff is informed and believes, and thereon alleges, that each of the fictitiously named Defendants Does 1 through 10, inclusive, caused and participated in each of the acts and omissions of each of the named Defendants hereinafter alleged, and in doing so, acted as the agent, employee, and co-conspirator of said Defendants, and acted within the scope and in furtherance of said agency, employment, or conspiracy.

10. Upon information and belief, each Defendant named herein is the agent, principal, joint venturer, and/or co-conspirator of the other Defendants and each is jointly and severally liable for the acts and omissions of all of the other named Defendants.

11. Plaintiff is informed and believes, and based thereon alleges, that there exists, and at all times herein mentioned there existed, a unity of interest and ownership between Defendant King Tacos, Defendant King Tacos II, Defendant King Tacos III (the “Defendants”) such that any individuality and separateness between the Defendants has ceased, and that Defendants are the alter egos of Defendant Santos and that Defendants are, and at all times mentioned herein were, mere shells, instrumentalities, and conduits through which Defendant Santos carried on his business in the entities’ names prior to formation, exercising complete control and dominance of such businesses to such an

extent that any individuality or separateness of Defendants and Defendant Santos does not, and at all times herein mentioned did not, exist. Moreover, Plaintiff alleges, on information and belief, that Defendant Santos used assets of Defendant King Tacos, Defendant King Tacos II, and Defendant King Tacos III for his personal uses, caused assets of Defendants to be transferred to him without adequate consideration, and/or withdrew funds from Defendants' bank accounts for his personal uses.

JURISDICTION AND VENUE

12. Jurisdiction in this Court is proper as this Complaint poses federal questions arising under particular federal statutes, including the Federal Trademark Act (the "Lanham Act") as amended in 15 U.S.C., §§ 1051 *et seq.* and the Unfair Competition Act under 15 U.S.C., §§ 1125 *et seq.* This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C., §§ 1331 and 1338, and 15 U.S.C., § 1121.

13. To the extent this Complaint contains claims for relief under Massachusetts state law, those claims are specifically authorized to be brought in this Court under the supplemental jurisdiction provision of 28 U.S.C., § 1367 and under 28 U.S.C., § 1338.

14. The Court has personal jurisdiction over the Defendants as they are conducting business in the Commonwealth of Massachusetts by, among other things, contracting to offer and offering goods for sale in the Commonwealth of Massachusetts.

15. Venue is proper in the Commonwealth of Massachusetts and this district pursuant to 28 U.S.C., § 1391 because a substantial part of the events or omissions giving rise to this action occurred in this district and at least one of the Defendants resides in Massachusetts in this judicial district.

GENERAL ALLEGATIONS
Plaintiff's King Taco Trademarks

16. Founded in 1974, King Taco is a well-known restaurant chain and distributor of authentic Mexican foods throughout the United States. While most of King Taco's restaurants are located in California, King Taco's business continues to expand and is focused on adding restaurants to other states nationwide. As a result of King Taco's use of its "King Taco" and "King Taco Restaurant, Inc." trade and service marks and because of King Taco's numerous restaurants and expansive advertising, King Taco's restaurants and food services are well-known and its trade and service marks are widely recognized by individuals across the country, especially to individuals in the Mexican restaurant business.

17. On May 12, 2003, King Taco filed an application for registration of the word mark "King Taco" with the United States Patent and Trademark Office ("USPTO"). On May 4, 2004, the USPTO registered Plaintiff's "King Taco" word mark on the Principal Register, with registration number, 2,838,200, for restaurant, take-out restaurant services in Class 043. Said registration has become incontestable under 15 U.S.C., § 1065 and 15 U.S.C., § 1115(b), as King Taco has filed the required affidavit with the USPTO.

18. To further identify its "King Taco" brand, King Taco uses a trademark that consists of a drawing of a stylized form of a man wearing a crown in connection with its popular restaurants and Mexican food products. On June 15, 2004, the USPTO registered Plaintiff's King Taco stylized design mark on the Principal Register, with registration number 2,853,050, for restaurant, take-out restaurant services in Class 043.

Said registration has become incontestable under 15 U.S.C., § 1065 and 15 U.S.C., § 1115(b), as King Taco has filed the required affidavit with the USPTO.

19. In 2004, King Taco also filed an application for registration of the stylized word mark “King Taco Restaurant, Inc.” with the USPTO. On May 4, 2004, the USPTO registered King Taco’s “King Taco Restaurant, Inc.” stylized word mark on the Principal Register, with registration number, 2,838,199, for restaurant, take-out restaurant services in Class 043. Said registration has become incontestable under 15 U.S.C., § 1065 and 15 U.S.C., § 1115(b), as King Taco has filed the required affidavit with the USPTO.

20. King Taco has continuously used its “King Taco” word mark (Registration No. 2,838,200), “King Taco” stylized design mark (Registration No. 2,853,050), and “King Taco Restaurant, Inc.” stylized word mark (Registration No. 2,838,199) (hereinafter collectively referred to as the “King Taco Trademarks”) in connection with and to identify its restaurant services in order to distinguish its products and services from similar products offered by other companies, by, and without limitation, prominently displaying said mark on its restaurants and the packaging of food sold in its restaurants and advertising and promotional materials distributed throughout the United States, including, but not limited to, marketing and advertising its King Taco Trademarks through NASCAR and other motor sports visible across the entire country.

21. Each of the King Taco Trademarks is currently valid, subsisting, uncanceled, and unrevoked.

22. In addition, as of the date of filing this complaint, King Taco is actively engaged in expanding its use of the King Taco Trademarks in connection with restaurants in interstate commerce throughout the United States.

23. King Taco has made a substantial investment in the promotion and protection of the King Taco trademarks and considers its marks among its most important and valuable assets. King Taco has the exclusive right, among other things, to exploit commercially the King Taco trademarks and to bar use by any third parties of any confusingly similar marks.

24. Through extensive use and continuous advertising and sales of its food and food services, the King Taco marks have come to be associated with King Taco and identify King Taco as the source of the goods and services offered in connection with the King Taco trademarks.

25. The King Taco trademarks are recognized among persons who make up the market and potential market, including distributors and consumers, for the food sold by King Taco.

Defendants' Infringing Conduct

26. King Taco is informed and believes and thereon alleges that Defendants own and/or operate a Mexican restaurant under the infringing name "King Tacos" located in Chelsea, Massachusetts, at 388 Broadway, Chelsea, Massachusetts 02150. Plaintiff is further informed and believes and thereon alleges that Defendants also own, operate, and/or attempted to open other Mexican restaurants at separate locations in Massachusetts under the infringing name "King Tacos." Defendants use the infringing name "King Taco" to sell, offer for sale, promote and advertise purportedly authentic, take-out Mexican food. Plaintiff is informed and believes and thereon alleges that Defendants use a prominent "King Tacos" storefront sign with a crown logo to promote and advertise their infringing business in violation of its intellectual property rights.

27. In or around January 2011, King Taco discovered that Defendants were infringing the King Taco Trademarks in interstate commerce by using and exploiting the King Taco Trademarks by various acts, including, without limitation, the selling, offering for sale, promotion and advertising restaurant and/or food services under the name “King Tacos” of a type similar to the type of products and services offered by King Taco.

28. Defendants were never authorized, licensed, nor granted permission to use the King Taco Trademarks in connection with restaurant and/or food services and their use of the King Taco Trademarks is likely to cause confusion and mistake among consumers, and to deceive consumers as to the source, quality, and nature of Defendants’ goods and services.

29. Defendants’ use of the “King Tacos” name causes substantial confusion, mistake, and deception among consumers as to the source, quality, and nature of Defendants’ goods and services.

30. On January 6, 2012, King Taco sent Defendants a Notice of Infringement and demand to cease and desist all activities in violation of the Federal Trademark Law constituting infringement of the King Taco Trademarks. See Notice of Infringement Letter dated January 6, 2012 and attached hereto as **Exhibit A**.

31. While Defendants initially responded to Plaintiff’s Notice of Infringement with a promise to change their names and discontinue any further infringement of the King Taco Trademarks, Defendants have since failed to take any action to put an end to their infringing conduct. Defendants, instead, have continued to operate their business under their infringing “King Tacos” name in conscious disregard of the rights of Plaintiff.

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FIRST CLAIM FOR RELIEF
Federal Trademark Infringement
(15 U.S.C., § 1114 *et. seq.*)
(Against All Defendants)

32. King Taco incorporates by this reference each and every allegation set forth above in paragraphs 1 through 31, inclusive, as though fully stated herein.

33. King Taco is the legal owner of the King Taco Trademarks, has not abandoned any the King Taco Trademarks since their first use, and all of the King Taco Trademarks have been, and continue to be, in continuous use in interstate and intrastate commerce.

34. Defendants' unauthorized use, reproduction, copying or colorable imitations of the King Taco Trademarks, as explained above, is likely to cause confusion, mistake, and/or deception among consumers as to the source, quality, and/or nature of Defendants' goods and services. Defendants' use, reproduction, copying or colorable imitation of the King Taco Trademarks also likely creates the misconception among consumers that King Taco somehow ratifies or authorizes the Defendants' infringing use of the King Taco Trademarks and/or that King Taco is affiliated in some manner with the Defendants' business, when such is not the case.

35. King Taco never gave Defendants permission to use the King Taco Trademarks and King Taco, as owner of the King Taco Trademarks, objects to Defendants' past, and continued, infringing use of the King Taco Trademarks and/or any confusingly similar derivations thereof.

36. While King Taco has notified Defendants that their use of the King Taco Trademarks and/or any confusingly similar derivations thereof is unauthorized, Defendants continue to use and extensively exploit, for their own commercial advantage,

the King Taco Trademarks, to the detriment of King Taco as well as the consuming public.

37. Because Defendants' continued use of the King Taco Trademarks and/or any confusingly similar derivations thereof prevents King Taco from exercising exclusive control over its intellectual property rights and because Defendants' continued use of the King Taco Trademarks and/or any confusingly similar derivations thereof is likely to continue to cause confusion, mistake, and/or deception as to the source, affiliation, or sponsorship of the goods and services that Defendants advertise, promote, and/or sell through their infringing use of the King Taco Trademarks, King Taco lacks an adequate remedy at law. Unless temporary, preliminary and permanent injunctions are issued enjoining Defendants from any continuing or future infringing use of the King Taco Trademarks, King Taco will continue to sustain irreparable damage. Indeed, Defendants have already proven themselves to be willful infringers who have complete disregard of the intellectual property rights of King Taco. Pursuant to 15 U.S.C., § 1116(a), King Taco is entitled to an order enjoining Defendants, and each of them, from using the King Taco Trademarks to advertise, market, and/or sell Defendants' goods or services.

38. As a direct and proximate cause of Defendants' infringing conduct, King Taco has been damaged and will continue to be damaged. Pursuant to 15 U.S.C., § 1117(a), King Taco is entitled to an order requiring Defendants to account to King Taco for any and all profits and other ill-gotten gains Defendants derived from their unauthorized and infringing use of the King Taco Trademarks, as detailed herein, and to an order awarding all damages sustained by King Taco by reason of Defendants' infringing conduct.

39. As evidenced by Defendants' refusal to cease further use of the King Taco Trademarks after receiving notice of King Taco's objections to Defendants' infringement of the King Taco Trademarks, Defendants' conduct was intentional and in conscious disregard of King Taco's rights. King Taco, therefore, is entitled to an award of treble damages and/or enhanced profits from Defendants.

40. Defendants' intentional acts make this an exceptional case under 15 U.S.C., § 1117(a) and King Taco is entitled to an award of attorneys' fees and costs.

SECOND CLAIM FOR RELIEF
Federal Unfair Competition and False Advertising
(15 U.S.C., § 1125(a))
(Against All Defendants)

41. King Taco incorporates by this reference each and every allegation set forth above in paragraphs 1 through 40 inclusive, as though fully stated herein.

42. King Taco is the legal owner of the King Taco Trademarks, has not abandoned any of the King Taco Trademarks since their first use, and all of the King Taco Trademarks have been, and continue to be, in continuous use. Despite knowledge of King Taco's ownership interests in the King Taco Trademarks, Defendants, and each of them, have made, and continue to make, use in interstate commerce of the King Taco Trademarks and/or any confusingly similar derivations thereof without King Taco's permission.

43. Defendants' unauthorized use of the King Taco Trademarks creates a false association between Defendants and King Taco. Defendants' unauthorized infringing use of the King Taco Trademarks and/or any confusingly similar derivations thereof also

tends to cause confusion, mistake, and/or deception among consumers as to the source, quality, and nature of Defendants' goods and services.

44. Defendants, and each of them, have engaged in fraudulent business practices, false advertising, and unfair competition by using the King Taco Trademarks and/or any confusingly similar derivations thereof, associated goodwill, and other intangible rights of King Taco without permission in an attempt to pass off Defendants' goods as coming from, being sponsored by, and/or affiliated with King Taco, when such is not the case.

45. Defendants' use of the King Taco Trademarks and/or any confusingly similar derivations thereof, goodwill, and other intangible rights of King Taco is in direct violation of 15 U.S.C., § 1125(a) *et seq.*, and represents false advertising and false designation of source entitling King Taco to all remedies available under the law.

46. As a direct and proximate result of the foregoing conduct, King Taco is entitled to damages against all Defendants, and each of them, in an amount according to proof at trial, to a temporary, preliminary, and permanent injunction, and to any and all other relief the Court deems just and proper under the law.

THIRD CLAIM FOR RELIEF
Unfair Methods of Competition/Deceptive Acts or Practices (MGL ch. 93A § 2)
(Against All Defendants)

47. King Taco incorporates by this reference each and every allegation set forth above in paragraphs 1 through 46 inclusive, as though fully stated herein.

48. Defendants are engaged in the conduct of trade or commerce within the meaning of Mass. Gen. Laws ch. 93A. The foregoing conduct by Defendants constitutes unfair and deceptive acts and practices within the meaning of Mass. Gen. Laws ch. 93A.

49. King Taco is the legal owner of the King Taco Trademarks, has not abandoned any of the King Taco Trademarks since their first use, and all of the King Taco Trademarks have been, and continue to be, in continuous use. Despite knowledge of King Taco's ownership interests in the King Taco Trademarks, Defendants, and each of them, have made, and intentionally continue to make, use in interstate commerce of the King Taco Trademarks without King Taco's permission.

50. King Taco never gave Defendants permission to use the King Taco Trademarks or any similar marks or engage in the offending activities. After discovering Defendants' infringing use of the King Taco Trademarks, King Taco demanded that the Defendants cease further use of the King Taco Trademarks. While initially promising to discontinue their infringing conduct, Defendants have since refused to cease further use and continue, to this day, to misappropriate King Taco's rights in the King Taco Trademarks.

51. Defendants, and each of them, have engaged in a pattern of unfair, deceptive, and fraudulent acts to enrich themselves by misappropriating King Taco's exclusive rights to the King Taco Trademarks and using them for their own benefit.

52. Defendants, and each of them, have engaged in fraudulent business practices, false advertising, and unfair competition by using the King Taco Trademarks, associated goodwill, and other intangible rights of King Taco without permission in an improper attempt to pass off Defendants' goods as coming from, being sponsored by, and/or affiliated with King Taco.

53. Defendants' unauthorized use and intentional infringement of the King Taco Trademarks, as explained above, creates a false association between Defendants

and King Taco and is likely to cause confusion, mistake, and/or deception among consumers as to the source, quality, and/or nature of Defendants' goods and services.

54. King Taco has been damaged and will continue to be damaged by Defendants' unlawful, unfair, fraudulent and deceptive business practices and misleading advertising as alleged herein. King Taco, therefore, is entitled to a preliminary and permanent injunction enjoining Defendants from using the King Taco Trademarks to advertise, market, and/or sell Defendants' goods or services. Defendants have profited from their activities and, unless their conduct is enjoined, King Taco will continue to suffer irreparable harm that cannot be adequately calculated or compensated by monetary damages. Accordingly, injunctive relief is proper pursuant to Mass. Gen. Laws. Ch. 93A, s. 11.

55. As a direct and proximate result of Defendants' conduct, King Taco has been harmed and is entitled to damages against all Defendants, and each of them, in an amount according to proof at trial and to any and all other relief the Court deems just and proper under the law.

56. King Taco is informed and believes, and thereon alleges, that Defendants' conduct was intentional, willful, wanton, malicious, and in conscious disregard of King Taco's rights, thereby justifying an award of three times its damages, together with reasonable attorneys' fees, pursuant to Mass. Gen. Laws. Ch. 93A s. 11.

57. Upon information and belief, Defendant Santos directs, controls, ratifies, participates in, and is the moving force behind the infringing activity, and is therefore personally liable for such infringement.

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FOURTH CLAIM FOR RELIEF
Massachusetts Common Law Trademark Infringement
(Against All Defendants)

58. King Taco incorporates by this reference each and every allegation set forth above in paragraphs 1 through 57 inclusive, as though fully stated herein.

59. The King Taco Trademarks are the proprietary property of King Taco, which possesses certain common law trademark rights and protections in the King Taco Trademarks under the common law of the State of Massachusetts.

60. Defendants' unauthorized use and intentional infringement of the King Taco Trademarks, as explained above, is likely to cause confusion, mistake, and/or deception among consumers as to the source, quality, and/or nature of Defendants' goods and services, thereby, committing common law trademark infringement.

61. King Taco never gave Defendants permission to use the King Taco Trademarks or any similar marks or engage in the offending activities. After discovering Defendants' infringing use of the King Taco Trademarks and/or any confusingly similar derivations thereof, King Taco demanded that the Defendants cease further use of the King Taco Trademarks. Defendants, however, have refused to cease further use and continue, to this day, to misappropriate King Taco's rights in the King Taco Trademarks.

62. King Taco has been damaged and will continue to be damaged by Defendants' infringing activities.

63. As a direct and proximate result of the foregoing conduct, King Taco is entitled to damages against all Defendants, and each of them, in an amount that is subject to proof at trial, to a preliminary and permanent injunction, and to any and all other relief the Court deems just and proper under the law.

64. King Taco is informed and believes, and thereon alleges, that Defendants' conduct was willful, wanton, malicious, and in conscious disregard of King Taco's rights, thereby justifying an award of punitive and/or exemplary damages in an amount according to proof at trial.

65. Upon information and belief, Defendant Santos directs, controls, ratifies, participates in, and is the moving force behind the infringing activity, and is, therefore, personally liable for such infringement.

FIFTH CLAIM FOR RELIEF
Massachusetts Common Law Unfair Competition
(Against All Defendants)

66. King Taco incorporates by this reference each and every allegation set forth above in paragraphs 1 through 65, inclusive, as though fully stated herein.

67. King Taco is the legal owner of the King Taco Trademarks, has not abandoned any of the King Taco Trademarks since their first use, and all of the King Taco Trademarks have been, and continue to be, in continuous use. Despite knowledge of King Taco's ownership interests in the King Taco Trademarks, Defendants, and each of them, have made, and intentionally continue to make, use in interstate commerce of the King Taco Trademarks without King Taco's permission.

68. Defendants, and each of them, have engaged in a pattern of unfair, deceptive, and fraudulent acts to enrich themselves by misappropriating King Taco's rights to the King Taco Trademarks and using them for their own benefit.

69. Defendants' unauthorized use of the King Taco Trademarks creates a false association between Defendants and King Taco. Defendants' unauthorized use of the King Taco Trademarks also tends to cause confusion, mistake, and/or deception among

consumers as to the source, quality, and nature of Defendants' goods and services.

70. Defendants, and each of them, have engaged in fraudulent business practices, false advertising, and unfair competition by using the King Taco Trademarks, associated goodwill, and other intangible rights of King Taco without permission in an attempt to pass off Defendants' goods as coming from, being sponsored by, and/or affiliated with King Taco.

71. King Taco has been damaged and will continue to be damaged by Defendants' unlawful, unfair, and/or fraudulent business practices and misleading advertising as alleged herein. King Taco, therefore, is entitled to a preliminary and permanent injunction enjoining Defendants from using the King Taco Trademarks to advertise, market, and/or sell Defendants' goods and services.

72. As a direct and proximate result of the foregoing conduct, King Taco has been harmed and is entitled to damages against all Defendants, and each of them, in an amount according to proof at trial and to any and all other relief the Court deems just and proper under the law.

73. King Taco is informed and believes, and thereon alleges, that Defendants' conduct was willful, wanton, malicious, and in conscious disregard of King Taco's rights, thereby justifying an award of punitive and/or exemplary damages in an amount according to proof at trial.

74. Upon information and belief, Defendant Santos directs, controls, ratifies, participates in, and is the moving force behind the infringing activity, and is therefore personally liable for such infringement.

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PRAYER FOR RELIEF

As to the First Claim for Relief:

A. For an order that, by the acts complained of herein, Defendants have infringed King Taco's trademark rights, in violation of 15 U.S.C., § 1114, *et. seq.*

B. For an order awarding King Taco general and/or specific damages, in an amount to be fixed by the Court in accordance with proof, including enhanced and/or exemplary damages, as appropriate, as well as disgorgement of all of Defendants' profits or gains of any kind from their acts of trademark infringement, unfair competition, deceptive business practices and false advertising; and further for an award that such acts were willful and wanton, thereby justifying an award, where appropriate, of treble or enhanced damages

C. For an order awarding King Taco treble Defendants' profits, or treble King Taco's damages, whichever is greater, pursuant to 15 U.S.C., § 1117(b), for Defendants' knowing and intentional use of counterfeits of King Taco's federally registered King Taco Trademarks.

D. For an order awarding statutory damages for each willful use by Defendants as the Court deems just, pursuant to 15 U.S.C., § 1117(c).

As to the Second Claim for Relief:

E. For an order that, by the acts complained of herein, Defendants have engaged in unfair competition and false advertising, in violation of 15 U.S.C., § 1125(a).

F. For an order awarding King Taco general and/or specific damages, in an amount to be fixed by the Court in accordance with proof, including enhanced and/or exemplary damages, as appropriate, as well as disgorgement of all of Defendants' profits

or other ill-gotten gains of any kind from their acts of trademark infringement, unfair competition, deceptive business practices and false advertising.

G. For an order that Defendants' conduct, as complained of herein, was willful, wanton, malicious, and in conscious disregard of King Taco's rights, thereby justifying an award of punitive and/or exemplary damages in an amount according to proof at trial.

As to the Third Claim for Relief:

H. For an order that, by the acts complained of herein, Defendants have engaged in unfair competition and deceptive business practices and acts.

I. For an order awarding King Taco general and/or specific damages, in an amount to be fixed by the Court in accordance with proof, including enhanced and/or exemplary damages, as appropriate, as well as disgorgement of all of Defendants' profits or other ill-gotten gains of any kind from their acts of trademark infringement, unfair competition, deceptive business practices and false advertising.

J. For an order that Defendants' conduct, as complained of herein, was willful, wanton, malicious, and in conscious disregard of King Taco's rights, thereby justifying an award of punitive and/or exemplary damages in an amount according to proof at trial.

As to the Fourth Claim for Relief:

K. For an order that, by the acts complained of herein, Defendants have infringed King Taco's common law trademark rights.

L. For an order awarding King Taco general and/or specific damages, in an amount to be fixed by the Court in accordance with proof, including enhanced and/or

exemplary damages, as appropriate, as well as disgorgement of all of Defendants' profits or gains of any kind from their acts of trademark infringement, common law trademark infringement, unfair competition, and false advertising.

M. For an order that Defendants' conduct, as complained of herein, was willful, wanton, malicious, and in conscious disregard of King Taco's rights, thereby justifying an award of punitive and/or exemplary damages in an amount according to proof at trial.

As to the Fifth Claim for Relief:

N. For an order that, by the acts complained of herein, Defendants have engaged in unfair competition, in violation of the common law of Massachusetts.

O. For an order awarding King Taco general and/or specific damages, in an amount to be fixed by the Court in accordance with proof, including enhanced and/or exemplary damages, as appropriate, as well as all of Defendants' profits or gains of any kind from their acts of trademark infringement, common law trademark infringement, trade dress infringement, unfair competition, and false advertising.

P. For an order that Defendants' conduct, as complained of herein, was willful, wanton, malicious, and in conscious disregard of King Taco's rights, thereby justifying an award of punitive and/or exemplary damages in an amount according to proof at trial.

As to all Claims for Relief:

Q. For a temporary, preliminary and permanent injunction, enjoining all Defendants, and each of them, and their agents, servants, employees, and all persons acting under or in concert with them from:

i. Using the King Taco Trademarks in connection with Defendants' goods, marketing, advertising, or promotional materials, or otherwise in connection with Defendants' business;

ii. Using confusingly similar variations of the King Taco Trademarks causing likelihood of confusion, deception, and/or mistake as to the source, nature, and/or quality of Defendants' goods or services;

iii. Otherwise infringing the King Taco Trademarks;

iv. Falsely designating the origin of Defendants' goods and/or services;

v. Causing likelihood of confusion, deception, and/or mistake as to the source, nature, and/or quality of Defendants' goods or services.

R. For an order directing the Defendants, and each of them, to file with this Court and serve on King Taco, within thirty (30) days after service of an injunction, a written report, signed under oath, setting forth, in detail, the manner and form in which Defendants have complied with the injunction.

S. For an order awarding King Taco its costs and attorneys' fees incurred in prosecuting this action.

T. For an order awarding King Taco pre- and post-judgment interest.

U. For an order awarding such other relief that the Court deems just and proper.

Jury Trial Claim

The Plaintiff, King Taco, claims a trial by jury on all issues so triable.

Dated: May 4, 2012

Respectfully submitted,

The Plaintiff,
KING TACO RESTAURANTS, INC.

/s/ Lita M. Verrier

By Its Attorneys,

Lita M. Verrier (BBO # 662147)

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