

1 **KRONENBERGER BURGOYNE, LLP**

2 Karl S. Kronenberger (*pro hac vice pending*)

3 150 Post Street, Suite 520

4 San Francisco, CA 94108

5 Telephone: (415) 955-1155

6 Facsimile: (415) 955-1158

7 karl@kronenbergerlaw.com

8 **Law Offices of Rasmussen & Kang**

9 Downon S. Kang (Bar No. 7042) (*Local Counsel*)

10 330 S. Third Street, Suite 1010

11 Las Vegas, Nevada 89101

12 Telephone: (702) 464-6007

13 Facsimile: (702) 464-6009

14 rasmussenkang@gmail.com

15 Attorneys for Plaintiff

16 INCORP SERVICES, INC.

17 **UNITED STATES DISTRICT COURT**
18 **DISTRICT OF NEVADA**

19 **INCORP SERVICES, INC.**, a Nevada
20 corporation,

21 Plaintiff,

22 vs.

23 **LEGALZOOM.COM, INC.**, a Delaware
24 corporation,

25 Defendant.

Case No.

**COMPLAINT OF INCORP
SERVICES, INC. FOR:**

- (1) **TRADE LIBEL** (15 U.S.C. §
1125(a);
(2) **DEFAMATION**;
(3) **DECEPTIVE TRADE PRACTICES**
(N.R.S. § 598.0915)

AND

DEMAND FOR JURY TRIAL

26
27
28
COMPLAINT OF INCORP SERVICES, INC.

1 Plaintiff InCorp Services, Inc. ("Plaintiff" or "InCorp"), brings this Complaint against
2 LegalZoom.com, Inc., a Delaware corporation ("Defendant"), and alleges as follows:

3 INTRODUCTION AND PARTIES

4 1. This is a civil action arising under the Lanham Act, 15 U.S.C. § 1111 *et*
5 *seq.*, and also arising under Nevada statutory and common law, as more fully described
6 below.

7 2. Plaintiff is a Nevada corporation, with its principal place of business in
8 Henderson, Nevada. Among other things, Plaintiff offers national registered agent
9 services, serving as a registered agent for service of process in all 50 states and in the
10 District of Columbia. Plaintiff was founded in 1998, and is currently the 4th largest
11 national registered agent service provider in the country, with over 55,000 active clients
12 worldwide.

13 3. Defendant LegalZoom.com, Inc., ("LegalZoom") is a Delaware Corporation
14 with its principal place of business in Los Angeles, California. LegalZoom is Plaintiff's
15 competitor.

16 4. Upon information and belief, LegalZoom performs registered agent services
17 in the State of Nevada.

18 JURISDICTION AND VENUE

19 5. Original subject matter jurisdiction is conferred upon this Court by the
20 Lanham Act, 15 U.S.C. § 1111 *et seq.*. Supplemental jurisdiction over claims arising
21 under the law of the State of Nevada is conferred upon this Court under 28 U.S.C.
22 §1367.

23 6. This Court has personal jurisdiction over LegalZoom because LegalZoom
24 has purposefully availed itself of the privilege of conducting activities in this forum,
25 offering services to Nevada customers, offer registered agent services in Nevada to
26 customers in Nevada and other states, targeting Nevada businesses in its marketing,
27 transacting business in Nevada, and employing agents or partners in Nevada. Moreover,
28 as more fully set forth below, LegalZoom has committed a tortious act directed at a

1 Nevada resident, and Plaintiff's claims are directed to and/or arise out of LegalZoom's
2 forum-related activities.

3 7. This Court has personal jurisdiction over LegalZoom because, upon
4 information and belief, LegalZoom, as more fully set forth below, has committed a
5 tortious act directed at a Nevada resident, and Plaintiff's claims are directed to and/or
6 arise out of LegalZoom NV's forum-related activities.

7 8. Venue is proper in the District of Nevada pursuant to LR IA 6-1 and 28
8 U.S.C §1391(b)(2) &(c), because a substantial part of the events or omissions giving rise
9 to Plaintiff's claims occurred here, and because the Defendant is subject to personal
10 jurisdiction in this District.

11 DEFENDANTS' UNFAIR BUSINESS PRACTICES

12 9. Plaintiff and LegalZoom are competitors, both offering registration and other
13 corporate services to businesses seeking to incorporate or otherwise transact business
14 across the various States. In addition to offering registered agent services, LegalZoom
15 also offers incorporation and related services.

16 10. By way of background, Plaintiff offers registered agent services in all fifty
17 states and in the District of Columbia. Included in Plaintiff's offer is full online access to
18 Plaintiff's industry leading client website, where, among other things, companies may
19 check the status of their entities in multiple jurisdictions on the same page, download free
20 copies of filed documents, and check for mail that has been forwarded to them.

21 11. Upon information and belief, since at least 2008, Defendants have
22 engaged, on a regular basis, in a false and defamatory marketing campaign against
23 Plaintiff. Specifically, customers of LegalZoom who are forming corporations through
24 LegalZoom often select InCorp as a registered agent instead of using LegalZoom's
25 registered agent services. On information and belief, telephone representatives of
26 LegalZoom, as a regular business practice since at least 2008, stated –and continue to
27 state- to such potential customers that InCorp "is not in good standing" with the state of
28 Delaware, Texas, New York and other states; that InCorp "cannot be used" as a

1 registered agent; that InCorp is "not licensed to do business in" certain states; that InCorp
2 "cannot legally do business in" certain states; that InCorp is "not legal" in certain states;
3 or statements substantially similar thereto. However, these statements are false, as
4 InCorp is currently in good standing with all fifty states and the District of Columbia.

5 12. LegalZoom sales representatives, after making the forgoing false
6 statements, have encouraged –and continue to encourage- customers to use LegalZoom
7 registered agent services instead of InCorp registered agent services.

8 13. On information and belief, LegalZoom has made false statements about
9 InCorp to hundreds if not thousands of consumers, resulting in significant damages to
10 InCorp.

11 14. On information and belief, LegalZoom continues to make such false
12 statements to consumers, and as a result, Plaintiff InCorp brings this action for injunctive
13 relief and damages.

14 FIRST CAUSE OF ACTION

15 Trade Libel Pursuant to 15 U.S.C. § 1125(a)

16 15. Plaintiff repeats, realleges, and incorporates each and every allegation set
17 forth in paragraphs 1 through 14 of this Complaint.

18 16. Defendant has made, or knowingly conspired and agreed to be made, false
19 or misleading statements to Plaintiff's prospective or existing customers.

20 17. These false or misleading statements were material, in that they, for
21 example, misrepresented the business, background, quality and overall validity of
22 Plaintiff's enterprise.

23 18. Defendant made these false or misleading statements in interstate
24 commerce, in connection with goods or services. Defendant's false or misleading
25 statements are commercial statements of advertising or promotion.

26 19. As a proximate result of the foregoing acts, Defendant has caused actual
27 harm and is liable to Plaintiff for damages in an amount to be proven at trial.

28 20. Defendant has engaged in conduct of a malicious, oppressive, or fraudulent

1 nature, thereby entitling Plaintiff to an award of punitive damages.

2 21. As a direct and proximate result of the actions, conduct, and practices of
3 Defendant's alleged above, Plaintiff has suffered, and will continue to suffer, damages
4 and irreparable harm.

5 22. Plaintiff has no adequate remedy at law.

6 SECOND CAUSE OF ACTION

7 Defamation

8 23. Plaintiff repeats, realleges, and incorporates each and every allegation set
9 forth in paragraphs 1 through 14 of this Complaint.

10 24. Defendant's actions as described above constitute defamation, in that they
11 have made, or knowingly conspired and agreed to be made, false statements regarding
12 Plaintiff.

13 25. Defendant's statements constitute defamation *per se*, in that they defame
14 Plaintiff in its trade.

15 26. Defendant has further made, or knowingly conspired and agreed to be
16 made, false statements regarding Defendant itself, in relation to Plaintiff, falsely asserting
17 non-existent qualities or attributes in comparison or contrast to Plaintiff, designed to
18 falsely credit Defendant for qualities they did or do not possess.

19 27. Defendant knew or should have known that the statements published were
20 false.

21 28. Defendant published these statements to various third parties without
22 privilege.

23 29. As a proximate result of the foregoing acts, Defendant has caused actual
24 harm and are liable to Plaintiff for damages in an amount to be proven at trial.

25 30. Defendant has engaged in conduct of a malicious, oppressive, or fraudulent
26 nature, thereby entitling Plaintiff to an award of punitive damages.

27 31. As a direct and proximate result of the actions, conduct, and practices of
28 Defendant's alleged above, Plaintiff has suffered, and will continue to suffer, damages

1 and irreparable harm.

2 32. Plaintiff has no adequate remedy at law.

3 **THIRD CAUSE OF ACTION**

4 **For Violations of N.R.S. § 598.0915 (Acts of Deceptive Trade Practice)**

5 33. Plaintiff repeats, realleges, and incorporates each and every allegation set
6 forth in paragraphs 1 through 14 of this Complaint.

7 34. By the acts described above, Defendant has engaged in unlawful and
8 unfair business practices and have conducted unfair, deceptive and misleading
9 advertising which has injured and threatens to continue to injure Plaintiff in its business
10 and property, or have knowingly conspired and agreed to a common plan pursuant to
11 such end. Defendant's conduct constitutes unfair business practices under N.R.S. §
12 598.0915, in that Defendant, as a non-exclusive list of examples:

13 a. Knowingly made false representations as to the characteristics,
14 ingredients, uses, benefits, alterations or quantities of goods or services for sale or lease
15 or a false representation as to the sponsorship, approval, status, affiliation or connection
16 of a person therewith (N.R.S. § 598.0915(5));

17 b. Represented that goods or services for sale or lease were of a
18 particular standard, quality or grade, or that such goods were of a particular style or
19 model, when they knew or should have known that they are of another standard, quality,
20 grade, style or model (N.R.S. § 598.0915(7));

21 c. Disparaged the goods, services or business of another person by
22 false or misleading representation of fact (N.R.S. § 598.0915(8)); and

23 d. Knowingly made any other false representation in a transaction
24 (N.R.S. § 598.0915(15)).

25 35. As a direct result of the foregoing acts and practices, Plaintiff has suffered,
26 and will continue to suffer, damages and irreparable harm.

27 36. Plaintiff has no adequate remedy at law.

28 ///

PRAYER

WHEREFORE, Plaintiff prays that this Court enter judgment in its favor on each and every claim set forth above, and further prays an award to Plaintiff of:

1. A preliminary and permanent injunction and judgment enjoining Defendant and its agents, employees, representatives, and successors and predecessors in interest from making false and defamatory statements about Plaintiff, its subsidiaries, affiliates, officers, or employees;

2. An award of compensatory and/or statutory damages in an amount to be determined at trial;

4. Punitive and exemplary damages to serve as punishment and deterrent in light of Defendant's substantial wrongful acts;

5. Damages, in an amount to be determined at trial, for Plaintiff to engage in corrective advertising;

6. A public retraction by Defendant relating to all false and defamatory statements made about Plaintiff;

7. Plaintiff's costs and attorneys' fees in this action;

8. Pre-judgment and post-judgment interest; and

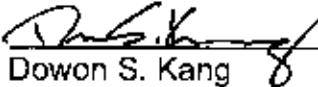
9. Such other further relief to which Plaintiff may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: February 16, 2009

Law Offices of Rasmussen & Kang

By: 
Dowon S. Kang
Attorneys for Plaintiff
InCorp Services Inc.

KRONENBERGER BURGOYNE, LLP
Karl S. Kronenberger (*pro hac vice pending*)
150 Post Street, Suite 520
San Francisco, CA 94108
Telephone: (415) 955-1155
Facsimile: (415) 955-1158
karl@kronenbergerlaw.com

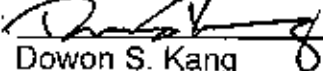
KRONENBERGER BURGOYNE, LLP
150 Post Street, Suite 520
San Francisco, CA 94108
www.KronenbergerLaw.com

1
2 **REQUEST FOR JURY TRIAL**

3 Plaintiff hereby demands a trial of this action by jury.
4

5 DATED: February 10, 2009

Law Offices of Rasmussen & Kang

7
8 By: 
9 Dowon S. Kang
10 Attorneys for Plaintiff
11 InCorp, Inc.

12 **KRONENBERGER BURGOYNE, LLP**
13 Karl S. Kronenberger (*pro hac vice pending*)
14 150 Post Street, Suite 520
15 San Francisco, CA 94108
16 Telephone: (415) 955-1155
17 Facsimile: (415) 955-1158
18 karl@kronenbergerlaw.com

KRONENBERGER BURGOYNE, LLP
150 Post Street, Suite 520
San Francisco, CA 94108
www.kronenbergerlaw.com