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11 Attorneys for Plaintiff,
NEW NAME, INC.

12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

14 NEW NAME, INC.

15 Plaintiff,

16 v.

17 THE WALT DISNEY COMPANY and
18 DISNEY ENTERPRISES, INC.

19 Defendants.

Case No. CV 07-5034 PA (RZx)

**THIRD AMENDED COMPLAINT
FOR:**

- 1) UNITED STATES TRADEMARK INFRINGEMENT
- 2) CANADIAN TRADEMARK INFRINGEMENT
- 3) CANADIAN COPYRIGHT INFRINGEMENT
- 4) UNFAIR COMPETITION UNDER THE LANHAM ACT
- 5) UNFAIR COMPETITION UNDER THE COMMON LAW
- 6) UNFAIR COMPETITION UNDER CALIFORNIA BUSINESS & PROFESSIONS CODE 17200 ET SEQ.
- 7) UNITED STATES COPYRIGHT INFRINGEMENT

***** JURY DEMANDED *****

DATE: June 9, 2008

TIME: 1:30 p.m.

Courtroom: 15

Hon. Percy Anderson

Discovery Cutoff: 07/07/08

Pretrial Conference: 08/15/08

Trial: 09/16/08

1 New Name, Inc. ("New Name" or "Plaintiff") brings this suit for trademark
2 infringement, copyright infringement, and statutory and common law unfair
3 competition against The Walt Disney Company and Disney Enterprises, Inc.
4 (collectively "Disney" or "Defendants"), and alleges as follows:

5 **I. JURISDICTION AND VENUE**

6 1. This Court's jurisdiction rests upon 15 U.S.C. §§ 1121(a) & 1125, 28
7 U.S.C. §§ 1338(a) & (b), and 28 U.S.C. § 1367(a).

8 2. This Court has jurisdiction over the federal trademark infringement,
9 dilution and false advertising claims pursuant to 15 U.S.C. § 1121(a), § 1125 and 28
10 U.S.C. § 1338(a). Defendants have, on information and belief, transported, displayed
11 and offered for sale infringing goods in the United States in interstate commerce, and
12 Defendants' foreign sales of these goods were controlled and authorized in the United
13 States. Further, Defendants have sold thousands of infringing goods in Canada.

14 3. Defendants' sale of thousands of goods infringing New Name's
15 trademark rights in Canada has had a significant, pronounced and substantial effect
16 upon New Name's business, both domestic and foreign, including but not limited to
17 the following impacts:

18 a. Defendants' sale of infringing products has resulted in a
19 marked and substantial decrease in sales of New Name's products in the United
20 States;

21 b. Defendants' sale of infringing products has resulted in a
22 marked and substantial decrease in demand for New Name's products in the United
23 States;

24 c. Defendants' sale of infringing products has resulted in a
25 marked and substantial decrease in sales of New Name's products in Canada;

26 d. Defendants' sale of infringing products has resulted in a
27 marked and substantial decrease in demand for New Name's products in Canada;
28

1 e. Defendants' sale of infringing products through discount
2 and wholesale marketing channels has caused a significant decline in the goodwill of
3 New Name's SWEET & TOXIC mark both in both the United States and Canada.

4 f. On information and belief, Defendants, both Delaware
5 corporations with their principal place of business in California, have recognized
6 revenues in the United States as a direct and indirect result of its infringing foreign
7 sales.

8 4. This Court has jurisdiction over the federal unfair competition claim
9 under 15 U.S.C. § 1125.

10 5. This Court has supplemental jurisdiction over the state law and
11 Canadian claims pursuant to 28 U.S.C. § 1338(b) and § 1367(a) as all claims herein
12 form part of the same case or controversy. The infringing and unfair violations of
13 New Name's rights alleged under all claims herein were part of the same scheme and
14 practice. The scheme was, on information and belief, transitory in nature, just as New
15 Name's sales of the infringed goods spans the United States and Canada. Moreover,
16 sales of the infringing goods (e.g., t-shirts) just across the border in Canada, upon
17 information and belief, resulted in migration of the infringing goods to the United
18 States. Further, on information and belief, the actions were taken through the same
19 channels and means. Convenience, fairness, and the full and efficient resolution of
20 disputes favor the exercise of supplemental jurisdiction.

21 6. Personal jurisdiction exists over the Defendants because they have
22 sufficient minimum contacts with the forum as a result of business conducted within
23 the State of California and the Central District of California, and are headquartered in
24 the Central District of California, such that it would not offend traditional notions of
25 fair play and substantial justice to subject the Defendants to suit in this forum.

26 7. Venue in this District is proper under 28 U.S.C. § 1391.
27
28

II. THE PARTIES

8. Plaintiff New Name, Inc. ("New Name") is a California corporation with its address at 1025 East 18th Street, Unit B, Los Angeles, CA 90021.

9. Upon information and belief, The Walt Disney Company is a Delaware corporation with its principal place of business at Burbank, California.

10. Upon information and belief, Disney Enterprises, Inc. is a Delaware corporation with its principal place of business at Burbank, California.

11. Disney's actions alleged herein were those of its officers, director, agents, employees, and/or licensees; and Disney at all times has had a direct financial interest in the infringing actions being committed and has had the ability to control such actions.

III. FACTUAL ALLEGATIONS

12. SWEET & TOXIC is a United States, federally registered trademark of New Name, Reg. No. 3,237,383, by way of assignment. *See* Exhibit A (a copy of the trademark registration).

13. Plaintiff is also the owner of the SWEET & TOXIC mark in Canada, application serial number 1,327,044, by way of assignment.

14. New Name has acquired substantial goodwill in the mark SWEET & TOXIC, and the mark is extremely valuable.

15. New Name, Inc. is the owner of the SWEET & TOXIC mark and all copyrighted designs and other intellectual property related thereto, including the copyright in the work REASON.

16. "REASON," is a federally registered copyrighted work, Registration No. VA-1-368-312 ("the '312 Registration"). *See* Exhibit B (a copy of the registration, along with a copy of the design).

17. The '312 Registration was originally filed in the name of Sweet & Toxic, Inc., but has been assigned to New Name.

1 18. New Name is also the owner of Canadian copyright registration
2 number 1,049,211 for an artistic work entitled "REASON." See Exhibit C (a copy of
3 the registration).

4 19. SWEET & TOXIC and REASON have become well known.

5 20. T-shirts bearing the REASON design and SWEET & TOXIC mark
6 have been worn by celebrities during high-rated television broadcasts, including Ms.
7 Kelly Clarkson during the MTV Music Awards.

8 21. Disney has sold thousands of t-shirts with the SWEET & TOXIC
9 mark and a blatant copy of the REASON design, at numerous locations, including
10 Wal-Mart and the Montreal Museum of Fine Arts. See Exhibit D (a copy of Disney's
11 product).

12 22. The damage caused by such counterfeit goods has permanently and
13 irreparably harmed New Name.

14 **FIRST CAUSE OF ACTION**

15 **TRADEMARK INFRINGEMENT**

16 **(15 U.S.C. § 1114 *et seq.* and Common Law)**

17 23. Plaintiff incorporates by reference all other paragraphs contained in
18 this Complaint.

19 24. Plaintiff is the owner of the SWEET & TOXIC mark, recorded on the
20 United States Principal Register as registration no. 3,237,383.

21 25. Defendants' mark is used in connection with the sale, offering for
22 sale, distribution or advertising of goods and services.

23 26. Specifically, Defendants have sold thousands of t-shirts bearing the
24 infringing SWEET & TOXIC mark.

25 27. On information and belief, Defendants' clothing was transported,
26 displayed and offered for sale in the United States in interstate commerce, and
27 Defendants' foreign sales of these goods were controlled and authorized in the United
28 States.

1 28. These uses also extended to Canada, where thousands of the
2 infringing goods were sold, and those foreign uses have, as previously noted, been
3 substantially harmful to the domestic and foreign sales and holdings of New Name,
4 and on information and belief, resulted in revenue to Defendants in the United States,
5 giving strong ties to the United States justifying the extraterritorial application of the
6 Lanham Act. The infringement had a substantial effect on American foreign
7 commerce, that effect was sufficiently great to present dramatically cognizable injury
8 to New Name under the Lanham Act, and the interest and links of American foreign
9 commerce compared to Canada (e.g., protecting the sales and holdings of its
10 businesses from all forms of piracy, especially by that of a home-grown American
11 domestic corporation when it expands its reaches just beyond the United States
12 border) justify assertion of extraterritorial authority.

13 29. Defendants had, at all times, the ability to control the infringement
14 and those directly responsible for the infringement, and financially benefited from the
15 infringement.

16 30. Such sales knowingly and willfully infringed Plaintiff's SWEET &
17 TOXIC mark, constituting clear trademark infringement, both direct and vicarious.

18 31. Defendants' use of the infringing mark has caused significant
19 confusion in the marketplace, is likely to cause both confusion and mistake, and is
20 likely to deceive; the marks are identical in sound, appearance and meaning.

21 32. Such use was done willfully and with knowledge that such use would
22 or was likely to cause confusion and deceive others.

23 33. The infringing products were counterfeits in that they contained a
24 sham trademark intentionally calculated to reproduce Plaintiff's genuine trademark;
25 the sham mark is identical with, and substantially indistinguishable from, Plaintiff's
26 genuine mark.

27 34. As a direct and proximate result of Disney's trademark infringement,
28 Plaintiff has been damaged within the meaning of 15 U.S.C. § 1114 *et seq.*

1 35. Plaintiff has suffered damages in an amount to be established after
2 proof at trial or in the statutory amount.

3 36. Plaintiff is further entitled to disgorge Defendants' profits for its
4 willful sales and unjust enrichment.

5 37. This case qualifies as an "exceptional case" within the meaning of 15
6 U.S.C. § 1117(a) in that Defendants' acts were malicious, fraudulent, deliberate and
7 willful, and taken in bad faith.

8 38. Plaintiff's remedy at law is not adequate to compensate for injuries
9 inflicted by Defendants. Accordingly, Plaintiff is entitled to temporary, preliminary
10 and permanent injunctive relief.

11 **SECOND CAUSE OF ACTION**

12 **TRADEMARK INFRINGEMENT**

13 **(Section 19 of the Canadian Trade-marks Act and Common Law)**

14 39. Plaintiff incorporates by reference all other paragraphs contained in
15 this Complaint.

16 40. Plaintiff is the owner of the SWEET & TOXIC mark in Canada,
17 which has been used on men's' and women's' apparel in Canada.

18 41. Defendants' mark is used in connection with the sale, offering for
19 sale, distribution or advertising of goods and/or services. Specifically, Defendants
20 have sold thousands of t-shirts bearing the infringing SWEET & TOXIC mark.

21 42. On information and belief, Defendants' clothing was designed,
22 manufactured, transported, advertised, offered for sale and sold in Canada.

23 43. Defendants had, at all times, the ability to control the infringement
24 and those directly responsible for the infringement, and financially benefited from the
25 infringement.

26 44. Such sales knowingly and willfully infringed Plaintiff's SWEET &
27 TOXIC mark, constituting clear trademark infringement, both direct and vicarious.
28

1 45. Defendants' direct and contributory use of the infringing mark has
2 caused significant confusion in the marketplace, is likely to cause both confusion and
3 mistake, and is likely to deceive; the marks are identical in sound, appearance and
4 meaning.

5 46. Such use was done willfully and with knowledge that such virtually
6 identical use would or was likely to cause confusion and deceive others.

7 47. As a direct and proximate result of Disney's trademark infringement,
8 Plaintiff has been damaged within the meaning of Canada's Trade-mark Act.

9 48. Plaintiff has suffered damages in an amount to be established after
10 proof at trial or in the statutory amount.

11 49. Plaintiff is further entitled to damages; an accounting of profits as
12 unjust enrichment; an injunction, delivery and destruction of material bearing the
13 infringing trade-mark; punitive damages; and legal costs.

14 50. Plaintiff's remedy at law is not adequate to compensate for injuries
15 inflicted by Defendants. Accordingly, Plaintiff is entitled to temporary, preliminary
16 and permanent injunctive relief.

17 **THIRD CAUSE OF ACTION**

18 **COPYRIGHT INFRINGEMENT**

19 **(Section 27 of the Copyright Act of Canada)**

20 51. Plaintiff incorporates by reference all other paragraphs contained in
21 this Complaint.

22 52. New Name is the owner of copyright in the artistic work entitled
23 "REASON," recorded under copyright registration number 1,049,211.

24 53. Defendants have taken actions inconsistent with Plaintiff's copyright
25 ownership, including sale of thousands of t-shirts bearing unauthorized copies of the
26 REASON design.

27 54. On information and belief, Defendants' clothing was designed,
28 manufactured, transported, advertised and sold in Canada.

1 55. Such sales knowingly and willfully infringed Plaintiff's copyright
2 rights in the artistic work entitled REASON, constituting clear copyright
3 infringement.

4 56. Defendants had, at all times, the ability to control the infringement
5 and those directly responsible for the infringement, and financially benefited from the
6 infringement.

7 57. Defendants' infringement was both direct and vicarious.

8 58. As a direct and proximate result of Disney's copyright infringement,
9 Plaintiff has been damaged within the meaning of Section 34 of the Copyright Act of
10 Canada.

11 59. Plaintiff has suffered damages in an amount to be established after
12 proof at trial or in the statutory amount.

13 60. Plaintiff is further entitled to disgorge Defendants' profits for its
14 willful sales and unjust enrichment.

15 61. Plaintiff's remedy at law is not adequate to compensate for injuries
16 inflicted by Defendants. Accordingly, Plaintiff is entitled to temporary, preliminary
17 and permanent injunctive relief.

18 **FOURTH CAUSE OF ACTION**

19 **UNFAIR COMPETITION**

20 **(15 U.S.C. § 1125 *et seq.*)**

21 62. Plaintiff incorporates by reference all other paragraphs contained in
22 this Complaint.

23 63. Defendants have committed proscribed acts of unfair competition.

24 64. Defendants have sold and offered for sale counterfeit goods, as
25 alleged above, falsely designating their origin.

26 65. On information and belief, Defendants knowingly, willfully and
27 blatantly counterfeited New Name's t-shirts in an effort to gain the value of the
28 design and goodwill associated with the t-shirt.

1 66. Defendants sold the counterfeit t-shirts at discount establishments and
2 prices that could only erode the demand and value of New Name's business in return
3 for short-term profits of Defendants.

4 67. Defendants stole customers that would have purchased products from
5 New Name.

6 68. Defendants' use diluted the value of New Name's business and
7 intellectual property by, among others, diminishing the association with high quality
8 that SWEET & TOXIC and its designs have consistently enjoyed.

9 69. Defendants falsely advertised and misrepresented fact by associating
10 themselves in the minds of consumers with New Name's SWEET & TOXIC mark
11 and designs.

12 70. Such uses are likely to cause confusion and mistake with the public
13 and deceive them into believing there is an affiliation, connection and association
14 between Defendant and New Name, and in fact has already done so.

15 71. As a direct and proximate result of Defendants' wrongful acts,
16 Plaintiff has suffered and continues to suffer substantial pecuniary losses and
17 irreparable injury to its business reputation and goodwill. As such, Plaintiff's remedy
18 at law is not adequate to compensate for injuries inflicted by Defendants.
19 Accordingly, Plaintiff is entitled to temporary, preliminary and permanent injunctive
20 relief.

21 72. By reason of such wrongful acts, Plaintiff is and was, and will be in
22 the future, deprived of, among others, the profits and benefits of business
23 relationships, agreements, and transactions with various existing clients and/or
24 prospective clients and customers. Defendants have wrongfully obtained said profits
25 and benefits. Plaintiff is entitled to compensatory damages and disgorgement of
26 Defendants' said profits, in an amount to be proven at trial, along with other just
27 damages.

28 ////

FIFTH CAUSE OF ACTION

UNFAIR COMPETITION

(California Common Law)

73. Plaintiff incorporates by reference all other paragraphs contained in this Complaint.

74. Defendants have committed unlawful acts of unfair competition.

75. Defendants have sold and offered for sale counterfeit goods, as alleged above.

76. On information and belief, Defendants knowingly, willfully and blatantly counterfeited New Name's t-shirts in an effort to gain the value of the design and goodwill associated with the t-shirt.

77. Defendants sold the counterfeit t-shirts at discount establishments and prices that could only, and did, irreparably erode the demand and value of New Name's business in return for short-term profits of Defendants.

78. Defendants stole customers that would have purchased products from New Name.

79. Defendants' use diluted the value of New Name's business and intellectual property by, among others, diminishing the association with high quality that SWEET & TOXIC and its designs have consistently enjoyed.

80. Defendants falsely advertised and misrepresented fact by associating themselves in the minds of consumers with New Name's SWEET & TOXIC mark and designs.

81. As a direct and proximate result of Defendants' wrongful acts, Plaintiff has suffered and continues to suffer substantial pecuniary losses and irreparable injury to its business reputation and goodwill. As such, Plaintiff's remedy at law is not adequate to compensate for injuries inflicted by Defendants.

Accordingly, Plaintiff is entitled to temporary, preliminary and permanent injunctive relief.

1 82. By reason of such wrongful acts, Plaintiff is and was, and will be in
2 the future, deprived of, among others, the profits and benefits of business
3 relationships, agreements, and transactions with various existing clients and/or
4 prospective clients and customers. Defendants have wrongfully obtained said profits
5 and benefits. Plaintiff is entitled to compensatory damages and disgorgement of
6 Defendants' said profits, in an amount to be proven at trial, along with other just
7 damages.

8 83. Such acts, as alleged above, were done with malice, oppression
9 and/or fraud, thus entitling Plaintiff to exemplary and punitive damages. The blatant
10 and slavish counterfeiting was despicable in that it undermined the very notion of fair
11 competition, stole the hard-earned value of New Name's intellectual property to earn
12 a quick buck for a multi-national corporation, showed a complete disregard for the
13 business of another, and was cold and calculated to be as virtually identical to New
14 Name's branding and designs as possible.

15 **SIXTH CAUSE OF ACTION**

16 **STATUTORY UNFAIR COMPETITION**

17 **(Cal. Bus. & Prof. Code § 17200 *et seq.*)**

18 84. Plaintiff incorporates by reference all other paragraphs contained in
19 this Complaint.

20 85. Defendants have committed proscribed acts of unfair competition.

21 86. Defendants have sold and offered for sale counterfeit goods, as
22 alleged above.

23 87. On information and belief, Defendants knowingly, willfully and
24 blatantly counterfeited New Name's t-shirts in an effort to gain the value of the
25 design and goodwill associated with the t-shirt.

26 88. Defendants sold the counterfeit t-shirts at discount establishments and
27 prices that could only erode the demand and value of New Name's business in return
28 for short-term profits of Defendants.

1 89. Defendants stole customers that would have purchased products from
2 New Name.

3 90. Defendants' use diluted the value of New Name's business and
4 intellectual property by, among others, diminishing the association with high quality
5 that SWEET & TOXIC and its designs have consistently enjoyed.

6 91. Defendants falsely advertised and misrepresented fact by associating
7 themselves in the minds of consumers with New Name's SWEET & TOXIC mark
8 and designs.

9 92. As a direct and proximate result of Defendants' wrongful acts,
10 Plaintiff has suffered and continues to suffer substantial pecuniary losses and
11 irreparable injury to its business reputation and goodwill. As such, Plaintiff's remedy
12 at law is not adequate to compensate for injuries inflicted by Defendants.
13 Accordingly, Plaintiff is entitled to temporary, preliminary and permanent injunctive
14 relief.

15 93. By reason of such wrongful acts, Plaintiff is and was, and will be in
16 the future, deprived of, among others, the profits and benefits of business
17 relationships, agreements, and transactions with various existing clients and/or
18 prospective clients and customers. As a result, Plaintiff is entitled to restitutionary
19 relief in an amount to be determined upon proof at the time of trial.

20 **SEVENTH CAUSE OF ACTION**

21 **UNITED STATES COPYRIGHT INFRINGEMENT**

22 **(17 U.S.C. § 501 et al.)**

23 94. Plaintiff incorporates by reference all other paragraphs contained in
24 this Complaint.

25 95. New Name is the owner of the copyright in the REASON design, a
26 federally registered copyright, Registration No. VA-1-368-312 ("the '312
27 Registration").
28

1 96. Defendants have engaged in numerous completed acts of copyright
2 infringement within the United States. These specifically include uploading and
3 downloading of images which are substantially similar and virtually identical to New
4 Name's REASON design.

5 97. Defendants required a third party to upload numerous pictures of an
6 infringing product bearing a virtually identical copy of the REASON design onto
7 Disney's server, located in the United States.

8 98. Defendants downloaded copies of those infringing pictures onto their
9 computers in the United States. The RAM of Defendants' computers also created a
10 copy of the infringing work.

11 99. Defendants' employees viewed the infringing images on the monitors
12 of their work computers in the United States on multiple occasions.

13 100. Defendants' employees accessed the infringing images on at least one
14 computer in the United States.

15 101. Defendant's unauthorized acts of uploading violated New Name's
16 exclusive right to distribute and right to reproduce under 17 U.S.C. §§ 106(1),(3).

17 102. Defendants' unauthorized acts of downloading violated New Name's
18 exclusive right to reproduce under 17 U.S.C. § 106(1).

19 103. Defendants' unauthorized acts of downloading and viewing required
20 the creation of copies on the RAM of their computers, violating New Name's
21 exclusive right to reproduce under 17 U.S.C. § 106(1).

22 104. Defendants' unauthorized acts of displaying the infringing images on
23 Defendants' computers violated New Name's exclusive right to publicly display the
24 REASON design under 17 U.S.C. § 106(5).

25 105. Defendants engaged in other acts of direct, indirect and vicarious
26 copyright infringement.

27 106. The acts of copyright infringement were willful.
28

1 107. As a direct and proximate result of Disney's copyright infringement,
2 Plaintiff has been damaged within the meaning of the Copyright Act.

3 108. Plaintiff has suffered damages in an amount to be established after
4 proof at trial and including all damages allowable under the Copyright Act.
5 Defendants' numerous acts of distribution, downloading and uploading enabled sales
6 which irreparably damaged the value of New Name's copyrighted work. These
7 damages occurred in the United States, and extended into Canada.

8 109. The amount of damages, in the alternative, is in the amount of
9 statutory damages in the maximum amount for willful infringement under 17 U.S.C.
10 § 504(c)(1),(2).

11 110. Plaintiff's remedy at law is not adequate to compensate for injuries
12 inflicted by Defendants. Accordingly, Plaintiff is entitled to temporary, preliminary
13 and permanent injunctive relief.

14 WHEREFORE, Plaintiff demands the following relief:

- 15 1. A judgment in favor of Plaintiff and against Defendants on all counts;
- 16 2. A preliminary and permanent injunction from trademark and copyright
17 infringement and unfair business practices by Defendants;
- 18 3. Damages in an amount to be determined at trial, including Defendants'
19 unjust enrichment, such damages trebled for willful infringement;
- 20 4. Statutory damages;
- 21 5. Exemplary and punitive damages;
- 22 5. Pre-judgment interest at the legally allowable rate on all amounts owed;
- 23 6. Costs, expenses and fees under, among others, 15 U.S.C. § 1117(a)-(b).
- 24 7. Restitution;
- 25 8. Attorney's fees under, among others, 15 U.S.C. § 1117(a) as an
26 exceptional case and § 1117(b) for willful use of a counterfeit mark, and pursuant to
27 17 U.S.C. § 505 for willful copyright infringement.
- 28 9. Such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as to all issues that are so triable.

Dated: May 19, 2008

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO P.C.

By: s/Andrew D. Skale
Andrew D. Skale, Esq.

Attorneys for Plaintiff,
NEW NAME, INC.

CERTIFICATE OF SERVICE

On the May 19, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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4333871v.1

EXHIBIT A

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,237,383

Registered May 1, 2007

TRADEMARK
PRINCIPAL REGISTER

SWEET & TOXIC

SWEET & TOXIC, INC. (CALIFORNIA COR-
PORATION)
10 ANCHORAGE STREET #4
MARINA DEL REY, CA 90292

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

FOR: CLOTHING, NAMELY T-SHIRTS, IN CLASS
25 (U.S. CLS. 22 AND 39).

SER. NO. 78-923,797, FILED 7-6-2006.

FIRST USE 5-5-2004; IN COMMERCE 5-5-2004.

HOWARD B. LEVINE, EXAMINING ATTORNEY

EXHIBIT B

The United States of America



CERTIFICATE OF REGISTRATION PRINCIPAL REGISTER

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Jon W. I. Dudas

10
Director of the United States Patent and Trademark Office

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

060395



Form VA

For a Work of the Visual Arts
HARVEST STATE COPYRIGHT OFFICE

REGIST

VA 1-368-312



EFFECTIVE DATE OF REGISTRATION

JUN 30 2006

Month Day Year

RATE CONTINUATION SHEET.

1 Title of This Work **REASON** NATURE OF THIS WORK **DRAWING**

Previous or Alternative Titles

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work

If published in a periodical or serial give: Volume Number Issue Date On Pages

2 NAME OF AUTHOR **a** SWEET & TOXIC, INC.

DATES OF BIRTH AND DEATH
Year Born Year Died

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, else the employer (or other person for whom the work was prepared) as "Author" of this part, and leave the space for dates of birth and death blank.

Was this contribution to the work a "work made for hire"?
☐ Yes
☐ No

Author's Nationality or Domesticity
Name of Country
OR
Citizen of
Domesticity in UNITED STATES

Was This Author's Contribution to the Work
Anonymous? ☐ Yes ☐ No
Pseudonym? ☐ Yes ☐ No
If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es) See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

Name of Author **b**

Dates of Birth and Death
Year Born Year Died

Was this contribution to the work a "work made for hire"?
☐ Yes
☐ No

Author's Nationality or Domesticity
Name of Country
OR
Citizen of
Domesticity in

Was This Author's Contribution to the Work
Anonymous? ☐ Yes ☐ No
Pseudonym? ☐ Yes ☐ No
If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es) See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

3 a Year in Which Creation of This Work Was Completed 2004

Date and Nation of First Publication of This Particular Work
Complete this information: Month NOVEMBER Day 01 Year 2004
ONLY if this work has been published. UNITED STATES Nation

4

See instructions before completing this space

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2.

SWEET & TOXIC, INC. 10 ANCHORAGE STREET #4, MARINA DEL REY, CA 90292

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

APPLICATION RECEIVED

JUN 30 2006

ONE DEPOSIT RECEIVED

JUN 30 2006

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK

• Complete all applicable spaces (numbers 1-4) on the reverse side of this page.
• See detailed instructions.
• Sign the form at line 2.

DO NOT WRITE HERE
Page 1 of _____ pages

EXAMINED BY	11-5	FORM VA
CHECKED BY	11-5	
<input type="checkbox"/> CORRESPONDENCE		FOR COPYRIGHT OFFICE USE ONLY
Yes		

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.)a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number

Year of Registration

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for derivative work; complete only 6b for a compilation.

a. Identifying Material Identify any preexisting work or works that this work is based on or incorporates.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which respects it differs.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name

Account Number

BUCHANAN INGERSOLL PC

DA081027

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/ZIP

ANDREW D. SKALE, BUCHANAN INGERSOLL PC 301 GRANT STREET, 20TH FLOOR, PITTSBURGH, PA 15219

Area code and daytime telephone Number (855) 505-7347

Fax number (412) 562-1041

Email skalead@bipc.com

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one

☐ author☐ other copyright claimant☐ owner of exclusive rights☒ authorized agent of

SWEET & TOXIC, INC.

Name of author or other copyright claimant, or owner of exclusive rights

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 3, do not sign and submit it before that date.

ANDREW D. SKALE, ESQ.

Date 6-28-06

Handwritten signature (00)

Certificate will be mailed in window envelope to this address:

Name Andrew D. SKALE, BUCHANAN INGERSOLL PC

Address/Street/Apt. 301 GRANT STREET, 20TH FLOOR

City/State/ZIP PITTSBURGH, PA 15219

YOU MUST:	9
• Complete all necessary sections.	
• Sign your application in space 8.	
SEND ALL ELEMENTS IN THE SAME PACKAGE:	
1. Application form.	
2. Payment envelope. Bring fee in check or money order payable to Register of Copyrights.	
3. Detached material.	
MAIL TO:	
Library of Congress Copyright Office	
105 Independence Avenue, S.E.	
Washington, D.C. 20540-6002	

17 U.S.C. § 405(a) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 402, or in any written statement filed in connection with the application, shall be fined not more than \$2,000.



EXHIBIT C

09-JUL-2007 11:27

FROM-Riches McKenzie & Herbert LLP

+416-961-5081

T-556 P.602/002 F-199



**Office de la propriété
Intellectuelle
du Canada**

Un organisme
d'Industrie Canada

**Canadian
Intellectual Property
Office**

An Agency of
Industry Canada

Certificate of Registration of Copyright

Certificat d'enregistrement du Droit d'auteur

This Certificate of Registration is issued pursuant to sections 49 and 53 of the Copyright Act. The copyright in the work described below was registered on the date of registration as follows:

Ce certificat d'enregistrement est émis conformément aux articles 49 et 53 de la Loi sur le droit d'auteur. Le droit d'auteur sur l'œuvre décrite ci-dessous, a été enregistré à la date d'enregistrement comme suit:

Date of Registration - Date d'enregistrement :

June 14, 2007

Registration No. - Numéro d'enregistrement :

1049211

First Publication - Première publication :

November 4, 2004

Los Angeles, California, United States of

America

Title - Titre :

REASON

Category - Catégorie :

Artistic

Owner(s) - Titulaire(s) :

New Name, Inc.
1025 E. 18th Street; Unit B
Los Angeles, California
United States of America, 90021

Author(s) - Auteur(s) :

Cedric Keyser

Date of Issuance of Certificate - Date d'émission du certificat :

June 14, 2007

Monique Laurin

Registrar of Copyrights
Copyright Office

Registraire des droits d'auteur
Bureau du droit d'auteur

Canada

(CIPD 00204)
07-03-05
14

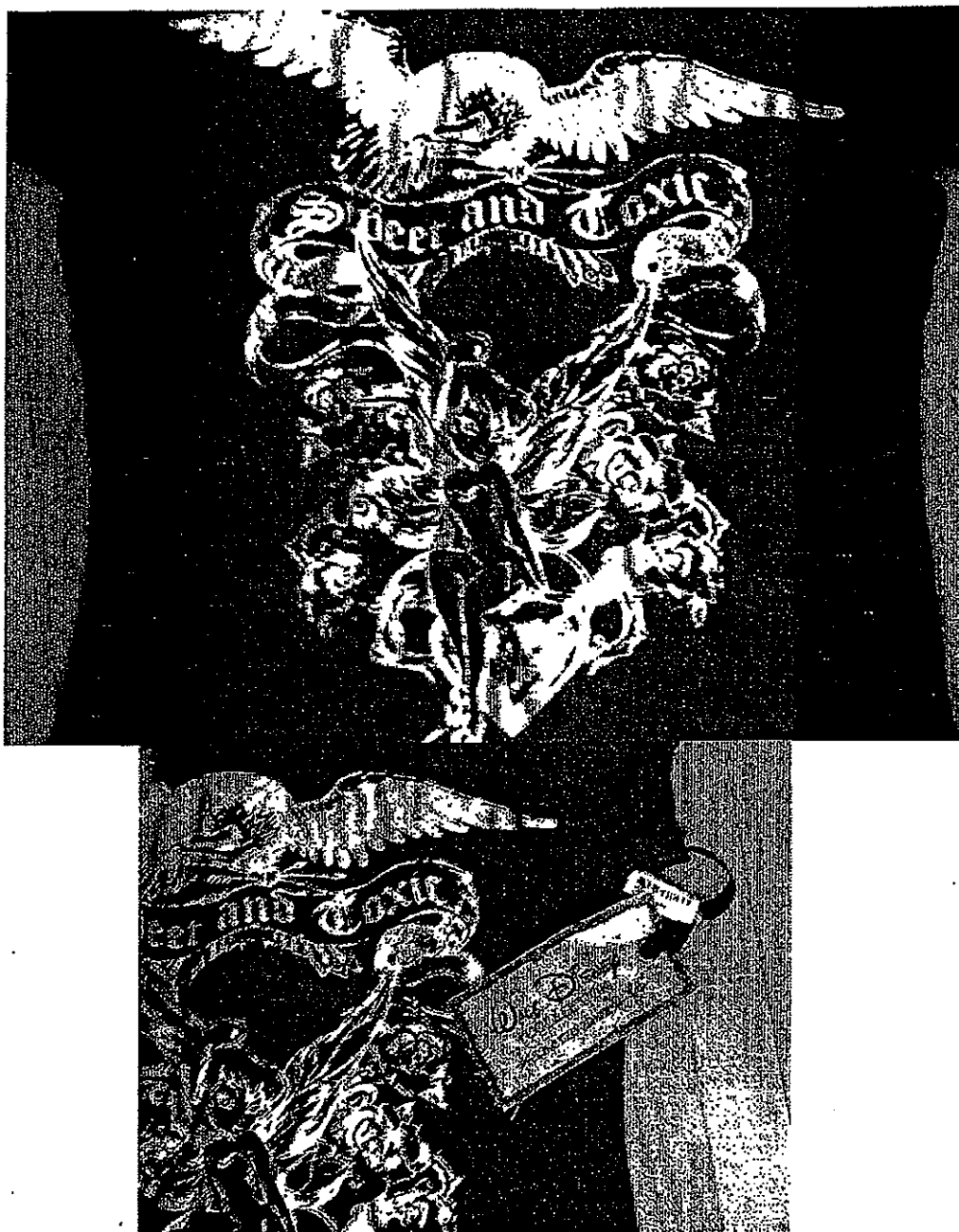
OPIC



CIPC

EXHIBIT D

15



15

CERTIFICATE OF SERVICE

On the January 8, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Steve A. Marenberg, Esq.
Robert N. Klieger, Esq.
W. Joss Nichols, Esq.
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Los Angeles, CA 90067
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s/Andrew D. Skale
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