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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
THE HAIN CELESTIAL GROUP, INC., and
CELESTIAL SEASONINGS, INC.,

Plaintiffs,

- against -

ROYAL TEA S.A. de C.V.,
CORPORACION LAGG'S, INC.,
MONTJUIK BRANDS MÉXICO, S.A. de C.V.,
T. IMPERIAL COMPANY, and LAGGS TEA, LLC,

Defendants.
-----X

Plaintiffs The Hain Celestial Group, Inc. and Celestial Seasonings, Inc. (collectively

“Plaintiffs”) for their Complaint, by their attorneys, McCarter & English LLP, aver as follows:

Parties

1. Plaintiff The Hain Celestial Group, Inc. (“Hain”) is a Delaware corporation with its principal offices at 58 South Service Road, Melville, New York.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ MAY 24 2011 ★

BROOKLYN OFFICE

**IRIZARRY, J.
AZRACK, M.J.**

CV 11 - 2504

SUMMONS ISSUED

Docket No.

COMPLAINT

Jury Trial Demanded

2. Plaintiff Celestial Seasonings, Inc. (“Celestial”) is a Delaware corporation with its principal offices at 4600 Sleepytime Drive, Boulder, Colorado 80301-3292. Celestial is in the business of manufacturing, marketing and distributing herbal, black, and green teas and other products.

3. Upon information and belief, Defendant Royal Tea, S.A. de C.V. (“Royal Tea”) is a Mexican corporation with offices at Espana No. 501, San Nicolas Tolentino, Iztapalapa, Ciudad de Mexico, Mexico 09850.

4. Upon information and belief, Defendant Corporacion Lagg's, Inc. is a Texas corporation with offices at 5065 Westheimer, Suite 600, Houston Texas 77056.

5. Upon information and belief, Defendant Montjuik Brands México, S.A. de C.V. is a Mexican corporation with offices at Fuentes de Piramides # 1-604 Fuentes de Piramides # Mexico 53950.

6. Upon information and belief, T. Imperial Company is a Texas corporation with offices at 2543 Gessner Dr., Houston, Texas 77080.

7. Upon information and belief, Laggs Tea, LLC is a Texas limited liability company with offices at Three Allen Center, 333 Clay Street, 20th Floor, Houston, Texas 77002.

Jurisdiction and Venue

8. This action arises out of violations of the United States Trademark Act (the “Lanham Act”) 15 U.S.C. §1051, *et. seq.*, and subject matter jurisdiction is therefore conferred upon this Court by 28 U.S.C. §1331 (federal question) and 28 U.S.C. §1338 (trademarks).

9. Supplemental jurisdiction over the related state law claims is conferred upon this Court by 28 U.S.C. § 1338(b) and 28 U.S.C. §1367.

10. A substantial part of the events or omissions giving rise to the claims occurred in this judicial district. Accordingly, venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b).

Factual Background

11. Hain is a leading natural and organic products company in North America and Europe. Hain offers such products through a number of subsidiary companies, including Celestial.

12. Celestial is an industry leader in the United States herbal tea market, a position which Celestial has earned as a result of its originality and decades of painstaking efforts in developing, selling, manufacturing and marketing its products. Celestial's products have been and are now widely sold throughout the United States and the world, and they are recognized as being among the finest herbal teas available.

13. Celestial owns the following registrations for marks consisting of or including the term SLEEPYTIME (collectively the "SLEEPYTIME Marks") as used in connection with herbal teas, teas, and dietary supplements ("SLEEPYTIME Products"):

MARK	U.S. REG. NO.	DATE REGISTERED	GOODS	CLASS
SLEEPYTIME	1,017,548	August 5, 1975	Herbal tea	Class 30
SLEEPYTIME EXTRA	2,292,906	November 16, 1999	Herbal tea	Class 30
SLEEPYTIME THROAT TAMER	3,698,822	October 20, 2009	Teas	Class 30
SLEEPYTIME THROAT TAMER	3,628,370	May 26, 2009	Dietary supplements	Class 5

Annexed as Exhibit A are copies of printouts from the United States Patent and Trademark Office's Trademark Application and Registration Retrieval system ("TARR") concerning the registered trademarks referenced above.

14. Celestial has continuously used marks consisting of or including the term SLEEPYTIME without interruption on herbal teas and tea offered for sale, promoted, marketed and sold in U.S. Commerce since at least as early as 1972.

15. As a result of Celestial's extensive promotion, advertising, and sale of its high-quality products bearing the SLEEPYTIME Marks, consumers have come to recognize Celestial as the source of products bearing the SLEEPYTIME Marks.

16. Celestial recently discovered that defendants are selling herbal teas and tea ("Defendants' Products") under the confusingly similar trademark SLEEPING TIME in the United States (the "SLEEPING TIME Mark").

17. Upon information and belief, prior to adoption and use of the SLEEPING TIME Mark in the United States, Defendants had prior knowledge of Celestial's rights in and to the SLEEPYTIME Marks because Defendant Royal Tea sought to cancel a Mexican trademark registration owned by Celestial in Mexico for the mark SLEEPYTIME based upon Royal Tea's ownership of registrations for the marks consisting of or including the terms SLEEPING TIME in connection with teas in Mexico. Upon information and belief, Defendant Royal Tea, during the course of this proceeding in Mexico, obtained knowledge of the nature and extent of Celestial's rights in and to the SLEEPYTIME Marks in the United States.

18. Recently, Celestial discovered that Defendants are offering for sale and selling Defendants' Products bearing the SLEEPING TIME Mark over the Internet. Defendants have sold and shipped Defendants' Products bearing the SLEEPING TIME Mark into the State of

New York and the State of Arizona. Copies of the receipts evidencing such purchases in New York and Arizona, together with photographs of Defendants' Products bearing the SLEEPING TIME Mark, are attached hereto as Exhibits B and C, respectively.

19. Defendants' use of the SLEEPING TIME Mark constitutes infringement of Celestial's SLEEPYTIME Marks.

20. In addition to using a confusingly similar mark on goods that are identical in type to the SLEEPYTIME Products, Defendants' products travel in the same channels of trade as the SLEEPYTIME Products and are purchased by the same class of consumers.

21. As a result of Defendants' conduct, Celestial has suffered and will continue to suffer damages.

COUNT I

TRADEMARK INFRINGEMENT

22. Celestial repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

23. The use by Defendants of a mark that is confusingly similar to the SLEEPYTIME Marks on or in connection with the manufacture, sale, offering for sale and distribution of competing herbal teas and tea is not authorized by Celestial.

24. Defendants' acts constitute trademark infringement under 15 U.S.C. §1114.

25. Defendants' acts will cause a likelihood of confusion, deception of and mistake by buyers, the consuming public and the trade. Defendants' acts create a likelihood that a false and unfair association will be made between Defendants and their infringing products, and the SLEEPYTIME Products, so that buyers in the trade and the purchasing public are likely to believe that Defendants' products are produced or sponsored by Celestial.

26. Defendants' acts have been committed intentionally, maliciously, fraudulently, and willfully for the purposes of deceiving buyers and the purchasing public into purchasing Defendants' products based on the false belief that such merchandise is an authentic SLEEPYTIME Product, and with the specific intent to appropriate to Defendants and to employ for its own benefit the valuable goodwill and business reputation represented by the SLEEPYTIME Marks.

27. Defendants' acts have caused and, if allowed to continue, will continue to cause Celestial to suffer substantial irreparable damage and injury. Celestial has no adequate remedy at law.

28. As a result of the foregoing, Celestial has lost profits and Defendants have been unjustly enriched. In addition, Defendants' actions have been extraordinary, entitling Celestial to attorneys' fees and cost of suit, and to such other and further relief as the Court shall deem appropriate in the circumstances.

COUNT II

FEDERAL TRADEMARK DILUTION

29. Celestial repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

30. As a result of Celestial's long-term, continuous, and extensive use and promotion of its SLEEPYTIME Products bearing the SLEEPYTIME Marks for close to forty years, the SLEEPYTIME Marks are, and were prior to Defendants' misconduct alleged herein, distinctive and famous in the United States, enjoying substantial recognition, goodwill, and association with Celestial. The public distinguishes Celestial's SLEEPYTIME Products from those of others on

the basis of the SLEEPYTIME Marks. The SLEEPYTIME Marks have gained strong public recognition and are eligible for protection against dilution pursuant to 15 U.S.C. § 1125(c).

31. Defendants' use of the infringing SLEEPING TIME mark as alleged herein is likely to dilute the strength and value of the SLEEPYTIME Marks.

32. Defendants' conduct has eroded and will continue to erode the extent to which the SLEEPYTIME Marks are associated with Celestial, all to the commercial detriment of Celestial.

33. Defendants' use of the infringing SLEEPING TIME mark in the unfair and wrongful manner alleged herein is likely to tarnish and/or otherwise degrade the value of the SLEEPYTIME Marks, to the commercial detriment of Celestial.

34. Defendants' dilution of the distinctive quality of the SLEEPYTIME Marks has caused, and if not enjoined will continue to cause, irreparable harm to Celestial. Celestial therefore is entitled to injunctive relief.

35. Defendants' wrongful acts have been committed intentionally, maliciously, fraudulently, and willfully. Celestial is therefore entitled to an award of its reasonable attorneys' fees and costs, and treble its actual damages, pursuant to Section 35(a) of the Lanham Act, 15 U.S.C. § 1125(c) and 15 U.S.C. § 1117(a).

COUNT III

FEDERAL UNFAIR COMPETITION

36. Celestial repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

37. By the acts set forth above, Defendants have infringed and continue to infringe Celestial's rights regarding its SLEEPYTIME Marks, in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a). Defendants' conduct is likely to cause confusion, mistake and deception

among the general purchasing public, and interfere with Celestial's ability to use its SLEEPYTIME Marks to indicate a single quality-controlled source of goods and services.

38. Defendants' acts as alleged herein also constitute false designation of origin, unfair competition and false advertising in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a).

39. Celestial has suffered, is suffering, and will continue to suffer irreparable injury for which Celestial has no adequate remedy at law. Celestial is therefore entitled to a permanent injunction against Defendants' further infringing conduct.

40. Defendants have profited and are profiting from such infringement, and Celestial has been and is being damaged by such infringement. Celestial is therefore entitled to recover damages from Defendants in an amount to be proved at trial as a consequence of Defendants' infringing activities.

41. Defendants' aforesaid wrongful conduct has been willful, wanton and malicious, and done with an intent to deceive. Celestial is therefore entitled to an award of its reasonable attorneys' fees and costs, and treble its actual damages, pursuant to 15 U.S.C. § 1117(a).

COUNT IV

STATE AND COMMON LAW CLAIMS

42. Celestial repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

43. Defendants have unfairly competed with Celestial by infringing upon the SLEEPYTIME Marks and Celestial's exclusive right to use the same in the United States, in violation of the laws of the State of New York and the laws of any and all other states in which Defendants have advertised, offered for sale and/or sold its infringing products.

44. Celestial requests restitution or disgorgement of Defendants' profits in an amount to be shown at any trial of this action.

45. Celestial is further entitled to compensatory damages based on damage to its goodwill and business reputation that have been caused by Defendants' unfair and competitive acts.

PRAYER FOR RELIEF

WHEREFORE, Celestial respectfully demands judgment:

(1) That Defendants and their agents, servants, employees, attorneys, successors and assignees, and all persons in active concert or participation with any of them, be permanently enjoined and restrained from:

(a) Using in any manner the mark "SLEEPING TIME", the SLEEPYTIME Marks, the term SLEEPYTIME alone or in combination with any other words, or any other designation or mark confusingly similar to the SLEEPYTIME Marks, including, but not limited to, selling, offering for sale, displaying, promoting or advertising products in connection with the mark "SLEEPING TIME", the SLEEPYTIME Marks, the term SLEEPYTIME alone or in combination with any other words, or any other designation or mark confusingly similar to the SLEEPYTIME Marks;

(b) Passing off, inducing, or enabling others to sell or pass off any products that do not emanate from Celestial or that are not distributed under the control and supervision of Celestial and approved by Celestial for sale as products distributed by or with the approval of Celestial;

(c) Falsely advertising any products as emanating from Celestial that are not distributed under the control and supervision of Celestial and approved by Celestial for sale under the SLEEPYTIME Marks;

(d) Committing any act calculated to cause purchasers to falsely believe that Defendants' products are those sold or produced under the control and supervision of, or were sponsored, approved or connected with or guaranteed by, Celestial;

(e) Shipping, importing, delivering, distributing, returning, or otherwise disposing of in any manner products or inventory bearing the infringing SLEEPING TIME Mark;

(f) Further infringing the SLEEPYTIME Marks and damaging Celestial's goodwill and business reputation;

(g) Otherwise competing unfairly with Celestial in any manner; and

(h) Continuing to perform in any manner whatsoever any act deemed contrary to law by this Court.

(2) That Defendants be required to deliver up for destruction their entire inventory of infringing products.

(3) That Defendants be required immediately to deliver to Celestial for destruction any and all circulars, price lists, labels, signs, prints, packages, wrappers, receptacles, advertising matter, promotional and other material in their possession or control (i) bearing the infringing SLEEPING TIME mark, the SLEEPYTIME Marks or any confusingly similar marks, or the term SLEEPYTIME alone or in combination with any other words, or (ii) used in connection with the advertising, offering for sale, or sale of products not made by or under the authorization and control of Celestial.

(4) That Defendants be required to provide to Celestial a complete list of persons and entities from whom it purchased, and to whom it distributed and/or sold, products bearing the infringing SLEEPING TIME mark.

(5) That Defendants, within 30 days after service of judgment, with notice of entry thereof upon it, be required to file with the Court and serve upon Celestial a written report under oath setting forth in detail the manner in which they have complied with paragraphs 1 through 4 above.

(6) That Defendants be required to pay to Celestial, in accordance with 15 U.S.C. § 1117(b), such damages as Celestial has suffered in consequence of Defendants' infringement of the SLEEPYTIME Marks and from the above-described acts of misrepresentation, unfair competition, and unfair trade practices, including the following:

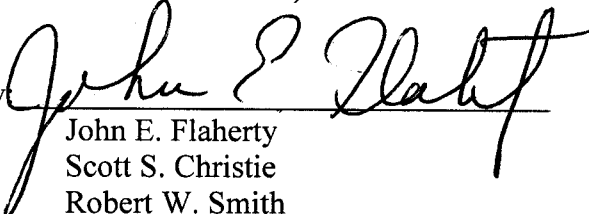
(a) Three times all gains and profits derived by Defendants from the above described acts of misrepresentation, trademark infringement, unfair competition, and unfair trade practices, or, in the alternative, three times Celestial's lost profits, whichever is greater; and

- (b) All costs and attorneys' fees incurred by Celestial in this action.
- (7) That Celestial have such other and further relief as the Court deems just and proper, including, but not limited to relief ordered under 15 U.S.C. § 1117.

JURY DEMAND

Plaintiff hereby demands a jury trial pursuant to Rule 38(b) of the Federal Rules of Civil Procedure for all issues so triable.

MCCARTER & ENGLISH, LLP

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Scott S. Christie
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Irene M. Hurtado

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Attorneys for Plaintiffs

Dated: May 24, 2011



Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-05-16 17:43:36 ET

Serial Number: 73037121 Assignment Information Trademark Document Retrieval

Registration Number: 1017548

Mark (words only): SLEEPYTIME

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2004-09-23

Filing Date: 1974-11-14

Transformed into a National Application: No

Registration Date: 1975-08-05

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2011-03-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CELESTIAL SEASONINGS, INC.

Address:

CELESTIAL SEASONINGS, INC.
4600 SLEEPYTIME DRIVE
BOULDER, CO 80301-329
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 030

Class Status: Active

HERB TEA

Basis: 1(a)

First Use Date: 1972-12-14

First Use in Commerce Date: 1972-12-14

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-03-18 - Case File In TICRS

2011-03-04 - Case File In TICRS

2004-09-23 - Second renewal 10 year

2004-09-23 - Section 8 (10-year) accepted/ Section 9 granted

2004-08-17 - Combined Section 8 (10-year)/Section 9 filed

2004-08-17 - TEAS Section 8 & 9 Received

2003-03-31 - TEAS Change Of Correspondence Received

2000-12-15 - Section 7 amendment issued

2000-10-23 - Response received for Post Registration action

2000-09-13 - Post Registration action mailed - Section 7

2000-04-03 - Section 7 amendment filed

1996-03-18 - First renewal 10 year

1995-11-24 - Response received for Post Registration action

1995-10-27 - Post Registration action mailed - Section 9

1995-08-02 - Section 9 filed/check record for Section 8

1992-01-04 - Counter claim opp. for Proceeding No.

1981-10-25 - Section 8 (6-year) accepted & Section 15 acknowledged

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
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Correspondent
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Fax Number: 973-624-7070

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-05-16 17:47:31 ET

Serial Number: 75615987 Assignment Information Trademark Document Retrieval

Registration Number: 2292906

Mark (words only): SLEEPYTIME EXTRA

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2009-11-18

Filing Date: 1999-01-05

Transformed into a National Application: No

Registration Date: 1999-11-16

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: (NOT AVAILABLE)

Date In Location: 2009-11-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Celestial Seasonings, Inc.

Address:

Celestial Seasonings, Inc.
4600 Sleepytime Drive
Boulder, CO 80301
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 030

Class Status: Active

Herb tea

Basis: 1(a)

First Use Date: 1998-12-01

First Use in Commerce Date: 1998-12-01

ADDITIONAL INFORMATION

Prior Registration Number(s):

1017548

2189164

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-11-18 - First renewal 10 year

2009-11-18 - Section 8 (10-year) accepted/ Section 9 granted

2009-11-16 - TEAS Section 8 & 9 Received

2006-06-15 - Case File In TICRS

2005-12-23 - Section 8 (6-year) accepted & Section 15 acknowledged

2005-11-11 - Section 8 (6-year) and Section 15 Filed

2005-11-11 - TEAS Section 8 & 15 Received

2003-03-31 - TEAS Change Of Correspondence Received

1999-11-16 - Registered - Principal Register

1999-08-24 - Published for opposition

1999-07-23 - Notice of publication

1999-04-28 - Approved for Pub - Principal Register (Initial exam)

1999-04-22 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

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Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-05-16 17:45:27 ET

Serial Number: 77441489 Assignment Information Trademark Document Retrieval

Registration Number: 3628370

Mark

SLEEPYTIME THROAT TAMER

(words only): SLEEPYTIME THROAT TAMER

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2009-05-26

Filing Date: 2008-04-07

Transformed into a National Application: No

Registration Date: 2009-05-26

Register: Principal

Law Office Assigned: LAW OFFICE 115

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-04-23

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Celestial Seasonings, Inc.

Address:
Celestial Seasonings, Inc.

4600 Sleepytime Drive
Boulder, CO 80301
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 005
Class Status: Active
Dietary supplements
Basis: 1(a)
First Use Date: 2009-01-31
First Use in Commerce Date: 2009-01-31

ADDITIONAL INFORMATION

Prior Registration Number(s):
1017548
2189164
2292906

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

- 2009-05-26 - Registered - Principal Register
- 2009-04-23 - Law Office Registration Review Completed
- 2009-04-22 - Allowed for Registration - Principal Register (SOU accepted)
- 2009-04-22 - Statement Of Use Processing Complete
- 2009-04-08 - Use Amendment Filed
- 2009-04-22 - Case Assigned To Intent To Use Paralegal
- 2009-04-08 - TEAS Statement of Use Received
- 2008-11-18 - NOA Mailed - SOU Required From Applicant
- 2008-08-26 - Published for opposition

2008-08-06 - Notice of publication
2008-07-22 - Law Office Publication Review Completed
2008-07-22 - Assigned To LIE
2008-07-22 - Approved For Pub - Principal Register
2008-07-22 - Examiner's Amendment Entered
2008-07-22 - Notification Of Examiners Amendment E-Mailed
2008-07-22 - Examiners amendment e-mailed
2008-07-22 - Examiners Amendment -Written
2008-07-18 - Assigned To Examiner
2008-04-11 - Notice Of Pseudo Mark Mailed
2008-04-10 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

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Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-05-16 17:44:35 ET

Serial Number: 77709332 Assignment Information Trademark Document Retrieval

Registration Number: 3698822

Mark

SLEEPYTIME THROAT TAMER

(words only): SLEEPYTIME THROAT TAMER

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2009-10-20

Filing Date: 2009-04-08

Transformed into a National Application: No

Registration Date: 2009-10-20

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-10-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Celestial Seasonings, Inc.

Address:
Celestial Seasonings, Inc.

4600 Sleepytime Drive
Boulder, CO 80301
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 030
Class Status: Active
Teas
Basis: 1(a)
First Use Date: 2009-01-31
First Use in Commerce Date: 2009-01-31

ADDITIONAL INFORMATION

Disclaimer: "THROAT"

Prior Registration Number(s):

1017548
2292906
3628370

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-10-20 - Registered - Principal Register
2009-08-04 - Published for opposition
2009-07-15 - Notice of publication
2009-06-29 - Law Office Publication Review Completed
2009-06-29 - Assigned To LIE
2009-06-22 - Approved for Pub - Principal Register (Initial exam)
2009-06-17 - Teas/Email Correspondence Entered
2009-06-17 - Communication received from applicant





Final Details for Order #002-0919787-5472267

Print this page for your records.

Order Placed: November 19, 2010
Amazon.com order number: 002-0919787-5472267
Order Total: \$19.25

Shipped on November 22, 2010

Items Ordered	Price
1 of: <i>Lagg's Tea Sleeping Time Tea, 30-Count Tea Bags (Pack of 6)</i>	\$12.37
Condition: New	
Sold by: Amazon.com, LLC	

Shipping Address:

SHIRLEY, NY 11967-1344
United States

Shipping Speed:
Standard Shipping

Item(s) Subtotal:	\$12.37
Shipping & Handling:	\$6.88

Total Before Tax:	\$19.25
Sales Tax:	\$0.00

Total for This Shipment: \$19.25

Payment Information

Payment Method:
American Express |

Billing Address:

port washington, ny 11050
United States

Item(s) Subtotal:	\$12.37
Shipping & Handling:	\$6.88

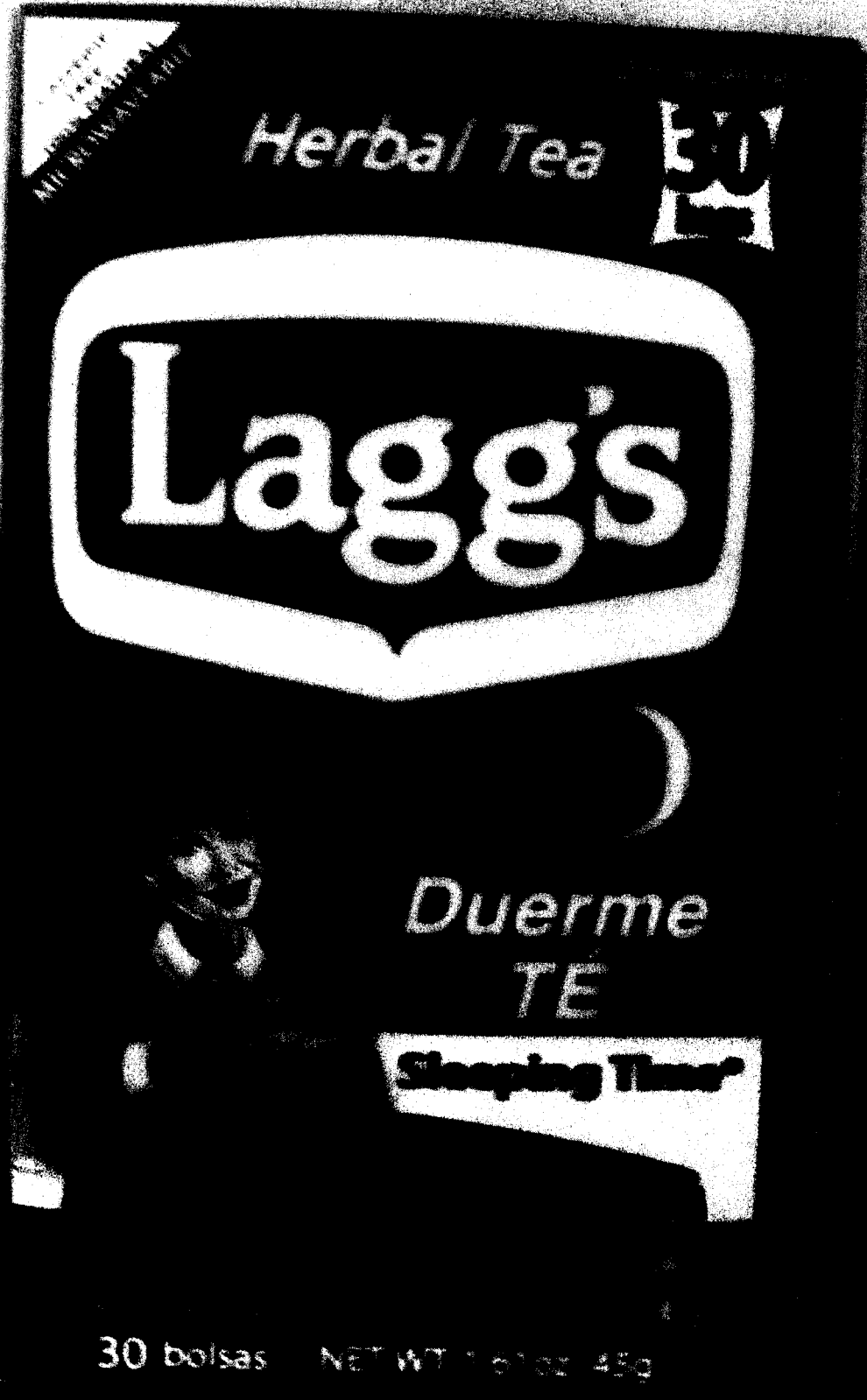
Total Before Tax:	\$19.25
Estimated Tax To Be Collected:	\$0.00

Grand Total: \$19.25

To view the status of your order, return to [Order Summary](#).

Please note: This is not a VAT invoice.

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1. ADDITIONAL
TEA BAGS
AVAILABLE
MICROWAVEABLE

Lagg's

30
bags

Herbal Tea
Sleeping Time

Duerme TÉ

NET WT. 1.01 oz (45g)

CAFFEINE
FREE
100% NATURAL

MICROWAVEABLE

NO SUGAR FREE

30
bags

Lagg's

Herbal Tea

Sleeping Time

Duerme TÉ





MODO DE PREPARACIÓN / DIRECTIONS

TE CALIENTE: Hierva la cantidad de agua necesaria para las tazas que va a preparar. Por cada taza que se vaya a servir use una bolsita de **Te Laggs's** y déjela reposar de 3 a 5 minutos. Para utilizarla en horno de microondas coloque una bolsita de **Te Laggs's** en una taza con agua e introdúzcala al horno a una temperatura alta (high) por 90 segundos. Agite la bolsita por 15 segundos dentro del agua. Para obtener un sabor más concentrado, deje la bolsita reposar por más tiempo. Si desea agregar azúcar o su endulzante preferido.

TE HELADO: Siga las mismas instrucciones que para el **Te Caliente** y mantenga la bolsita en el agua el doble de tiempo para que la infusión sea mayor. Aquece hielo al gusto y si desea añadir **1/2** litro.

HOT TEA: Pour boiling water over tea bag and let it sit for 3-5 minutes. Use one **Laggs's Tea Bag** per cup. For microwave heating, set it on high for 90 seconds. Dip bag up and down for 15 seconds. For a stronger flavor dip the bag in a stronger liquid if time. Add sugar or sweetener if desired.

ICE TEA: Pour one quart of boiling water over 2 of tea bags and let it sit for 10 minutes. Include a teaspoon of citrus concentrate. Pour over ice and serve. Add sugar or sweetener if desired.

Distributed in the U.S.A. by:



© T. Imperial Company

Herbal Tea

Houston, TX 77080

Sleeping Time

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AMERICAN EXPRESS # *****2000
Lane # 05 Checker # 102
11/10/10 11:45 Ref # 148761963

LAGGS CHAMOMILE			
1 @ 2 FOR	3.00	1.50	*
LAGGS HIBISCUS			
1 @ 2 FOR	3.00	1.50	*
LAGGS PEPPERMINT			
1 @ 2 FOR	3.00	1.50	*
LAGGS SLEEPING TEA			
1 @ 2 FOR	3.00	1.50	*

BALANCE DUE 6.12
American Express 6.12

[S] *****2000
Auth # 508956 Ref # 1487 963
CHANGE

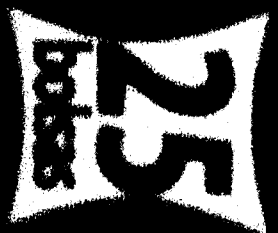
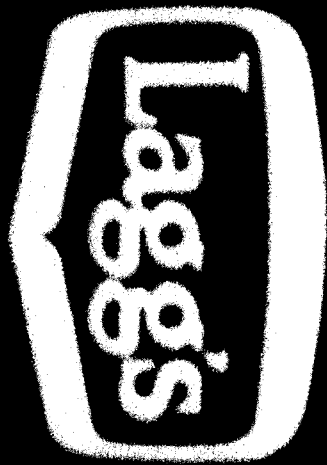
SUB TOTAL 6.00
TOTAL TAX 0.12
TOTAL 6.12

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S00103 R005

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Herbal Tea Sleeping Time



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FREE
100% NATURAL
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Laggs'sTM

Té

25
bolsas

Sleeping Time[®]

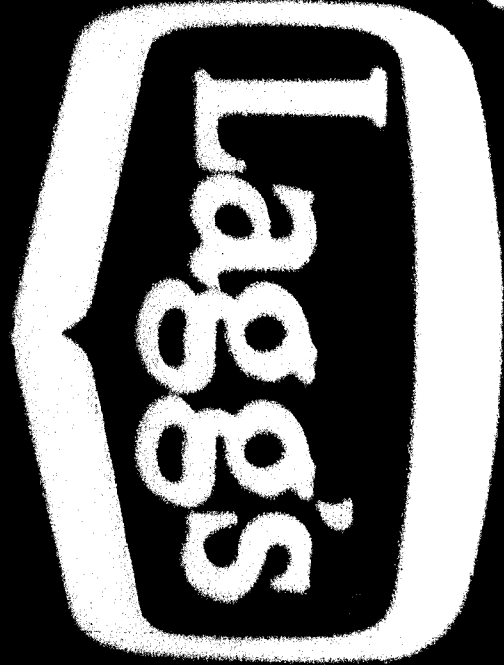
Sleeping Time[®] Tea

Contenido 25 bolsas (1 bolsa 1,5g)

TM
Sleeping Time®

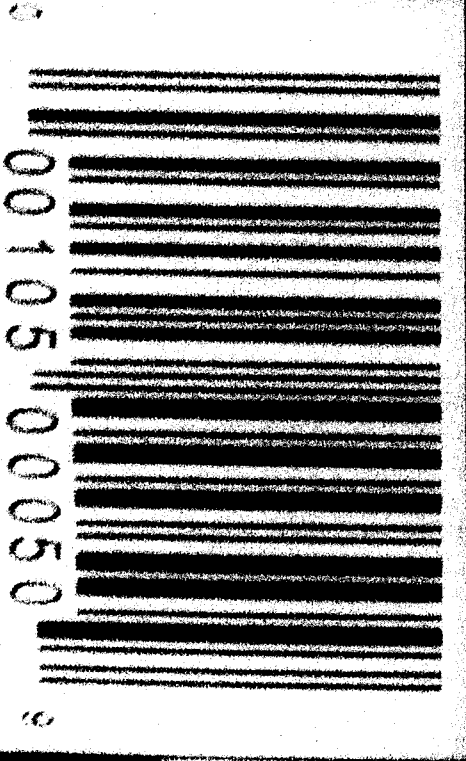
Sleeping Time

Herbal Tea



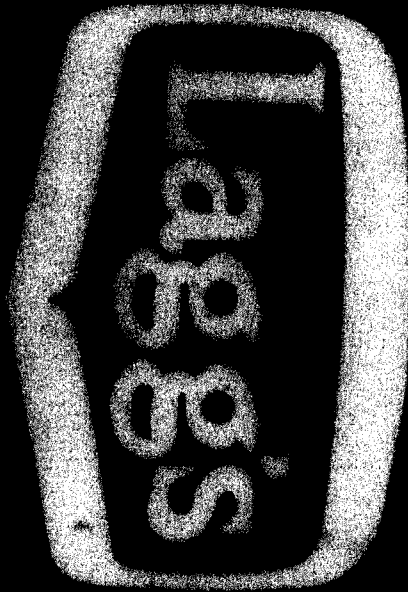
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bags



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JS 44 (Rev. 12/07)

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

I. (a) PLAINTIFFS

The Hain Celestial Group, Inc. and Celestial Seasonings, Inc.

(b) County of Residence of First Listed Plaintiff Suffolk
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

John E. Flaherty, McCarter & English, LLP, Four Gateway Center, 100 Mulberry Street, Newark, NJ 07102 - (973) 622-4444

DEFENDANTS

Royal Tea S.A. de C.V., Corporacion Lagg's, Inc., Montjuik Brands Mexico, S.A. de C.V., T. Imperial Company and Lagg's Tea, LLC
County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

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

(Attorney (If Known))

CV 11 - 2504

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 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)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| 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"/> 5 |
| 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 |

IRIZARRY, J. AZRACK, M.J.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROBATE RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL PROCEEDINGS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) OTHER FEDERAL LAWS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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(a), 1125(c)

Brief description of cause:
Trademark infringement, dilution, false designation of origin 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 5/24/11

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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 of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Provide a brief explanation of why the cases are related.

Date and Attorney Signature. Date and sign the civil cover sheet.

ARBITRATION CERTIFICATION

I, John E. Flaherty, counsel for Plaintiffs do hereby certify pursuant to the Local Arbitration Rule 83.10 that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of \$150,000 exclusive of interest and costs. Relief other than monetary damages is sought.

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (SECTION VIII)

All cases that are arguably related pursuant to Division of Business Rule 50.3.1 should be listed in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No

2.) If you answered "no" above:

a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No

b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

Please provide your E-MAIL address and bar code below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court. (This information must be provided pursuant to local rule 11.1(b) of the civil rules).

Attorney Bar Code: _____

E-MAIL Address: Jflaherty@mccarter.com

Electronic filing procedures were adopted by the Court in Administrative Order No. 97-12, "In re: Electronic Filing Procedures (ECF)." Electronic filing became mandatory in Administrative Order 2004-08, "In re: Electronic Case Filing." Electronic service of all papers is now routine.

I certify the accuracy of all information provided above.

Signature: John E. Flaherty