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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 MARIO LAVANDEIRA, dba PEREZ )  
HILTON, an individual, )  
12 Plaintiff, )

13 v. )

14 INFUSE, LLC, a New Jersey Limited Liability )  
Company d/b/a www.perezrevenge.com; )  
15 MARGIE E. ROGERS; ELIZABETH )  
16 SILVER-FAGAN aka ELIZABETH SILVER; )  
and DOES 1 through 25, inclusive, )  
17 Defendants. )

CASE NO.:

COMPLAINT AND JURY DEMAND FOR:

1. Federal Unfair Competition and False Designation of Origin;
2. Federal Dilution;
3. Violation of the Anti-Cybersquatting Consumer Protection Act;
4. Dilution under § 14330 of the California Business and Professions Code; and
5. Unfair Competition and Deceptive Trade Practices under § 17200 of the California Business and Professions Code

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20 Plaintiff Mario Lavandeira, dba Perez Hilton ("Lavandeira"), an individual, hereby alleges as  
21 follows:

22 **INTRODUCTION**

23 1. Defendants have set out on a campaign to mislead the public in an attempt to  
24 financially profit from their malicious and intentional infringement of Lavandeira's trademarks,  
25 "Perez Hilton" and "Perez." While Lavandeira has no issue with legal competition, he will not  
26 tolerate defendants' intentional and blatant attempt to unfairly profit from the time and energy he has  
27 invested to develop those marks.



1 who resides in the State of California. Upon information and belief, Rogers is the co-creator and  
2 editor of www.perezrevenge.com, and is responsible for that website's content, including the  
3 infringing material. Upon information and belief, Rogers posts infringing content onto  
4 www.perezrevenge.com from the State of California. Upon information and belief, at all relevant  
5 times herein, Rogers dominated and controlled Infuse. Upon information and belief, Rogers is, and  
6 at all relevant times herein was, Infuse's alter ego.

7 9. Upon information and belief, defendant Elizabeth Silver-Fagan aka Elizabeth Fagan  
8 ("Silver-Fagan") is an individual who resides in the State of New Jersey. Upon information and  
9 belief, Silver-Fagan is the co-creator and publisher of www.perezrevenge.com, and is responsible for  
10 that website's content, including the infringing material. Upon information and belief, at all relevant  
11 times herein, Rogers dominated and controlled Infuse. Upon information and belief, Silver-Fagan is,  
12 and at all relevant times herein was, Infuse's alter ego.

13 10. The true names and capacities, whether individual, corporate, associate or  
14 otherwise of the defendants named herein as DOES 1 through 25, inclusive, are unknown to  
15 Lavandeira who therefore sues said defendants by such fictitious names. Lavandeira alleges on  
16 information and belief that each of the defendants, including those designated as a DOE, are  
17 responsible for the events alleged herein and the damages caused thereby as a principal, agent, co-  
18 conspirator or aider and abettor. Lavandeira will seek leave of this Court to amend this Complaint to  
19 allege the true names and capacities of such defendants when the same have been ascertained.

20 11. Lavandeira alleges on information and belief that defendants, at all times relative to  
21 this action, were the agents, servants, partners, joint venturers and employees of each of the other  
22 defendants and, in doing the acts alleged herein, were acting with the knowledge and consent of each  
23 of the other defendants in this action.

24  
25 **FACTS APPLICABLE TO ALL CAUSES OF ACTION**

26 12. Lavandeira is an internet celebrity gossip "blogger" and the owner of  
27 a commercial web log or "blog" found on the Internet at www.perezhilton.com (the "Website"),  
28 which he writes under the pseudonym Perez Hilton. Celebrities are the focus of his blog, and when

1 the sometimes newsworthy events of their lives unfold, the content of his site transforms gossip into  
2 journalism. Lavandeira has developed a successful business posting photos of celebrities,  
3 transforming them visually, and commenting on them using his own brand of humor.

4 13. Lavandeira generates considerable income by selling advertising space on the Website  
5 to advertisers.

6 14. Lavandeira and the Websites' enormous popularity has developed through word of  
7 mouth, extensive media coverage, and Lavandeira's marketing efforts. Lavandeira and/or the  
8 Website have been featured in magazines, newspapers, internet websites, and popular television  
9 shows.

10 15. Since approximately 2005, Lavandeira has used "Perez Hilton," and derivations of  
11 "Perez Hilton," including but not limited to, "Perez," to identify his goods and services to the  
12 consumer public. In particular, Lavandeira uses "Perez Hilton" and "Perez" to identify himself, his  
13 famous Website and its content.

14 16. Lavandeira is the sole owner of certain inherently distinctive trademarks related for  
15 goods and services related to Lavandeira and the Website, including the name "Perez Hilton,"  
16 "Perez," "Perez TV, and "Perez Music." This includes prominent and distinctive artwork stating  
17 "Welcome to PEREZHILTON.COM" that Lavandeira uses throughout the Website, including the  
18 Website's homepage. These trademarks are collectively referred to hereafter as the "Perez Hilton  
19 Marks."

20 17. As a result of Lavandeira's enormous commercial success, the Perez Hilton Marks  
21 have acquired considerable value and have become associated by the consuming public with  
22 Lavandeira and the Website. The public uses the Perez Hilton Marks to identify Lavandeira as the  
23 source of his goods and services.

24 18. Defendants own, manage, and/or maintain the competing commercial website and the  
25 domain name, www.perezrevenge.com (the "Infringing Website").

26 19. Like Lavandeira's Website, the Infringing Website is an entertainment news and  
27 celebrity gossip web log. The Infringing Website is in direct competition with the Website.

28 20. Defendants describe the Infringing Website as featuring "Celebrity news and

1 information as well as the only blog news site with a Perez twist.” The “About Us” section of  
2 Infringing Website states that it “[i]s a site where you can find the latest news and information about  
3 your favorite celebrities.”

4 21. The Infringing Website in an interactive website that contains entertainment and  
5 celebrity news articles, photographs, videos, and blog postings.

6 22. The Infringing Website also features advertisements that are directed towards the  
7 Infringing Website’s visitors, in particular California consumers.

8 23. Upon information and belief, defendants generate income by selling advertising space  
9 on the Infringing Website to advertisers.

10 24. Upon information and belief, defendants intentionally included “Perez” in the  
11 Infringing Website’s domain name, the Infringing Website’s metatags, and to identify the Infringing  
12 Website in order to trade on the fame and good will associated with the Perez Hilton Marks.

13 25. Upon information and belief, defendants have attempted to capitalize off Lavandeira  
14 and the Websites’ commercial success, and the good will and fame associated with the Perez Hilton  
15 Marks, by attempting to confuse the consumer public into believing that the Infringing Website is  
16 affiliated with, sponsored or endorsed by Lavandeira.

17 26. Without authorization or license from Lavandeira, Defendants have used the Perez  
18 Hilton Marks and/or derivations of the Perez Hilton Marks, in this District and, upon information  
19 and belief, throughout the United States, to identify the Infringing Website.

20 27. In particular, the Infringing Website’s domain name contains the Perez Hilton Marks.  
21 Upon information and belief, the Infringing Website’s metatags contain the Perez Hilton Marks.  
22 Moreover, the Infringing Website contains prominent artwork and trade dress that is identical to, and  
23 a direct copy of the artwork found on the Website’s homepage. More specifically, Defendants have  
24 counterfeited the Website’s artwork which contains the phrase “Welcome to PEREZ.”

25 28. As a result of Defendants’ conduct, Lavandeira has suffered irreparable harm to the  
26 extent he has: (a) lost the right to control the commercial and trade use of the Perez Hilton Marks;  
27 (b) lost earnings from potential advertising sales and (c) suffered damage to his reputation and  
28 goodwill.

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**COUNT I**

**Federal Unfair Competition and False Designation of Origin**

**(15 U.S.C. §1125 (a))**

29. Lavandeira repeats and re-alleges paragraphs 1 through 28 of this Complaint as if fully set forth herein.

30. Defendants' use of the Perez Hilton Marks in connection with the Infringing Website misrepresents and falsely suggests to the general public the origin and source of the Infringing Website and creates a likelihood of confusion by consumers as to the source, sponsorship and endorsement of that website.

31. Defendants' unlawful and unauthorized use of the Perez Hilton Marks on or in connection with the Lavandeira's creates the express and implied misrepresentations that Defendants' Infringing Website is authorized, endorsed or approved by Lavandeira.

32. Defendants' conduct as described above is done willfully with knowledge of and/or grossly reckless disregard for Lavandeira's rights.

33. Defendants' aforesaid acts violate Lavandeira's rights under Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a)(1), in that defendants' willful and intentional use of the Perez Hilton Marks on the Infringing Website, creates a false designation of origin, false or misleading description of fact, and/or false or misleading representation of fact likely to cause confusion or deceive the consuming public as to the origin, sponsorship, and/or approval of the Infringing Website.

34. Lavandeira has no adequate remedy at law and, if defendants' conduct is not enjoined, will continue to suffer irreparable harm and injury to its goodwill and reputation.

**COUNT II**

**Federal Dilution**

**(15 U.S.C. §1125(c))**

35. Lavandeira repeats and re-alleges paragraphs 1 through 34 of this Complaint as if fully set forth herein.



1 by Lavandeira.

2 46. Defendants' aforesaid acts are in knowing and willful violation of Lavandeira's rights  
3 under the Anticybersquatting Consumer Protection Act, 15 U.S.C. §1125(d).

4 47. Lavandeira has no adequate remedy at law and, if defendants' activities are not  
5 enjoined, will continue to suffer irreparable harm and injury to its goodwill and reputation.

6  
7 **COUNT IV**

8 **CALIFORNIA DILUTION**

9 **(California Business and Professions Code § 14330)**

10 48. Lavandeira repeats and re-alleges paragraphs 1 through 47 of this Complaint as if  
11 fully set forth herein.

12 49. The Perez Hilton Marks are strong, distinctive and famous within the meaning of  
13 California Business and Professions Code § 14330.

14 50. Defendants' use of the Perez Hilton Marks has caused a likelihood of dilution and has  
15 whittled away at Lavandeira's ability to use the famous Perez Hilton Marks to identify only  
16 Lavandeira's goods and services, and has diluted the distinctive quality of Lavandeira's famous  
17 Perez Hilton Marks by blurring and by tarnishment in violation in violation of California Business  
18 and Professions Code § 14330.

19 51. Defendants' use of the Perez Hilton Marks on or in connection with the Infringing  
20 Website was done with notice and full knowledge that such use was not authorized or licensed by  
21 Lavandeira.

22 52. Defendants' aforesaid acts are in knowing and willful violation of Lavandeira's rights  
23 under California Business and Professions Code § 14330.

24 53. Lavandeira has no adequate remedy at law and, if defendants' activities are not  
25 enjoined, will continue to suffer irreparable harm and injury to its goodwill and reputation.

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**COUNT V**

**CALIFORNIA UNFAIR COMPETITION AND DECEPTIVE TRADE PRACTICES**  
**(California Business and Professions Code § 17200 et seq.)**

54. Lavandeira repeats and re-alleges paragraphs 1 through 53 of this Complaint as if fully set forth herein.

55. As a result of defendants' unauthorized use of the Perez Hilton Marks, defendants have caused, and are likely to continue to cause, confusion or mistake, and to deceive the public, in violation of the common law of the State of California and California Business and Professions Code § 17200 et seq.

56. As a result of defendants' conduct, Lavandeira has suffered irreparable harm to the extent he has: (a) lost the right to control the commercial and trade use of the Perez Hilton Marks; (b) lost earnings from potential advertising sales and (c) suffered damage to his reputation and goodwill.

57. Defendants are likely to mislead the public as to the affiliation, connection, or association of defendants and the Infringing Website with Lavandeira and his Website, or as to the origin, sponsorship, or approval of defendants' Infringing Website and commercial activities by Lavandeira, causing the public to rely thereon, in violation of the common law of the State of California and California Business and Professions Code § 17200 et seq.

58. By reason of defendants' conduct, Lavandeira has suffered and will continue to suffer damage and injury to his business, reputation and goodwill, and defendants have been and will continue to be unjustly enriched.

WHEREFORE, Lavandeira prays for judgment in his favor against defendants, and each of them, as follows:

a. Issue a judgment temporarily, preliminarily, and permanently restraining, enjoining, and prohibiting defendants, their agents, servants, employees, officers, successors and assigns, and all persons, firms and corporations acting in concert or participation with defendants or on defendants' behalf, from:

1 (i) using the domain name perezrevenge.com to designate any internet website that  
2 contains entertainment and celebrity news and gossip;

3 (ii) using the term “Perez” to designate any platform, medium, and/or website that  
4 contains entertainment and celebrity new and gossip;

5 (iii) posting content, distributing, importing, exporting, advertising, promoting, selling  
6 offering for sale, and/or in anyway using any mark, term, name, symbol, artwork, or device in the United  
7 States that is identical or confusingly similar to the Perez Hilton Marks, for any platform, medium,  
8 and/or website that contains entertainment and celebrity new and gossip, and committing any act that  
9 is likely to cause confusion, mistake, or deception. *See* 15 U.S.C. § 1116.

10 (iv) representing that defendants’ good or services, including but not limited internet  
11 websites, originate from, are licensed, endorsed or authorized by, or is otherwise associated with  
12 Lavandeira; and

13 (v) otherwise using the Perez Hilton Marks or any reproduction, counterfeit, copy or  
14 colorable imitation thereof, in any manner likely to cause confusion as to the source, origin, sponsorship  
15 or affiliation of defendants, defendants’ goods or services, or any commercial internet website owned  
16 and maintained by defendants.

17 b. That this Court require defendant Infuse to assign its perezrevenge.com domain name and  
18 any other domain name that includes the term “Perez” to Lavandeira.

19 c. Award Lavandeira damages in an amount to be determined but equal to treble the greater  
20 of defendants' profits or Lavandeira's actual damages, or in the alternative statutory damages, plus  
21 pre-judgment and post-judgment interest, costs and attorneys' fees, pursuant to Lavandeira's claims for  
22 unfair competition, trademark dilution, and cybersquatting under the Lanham Act, 15 U.S.C. §1117;

23 d. Award Lavandeira damages pursuant to California’s dilution law in an amount equal to  
24 the greater of Lavandeira’s actual damages or defendants' profits resulting from the use of the Perez  
25 Hilton Marks; and

26 e. Award Lavandeira punitive or exemplary damages for defendants' knowing, willful and  
27 intentional violation of Lavandeira’s rights under California’s dilution and unfair competition law; and

28 f. Issue an order pursuant to section 36 of the Lanham Act, 15 U.S.C. §1118, requiring the


1 delivery and destruction of any goods, labels, signs, prints, packages, wrappers, receptacles, and  
2 advertisements in defendants' possession bearing Lavandeira's federally registered trademarks, or any  
3 reproduction, counterfeit, copy or colorable imitation thereof, and all plates, molds, matrices, and other  
4 means for making same; and

5 g. Grant Lavandeira such other and further relief as this Court deems to be reasonable,  
6 necessary and just.

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Dated: July 21, 2008

FREEDMAN & TAITELMAN, LLP

By:   
Bryan J. Freedman, Esq.  
Attorneys for Plaintiff Mario Lavandeira, dba  
Perez Hilton