

damages, treble damages, profits, attorney's fees and costs.

THE PARTIES

3. HUSA is a corporation organized and existing under the laws of New York.
4. Logotel is a corporation organized and existing under the laws of California. Logotel may be served through its registered agent, Joseph Radovsky, Four Embarcadero Center, Suite 4000, San Francisco, CA 94111.

JURISDICTION AND VENUE

5. This Court has original jurisdiction over this action pursuant to Ind. Code § 33-28-1-2 and Ind. Code § 33-33-29-7.
6. Logotel has submitted to this Court's jurisdiction by doing business in the state of Indiana.
7. The exercise of personal jurisdiction over Logotel by this Court is consistent with the federal Due Process Clause.
8. Venue properly lies in this Court because a substantial part of the events giving rise to the claims alleged herein arose in Hamilton County, Indiana.

GENERAL ALLEGATIONS AS TO HEINEKEN

HUSA's Trademark Rights

9. HUSA and Heineken Brouwerijen B.V. ("HBBV") are members of the Heineken Group and affiliated subsidiaries of the parent corporation, Heineken N.V. The Heineken Group ("Heineken") owns and manages one of the world's leading portfolios of beer brands. Relative to this business, HBBV has registered with the United States Patent and Trademark Office multiple word and image trademarks. These registrations are active and unrevoked, and constitute *prima facie* evidence of Heineken's ownership of the

marks. These trademarks are collectively referred to herein as the "Heineken trademarks" or the "Heineken marks."

10. HUSA is the sole importer of Heineken products in the United States and bears the responsibility for all sales, marketing and promotional activities for Heineken in the United States. As the sole importer in the United States, HUSA is the exclusive licensee for use of the Heineken marks in this territory.
11. HBBV, as owner of the Heineken marks, has assigned to HUSA the right to enforce the Heineken marks within the United States, including the right to file actions related to infringement of the marks.
12. The Heineken trademarks are distinctive and famous.
13. HUSA maintains strict control over the quality and nature of its products and items bearing the Heineken trademarks in the United States.
14. HUSA has invested considerable time and money in advertising the Heineken trademarks throughout Indiana and the country. As a result of extensive worldwide advertising, the Heineken marks are immediately recognizable.
15. HUSA has acquired substantial goodwill among consumers in the United States.
16. As a result of such goodwill and immediate recognition, and as a result of extensive advertising, the Heineken trademarks have become highly valuable.

Logotel's Infringement of HUSA's Rights

17. Subsequent to Heineken's development, use and the registration of the Heineken trademarks, Logotel began using the Heineken marks or confusingly similar variations of the marks.
18. Specifically, Logotel has manufactured, produced, advertised and/or sold T-shirts bearing

a replication of the Heineken label. [See attached, Exhibit A]

19. Logotel has not received permission from HUSA, or anyone acting on Heineken's behalf, to manufacture, produce, advertise or sell any item bearing the Heineken trademarks.
20. By manufacturing, producing, advertising and/or selling items bearing the Heineken marks without permission, Logotel has attempted to profit from and capitalize on the trademark rights and substantial goodwill developed by Heineken and HUSA.
21. Logotel has willfully and intentionally manufactured, produced, advertised and/or sold products bearing the Heineken trademarks with knowledge that the Heineken marks are federally registered trademarks owned by Heineken.
22. Logotel manufactured, produced, advertised and/or sold items bearing the Heineken marks with knowledge that Logotel's use of the Heineken trademarks was unauthorized.
23. The manufacture, production, advertisement, and/or sale of items bearing the Heineken trademarks created a likelihood of consumer confusion.
24. Logotel used the Heineken marks with the intent to confuse and/or deceive consumers.

COUNT I

FEDERAL TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114

25. HUSA incorporates herein by reference the allegations contained in all previous paragraphs of this Complaint.
26. Logotel has used in commerce, and in connection with the sale of goods, a reproduction, counterfeit, copy or colorable imitation of the Heineken trademarks.
27. Logotel has reproduced, counterfeited, copied or imitated the Heineken marks and applied the marks to labels, signs, prints, packages, receptacles or advertisements intended to be used in commerce.
28. Logotel's use of the Heineken trademarks creates the likelihood of confusion, mistake

and/or deception among consumers.

29. Logotel willfully infringed upon the rights of HUSA. Logotel intended to confuse, mistake or deceive consumers.
30. Logotel used the reproductions of the Heineken trademarks with knowledge that the marks were copies and/or counterfeits.
31. Consumers were initially interested and lured to the infringing items by the similarity to the Heineken marks.
32. As a result of Logotel's infringement, HUSA has suffered irreparable harm to valuable Heineken trademarks. Unless Logotel is permanently enjoined from further infringement, HUSA will continue to suffer irreparable harm.
33. A permanent injunction is necessary to prevent Logotel from further interference with HUSA's rights.
34. As a result of Logotel's infringement under 15 U.S.C. § 1114, HUSA has been injured and is entitled to damages, including but not limited to, Logotel's profits from the sale of all infringing goods, actual damages, treble damages, statutory damages, costs of suit and attorney's fees.

COUNT II
TRADEMARK DILUTION UNDER 15 U.S.C. § 1125(c)

35. HUSA incorporates by reference the allegations contained in all previous paragraphs of this Complaint.
36. The Heineken trademarks are the product of creativity and imagination.
37. The Heineken trademarks are distinctive and famous.
38. Logotel adopted the Heineken trademarks after the marks became famous.
39. Logotel's use of the Heineken trademarks caused dilution of the marks.

40. Logotel's use of the Heineken trademarks is commercial and in commerce.
41. Logotel's use of the Heineken trademarks has weakened the unique association of the marks with Heineken, as owner of the marks.
42. As a result of Logotel's dilution under 15 U.S.C. § 1125(c), HUSA has suffered irreparable harm to valuable Heineken trademarks. Unless Logotel is permanently enjoined from further dilution, HUSA will continue to suffer irreparable harm.
43. A permanent injunction is necessary to prevent Logotel from further interference with HUSA's rights.
44. Logotel's dilution of the Heineken marks has caused HUSA damages, including, but not limited to, Logotel's profits from the sale of all infringing goods, actual damages, treble damages, statutory damages, costs of suit and attorney's fees.

COUNT III
FALSE DESIGNATION OF ORIGIN OR SPONSORSHIP,
FALSE ADVERTISING AND
TRADE DRESS INFRINGEMENT UNDER 15 U.S.C. § 1125(a)

45. HUSA incorporates by reference the allegations contained in all previous paragraphs of this Complaint.
46. Logotel used the Heineken trademarks in commerce and in connection with the sale of goods or services.
47. Logotel's use of the Heineken marks is likely to cause confusion or mistake and/or is likely to deceive consumers as to the affiliation, connection or association of Logotel with HUSA; or as to the origin, sponsorship, or approval of Logotel's goods by HUSA.
48. Logotel's conduct constitutes false or misleading descriptions, false advertising, and false designations of the origin and/or sponsorship of Logotel's goods and constitutes trade dress infringement in violation of § 43(a) of the Lanham Act, as amended, 15 U.S.C. §

1125(a).

49. As a result of Logotel's conduct, HUSA has suffered irreparable harm to valuable Heineken trademarks. Unless Logotel is permanently enjoined from further false designations, false advertisement and trade dress infringement, HUSA will continue to suffer irreparable harm.
50. A permanent injunction is necessary to prevent Logotel from further interference with HUSA's rights.
51. Logotel's violations of 15 U.S.C. §1125(a) has caused HUSA to incur damages, including, but not limited to, Logotel's profits from the sale of all infringing goods, actual damages, treble damages, statutory damages, costs of suit and attorney's fees.

COUNT IV
COMMON LAW TRADEMARK INFRINGEMENT

52. HUSA incorporates by reference the allegations contained in all previous paragraphs of this Complaint.
53. HUSA was the first to use the Heineken trademarks or any marks similar thereto in association with the sale of any product or service. As a result of the continued sale by Heineken, the marks have become internationally known and Heineken has become identified in the public mind as the manufacturer and/or licensor of the products and services to which the Heineken trademarks are applied.
54. HUSA has acquired a reputation among consumers in the United States for quality and excellence, and the Heineken trademarks have come to symbolize that reputation.
55. Logotel, with knowledge of and with intentional disregard for the rights of Heineken and HUSA, manufactured, produced, advertised and/or sold items using the Heineken marks or confusingly similar imitations thereof.

56. Logotel's use of the Heineken marks has created the likelihood of confusion among consumers.
57. Logotel's acts constitute trademark infringement and willful infringement under the common law.
58. As a result of Logotel's conduct, HUSA has suffered irreparable harm to valuable Heineken trademarks. Unless Logotel is permanently enjoined from further infringement, HUSA will continue to suffer irreparable harm.
59. A permanent injunction is necessary to prevent Logotel from further interference with HUSA's rights.
60. As a result of Logotel's infringement, HUSA has suffered damages, including, but not limited to, Logotel's profits from the sale of all infringing goods, actual damages, treble damages, statutory damages, costs of suit and attorney's fees.

COUNT V
UNFAIR COMPETITION

61. HUSA incorporates by reference the allegations contained in all previous paragraphs of this Complaint.
62. Logotel's unlawful and unauthorized use of the Heineken trademarks constitutes unfair competition with HUSA.
63. Logotel's conduct creates consumer confusion as to the source and/or origin of the infringing items.
64. Logotel's use of the Heineken trademarks is an attempt to interfere with HUSA's business relationship with its consumers and to trade on HUSA's goodwill.
65. As a result of Logotel's conduct, HUSA has suffered irreparable harm to valuable Heineken trademarks. Unless Logotel is permanently enjoined from further unfair

competition, HUSA will continue to suffer irreparable harm.

66. A permanent injunction is necessary to prevent Logotel from further interference with HUSA's rights.

67. Logotel's unfair competition has caused HUSA to incur damages, including but not limited to, Logotel's profits from the sale of the infringing products, actual damages, costs of suit and attorney's fees.

COUNT VI
CONVERSION UNDER IND. CODE § 35-43-4-3

68. HUSA incorporates by reference the allegations contained in all previous paragraphs of this Complaint.

69. Logotel knowingly or intentionally exerted unauthorized control over the property of HUSA.

70. Logotel sold items bearing HUSA intellectual property without HUSA's consent and in a manner or to an extent other than that to which HUSA had consented.

71. Logotel knowingly or intentionally exerted unauthorized control over the goodwill developed by HUSA.

72. As a result of Logotel's conversion, HUSA was damaged and seeks an award of actual damages, treble damages, costs and attorney's fees pursuant to the Indiana Crime Victim's Act, Ind. Code § 34-24-3-1.

COUNT VII
FORGERY UNDER IND. CODE § 35-43-5-2(b)

73. HUSA incorporates by reference the allegations contained in the previous paragraphs of this Complaint.

74. Logotel, with the intent to defraud, made, uttered, and/or possessed a written instrument

in such a manner that it purports to have been made by HUSA.

75. HUSA did not give Logotel the authority to make or possess the infringing items.
76. As a result of Logotel's forgery, HUSA was damaged and seeks an award of actual damages, treble damages, costs and attorney's fees pursuant to the Indiana Crime Victim's Act, Ind. Code § 34-24-3-1.

COUNT VIII
COUNTERFEITING UNDER IND. CODE § 35-43-5-2(a)

77. HUSA incorporates herein by reference the allegations contained in all previous paragraphs of this Complaint.
78. Logotel knowingly or intentionally made and/or uttered a written instrument in such a manner that it purports to have been made by HUSA.
79. HUSA did not give Logotel the authority to make or utter the infringing items.
80. As a result of Logotel's counterfeiting, HUSA was damaged and seeks an award of actual damages, treble damages, costs and attorney's fees pursuant to the Indiana Crime Victim's Act, Ind. Code § 34-24-3-1.

COUNT IX
DECEPTION UNDER IND. CODE § 35-43-5-3

81. HUSA incorporates herein by reference the allegations contained in all previous paragraphs of this Complaint.
82. Logotel knowingly or intentionally made a false or misleading written statement with the intent to obtain property.
83. Logotel, with the intent to defraud, misrepresented the identity or quality of property.
84. As a result of Logotel's deception, HUSA was damaged and seeks an award of actual damages, treble damages, costs and attorney's fees pursuant to the Indiana Crime

Victim's Act, Ind. Code § 34-24-3-1.

COUNT X
CLAIM FOR CORRECTIVE ADVERTISING DAMAGES

85. HUSA incorporates herein by reference the allegations contained in all previous paragraphs of this Complaint.
86. Logotel has damaged HUSA, through its advertising, HUSA's goodwill and reputation, or has otherwise caused misinformation in the marketplace as to the origin, source or sponsorship of Logotel's products.
87. HUSA seeks those damages arising from this advertising injury, including but not necessarily limited to monies sufficient to compensate for the damage to HUSA's goodwill and/or the cost for correcting the misinformation in the marketplace.

PRAYER FOR RELIEF

WHEREFORE, HUSA prays for relief against the Logotel as follows:

- a. That Logotel, its officers, partners, agents, servants, affiliates, employees, attorneys, and representatives, and all those in privity or acting in consent or participation with Logotel, and each and all of them, be permanently enjoined from:
- (i) Imitating, copying, reproducing, or using, in any manner, the Heineken trademarks, or any other mark confusingly similar to the Heineken trademarks;
 - (ii) Committing any act that dilutes or is likely to dilute the distinctiveness of the Heineken trademarks;
 - (iii) Committing any act that is likely to create the impression that Logotel's business or products are in any way sponsored by, approved of or

otherwise affiliated or connected with HUSA;

- (iv) Importing, manufacturing, producing, distributing, circulating, selling, offering for sale, advertising, promoting or displaying any product or service using any simulation, reproduction, counterfeit, copy or imitation of any Heineken trademark or trade dress; and
- (v) instructing, assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (i) through (iv) above.

b. That Logotel be required to:

- (i) Deliver to HUSA for destruction all goods and materials bearing Heineken trademarks which Logotel has in its possession;
- (ii) Recall and deliver to HUSA for destruction all goods and materials bearing the Heineken trademarks that have been previously distributed or sold;
- (iii) Pay compensatory damages to HUSA in an amount to be determined at trial for the injuries HUSA has sustained as a consequence of the acts complained of;
- (iv) Pay HUSA treble damages, or alternatively, Logotel's profits trebled, whichever is greater;
- (v) Pay all of HUSA's litigation expenses, including reasonable attorneys' fees and costs of this action;
- (vi) Pay interest to HUSA, including pre-judgment interest on the foregoing sums; and

(vii) File with this Court and serve on HUSA an affidavit setting forth in detail the manner and form of Logotel's compliance with the terms of this Court's orders.

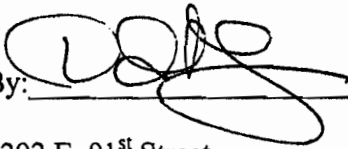
c. That HUSA be awarded such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

HUSA hereby respectfully requests a trial by jury in this cause, and for all other relief just and proper in the premises.

Respectfully submitted,

Darlene R. Seymour
Attorney # 23133-49

By:  _____

1292 E. 91st Street
Indianapolis, IN 46240



EXHIBIT
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