

FILED

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

6 Attorneys for Plaintiff
The Biodegradable Products Institute

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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 **THE BIODEGRADABLE PRODUCTS**
12 **INSTITUTE, a Delaware corporation,**

13 Plaintiff,

14
15 v.

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17
18 **BRANDON LE, an individual;**
19 **STANLEY WELLS, an individual; VAN**
20 **LE, an individual; and DOES 1-10,**
inclusive,

21 Defendants.
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Case No. **CV08-03661**

FMC
VBK

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR:**

- 26 (1) **FEDERAL TRADEMARK
INFRINGEMENT [LANHAM
ACT § 32(1)]**
- 27 (2) **FEDERAL COUNTERFEITING
[LANHAM ACT § 32(1) AND
34(d)(1)(B)]**
- 28 (3) **TRADEMARK INFRINGEMENT
UNDER STATE LAW [CAL.
BUS. & PROF. CODE § 14320]**
- (4) **TRADEMARK INFRINGEMENT
[STATE LAW]**
- (5) **UNFAIR COMPETITION
[STATE LAW]**

DEMAND FOR JURY TRIAL

EISENBERG RAIZMAN THURSTON & WONG LLP
10880 Wilshire Blvd, Eleventh Floor
Los Angeles, California 90024

1 Plaintiff The Biodegradable Products Institute, by and through its undersigned
2 attorneys, for its complaint against defendants Brandon Le, Stanley Wells and Van
3 Le, alleges as follows:

4 **NATURE OF ACTION**

5 1. This is an action for trademark infringement, counterfeiting, unfair
6 competition and other relief arising under the trademark laws of the United States,
7 specifically 15 U.S.C. § 1051 *et seq.* (the "Lanham Act"), and the statutes and
8 common law of the State of California.

9 **PLAINTIFF**

10 2. Plaintiff The Biodegradable Products Institute ("BPI") is a corporation
11 organized and existing under the laws of Delaware with its principal place of
12 business located at 331 West 57th Street, Suite 415, New York, New York 10019.

13 3. BPI is an association comprised of individuals and groups from the
14 government, industry and academia that promotes the use and recycling of
15 biodegradable polymeric materials. One of BPI's key programs is an international
16 labeling program. Ever since the introduction of "biodegradable plastics" fifteen
17 years ago, there has been confusion and skepticism about biodegradable products,
18 primarily as a result of plastic products that did not actually biodegrade as expected.
19 BPI's labeling program is designed to address that confusion by building credibility
20 and recognition for products bearing BPI's "Compostable" trademark (the
21 "Compostable Mark"). BPI-certified products compost quickly, completely and
22 safely without leaving any plastic residues. BPI's strict testing standards ensure that
23 only truly biodegradable products are certified as BPI-approved and only BPI-
24 approved products, which are processed through BPI's application and testing
25 procedure, are licensed to use BPI's well-recognized Compostable Mark.

26 **DEFENDANTS**

27 4. According to the Internet website <http://ecovisionalt.com>, Defendant
28 Brandon Le is the Chief Executive Officer of Eco Vision Alternatives, LLC

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1 (“EcoVision”). According to the EcoVision website, Defendant Stanley Wells is the
2 Regional Marketing Director of EcoVision, and Defendant Van Le is the Chief
3 Operating Officer of EcoVision. However, upon information and belief, BPI alleges
4 that EcoVision does not exist as a legal entity, and is merely a fictitious business
5 name for its principals, Brandon Le, Stanley Wells and Van Le. Accordingly, such
6 individual principals are personally liable for conduct and business performed under
7 the EcoVision name. Brandon Le, Stanley Wells and Van Le are collectively
8 referred to herein as “Defendants”.

9 5. The EcoVision website indicates that it is based in Burlingame,
10 California, but the California Secretary of State’s website does not show it as a
11 company registered in California. A computerized search of business name filings
12 nationwide does not reveal any record of a business called EcoVision Alternatives
13 LLC associated with the individual Defendants.

14 6. Upon information and belief, Defendants, using the EcoVision name,
15 are conducting a business that purports to sell certified biodegradable plastic bags,
16 plates, cups, utensils and food containers. Upon information and belief, Defendants
17 have advertised, promoted, distributed and/or sold food containers and bags in the
18 United States, and particularly in this judicial district, that infringe on BPI’s
19 Compostable Mark.

20 7. The true names and capacities, whether individual, corporate, partner,
21 associate, agent, employee, or otherwise, of the defendants named in this complaint
22 as Does 1 through 10, inclusive, are unknown to BPI, which therefore sues such
23 defendants by such fictitious names. BPI will amend this complaint to show the true
24 names and capacities of the Doe defendants when it has ascertained the same. BPI is
25 informed and believes and on that basis alleges that at all relevant times Does 1
26 through 10, inclusive, are responsible in some manner for the conduct herein alleged
27 and proximately caused BPI’s damages. BPI is informed and believes and on that
28 basis alleges that at all relevant times Does 1 through 10, inclusive, and each of

1 them, were the agents of, and/or were acting in concert with, each of the remaining
2 Defendants and, in doing the things alleged, were acting within the scope of such
3 agency. Any reference to any of the named defendants herein shall also constitute a
4 reference to the Doe defendants, inclusive.

5 **JURISDICTION AND VENUE**

6 8. This Court has subject matter jurisdiction over this action pursuant to
7 28 U.S.C. §§ 1331 and 1338 because BPI's claims arise under the trademark laws of
8 the United States. This Court also has supplemental jurisdiction pursuant to 28
9 U.S.C. §§ 1338(b) and 1367 over BPI's claims that arise under the laws of the State
10 of California.

11 9. This Court has personal jurisdiction over Defendants because they
12 transacts business in the State of California.

13 10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391
14 because a substantial part of the acts complained of herein occurred in this judicial
15 district and each party is subject to personal jurisdiction in this judicial district.

16 **BPI'S TRADEMARK**

17 11. BPI's distinctive and famous Compostable Mark is the cornerstone of
18 its international labeling program. BPI has been using the Compostable Mark in
19 commerce since 2001, and it was registered with the United States Patent and
20 Trademark Office in 2003 for use on polymeric products such as plastic bags,
21 utensils and takeout food containers. The Compostable Mark, as presented in BPI's
22 U.S. Trademark Registration No. 2783960 is shown below:



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1 BPI-certified products have been using the Compostable Mark for approximately
2 seven years. During this period, BPI has committed substantial time, effort and
3 money to developing a widely respected reputation as a leader in environmentally
4 friendly plastics certification. BPI has a high profile among consumers,
5 manufacturers, distributors, and municipal and industrial composters and it
6 continuously works to educate the public about the benefits and availability of
7 biodegradable products. It works closely with other organizations to further the use
8 and recovery of biodegradable materials, and it has also devoted a significant
9 amount of time and money to researching and harmonizing the standards applied to
10 biodegradable products. BPI-certified products bear the well-known and easily
11 recognized Compostable Mark, and BPI-certified products are sold both nationally
12 and internationally.

13 **THE STRENGTH OF**
14 **BPI'S COMPOSTABLE MARK**

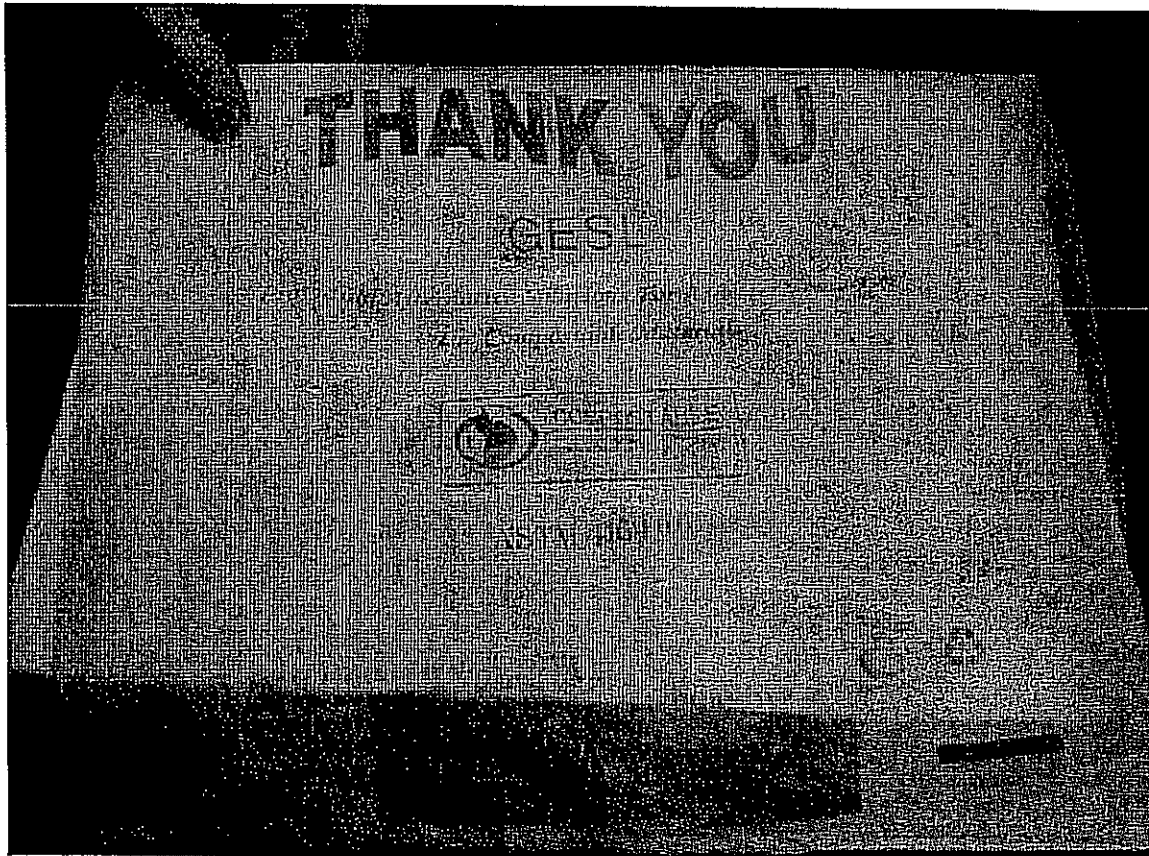
15 12. Since at least as early as 2001, BPI has been continuously and
16 exclusively certifying products that meet its stringent testing standards as BPI-
17 approved. BPI-approved products are the only products licensed to use BPI's
18 Compostable Mark. Through BPI's extensive promotion of the Compostable Mark,
19 consumers, merchants, composters, government officials and waste haulers have
20 come to easily recognize that products bearing the Compostable Mark are certified
21 by BPI and therefore will biodegrade quickly and safely when composted in a well-
22 run composting facility. Virtually all BPI-certified products consistently and
23 prominently display the Compostable Mark.

24 13. For approximately seven years, BPI has widely advertised and
25 promoted the Compostable Mark. BPI promotes the Compostable Mark through
26 advertising in trade publications, speaking engagements, its website, and other
27 educational and promotional activities. In addition, numerous newspapers and
28 magazines have covered BPI and its Compostable Mark. As a result, BPI has built a

1 valuable reputation and substantial goodwill, and BPI-certified products bearing the
2 Compostable Mark have achieved a high level of commercial success.

3 **DEFENDANTS' INFRINGEMENT**

4 14. Defendants have recently begun to advertise, promote, distribute and/or
5 sell plastic bags throughout the United States, including within the State of
6 California, that prominently display an identical copy of the Compostable Mark (the
7 "Infringing Bags"). However, Defendants have never applied to BPI's labeling
8 program and the Infringing Bags are not BPI-certified. An example of the
9 Infringing Bags, with BPI's Compostable Mark prominently displayed in the middle
10 of the bag, is shown below:



25 15. Moreover, the EcoVision website, <http://ecovisionalt.com>, falsely
26 represents that its products are BPI-certified. The "Environment" page of the
27 EcoVision website prominently states that its food service items (food containers,
28 plates, cups and utensils) are "BPI Certified (Biodegradable Products Institute)." A

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1 true and correct copy of the "Environment" page from the EcoVision website is
2 attached hereto as Exhibit A.

3 16. Defendants have engaged in intentional infringement and counterfeiting
4 of BPI's registered mark by placing BPI's Compostable Mark on their Infringing
5 Bags, when in fact, BPI has not certified those bags or licensed Defendants to use
6 the Compostable Mark.

7 17. Defendants' sale of the Infringing Bags is likely to cause confusion,
8 mistake and deception among consumers such that purchasers of the Infringing Bags
9 are likely to be confused as to the existence of an association, connection or
10 relationship between BPI and Defendants.

11 18. Defendants have acted with full knowledge of BPI's prior ownership
12 and use of the registered Compostable Mark, and without BPI's authorization and
13 consent. Upon information and belief, EcoVision Alternatives, LLC is a new name
14 for a business previously known as Biosphere Alternatives, LLC ("Biosphere").
15 Brandon Le was the Chief Executive Officer of Biosphere and Van Le was
16 Biosphere's Chief Operating Officer. In January 2008, *[need to confirm date]* BPI
17 became aware that Biosphere was making false statements and wrongfully using
18 BPI's name on its website and in its advertising materials. In particular, Biosphere's
19 website and advertising materials claimed that certain of its products were approved
20 by BPI. However, those claims were false as BPI had never approved or certified
21 any of Biosphere's products. BPI's Executive Director, Steven Mojo, contacted
22 Brandon Le and demanded that Biosphere immediately stop using BPI's name and
23 falsely representing that BPI had certified its products. Although Mr. Le agreed to
24 comply with Mr. Mojo's demands, Biosphere continued to make its false statements.
25 As a result, BPI's attorneys sent Mr. Le a cease and desist letter in February 2008.
26 Mr. Le again agreed to comply with BPI's demands and removed the false
27 statements from Biosphere's website. However, it appears that Mr. Le and the other
28 Defendants are now continuing with this course of wrongful conduct under the

1 EcoVision business name. Indeed, Defendants' conduct is even more egregious
2 because instead of merely using BPI's name, they are now using a counterfeit copy
3 of BPI's registered trademark.

4 19. Defendants have acted willfully, in bad faith and with the intent to
5 confuse and mislead the public and unfairly trade on the substantial and valuable
6 goodwill encompassed in BPI's Compostable Mark to capitalize on BPI's highly
7 respected reputation as a leader in environmentally friendly plastics certification.

8 20. BPI is in need of injunctive relief to bring an end to the irreparable
9 harm caused by Defendants' sale of the Infringing Bags. Without an injunction,
10 Defendants will undoubtedly continue to sell the Infringing Bags and cause
11 additional confusion in the marketplace.

12 **FIRST CLAIM FOR RELIEF**

13 **FEDERAL TRADEMARK INFRINGEMENT**

14 21. BPI repeats and realleges each and every allegation contained in
15 paragraphs 1-20 of the complaint as though fully set forth herein.

16 22. By the acts and omissions set forth above, Defendants have infringed
17 and continue to infringe BPI's rights regarding BPI's federal trademark registration,
18 in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114(1)(a). Defendants'
19 conduct is likely to cause confusion, mistake and deception among the general
20 purchasing public, and interfere with BPI's ability to use its mark to indicate a line
21 of products that meet certain stringent standards and have been certified by BPI.

22 23. BPI has suffered, is suffering, and will continue to suffer irreparable
23 injury for which BPI has no adequate remedy at law. BPI is therefore entitled to a
24 preliminary and permanent injunction against further infringing conduct by
25 Defendants.

26 24. Defendants have profited and are profiting from such infringement and
27 BPI has been and is being damaged by such infringement. BPI is therefore entitled
28

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1 to recover damages from Defendants in an amount to be proved at trial as a
2 consequence of Defendants' infringing activities.

3 25. Defendants' aforesaid infringing conduct has been willful, wanton and
4 malicious and done with an intent to deceive. BPI is therefore entitled to an award
5 of its reasonable attorneys' fees and costs, and treble its actual damages, pursuant to
6 15 U.S.C. § 1117(a). BPI is also entitled to, among other things, the cost of
7 corrective advertising.

8 **SECOND CLAIM FOR RELIEF**

9 **COUNTERFEITING UNDER FEDERAL LAW**

10 26. BPI repeats and realleges each and every allegation contained in
11 paragraphs 1-25 of the complaint as though fully set forth herein.

12 27. By the acts and omissions set forth above, Defendants have infringed
13 and continue to infringe BPI's rights regarding BPI's federal trademark registration,
14 in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114(1)(b). Defendants
15 have counterfeited BPI's mark by using an identical reproduction of the
16 Compostable Mark on their products. Such conduct is likely to cause confusion,
17 mistake and deception among the general public.

18 28. BPI has suffered, is suffering, and will continue to suffer irreparable
19 injury for which BPI has no adequate remedy at law. BPI is therefore entitled to a
20 preliminary and permanent injunction against further counterfeiting by Defendants.

21 29. Defendants have profited and are profiting from such counterfeiting
22 and BPI has been and is being damaged by such counterfeiting. BPI is therefore
23 entitled to recover damages from Defendants in an amount to be proved at trial as a
24 consequence of Defendants' infringing activities. Alternatively, BPI is entitled to
25 recover statutory damages pursuant to 15 U.S.C. § 1117(c) in the minimum amount
26 of \$1,000,000.

27 30. Defendants' aforesaid infringing conduct has been willful, wanton and
28 malicious and done with an intent to deceive. BPI is therefore entitled to an award

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1 of its reasonable attorneys' fees and costs, and treble its actual damages, pursuant to
2 15 U.S.C. § 1117(b). BPI is also entitled to, among other things, the cost of
3 corrective advertising.

4 **THIRD CLAIM FOR RELIEF**

5 **TRADEMARK INFRINGEMENT UNDER STATE LAW**

6 **[CALIFORNIA BUS. & PROF. CODE § 14320]**

7 31. BPI repeats and realleges each and every allegation contained in
8 paragraphs 1-30 of the complaint as though fully set forth herein.

9 32. By the acts and omissions set forth above, Defendants have infringed
10 and continue to infringe BPI's rights regarding BPI's federal trademark
11 registrations, in violation of California Business and Professions Code §§ 14320 and
12 14330. Defendants' conduct is likely to cause confusion, mistake and deception
13 among the general purchasing public, and interfere with BPI's ability to use its mark
14 indicate a line of products that meet certain stringent standards.

15 33. BPI has suffered, is suffering, and will continue to suffer irreparable
16 injury for which BPI has no adequate remedy at law. BPI is therefore entitled to a
17 preliminary and permanent injunction against further infringing conduct by
18 Defendants.

19 **FOURTH CLAIM FOR RELIEF**

20 **TRADEMARK INFRINGEMENT UNDER STATE LAW**

21 **[CALIFORNIA COMMON LAW]**

22 34. BPI repeats and realleges each and every allegation contained in
23 paragraph 1-33 of the complaint as though fully set forth herein.

24 35. Defendants have, without authorization from BPI, used the
25 Compostable Mark to advertise, distribute, sell and offer to sell plastic bags and
26 other products such as utensils, cups and food containers.

27 36. Defendants' acts as alleged herein are likely to cause confusion,
28 mistake, and deception to consumers as to the affiliation, connection, or association

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1 of Defendants' products with BPI, and as to sponsorship or approval of Defendants'
2 goods by BPI.

3 37. Defendants' unauthorized acts constitute direct infringements of BPI
4 federal trademarks in violation of California common law.

5 38. On information and belief, Defendants' conduct is intentional,
6 malicious, and wanton in that Defendants infringed and continue to infringe BPI's
7 federal trademark (i) with full knowledge that BPI owns and has the exclusive right
8 to use its federal trademark and (ii) with the intention of causing a likelihood of
9 confusion and mistake and to deceive. Further, Defendants had notice from BPI to
10 cease their infringing activities.

11 39. BPI has suffered, is suffering, and will continue to suffer irreparable
12 injury for which BPI has no adequate remedy at law. BPI is therefore entitled to a
13 preliminary and permanent injunction against further infringing conduct by
14 Defendants.

15 **FIFTH CLAIM FOR RELIEF**

16 **UNFAIR COMPETITION UNDER STATE LAW**

17 **[CALIFORNIA BUS. & PROF. CODE §17200 and §17203]**

18 40. BPI repeats and realleges each and every allegation contained in
19 paragraphs 1-39 of the complaint as though fully set forth herein.

20 41. The Compostable Mark is wholly associated with BPI due to its
21 extensive use therefore, and as such, BPI is deserving of having its mark adequately
22 protected with respect to the conduct of its business.

23 42. Defendants' wrongful conduct as alleged herein constitutes unfair
24 competition and unfair business practices.

25 43. Based on the wrongful, unlawful, fraudulent and unfair acts described
26 herein, Defendants are in violation of California Business and Professions Code
27 Sections 17200 and 17203.

28

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1 44. BPI has suffered, is suffering, and will continue to suffer irreparable
2 harm and injury for which BPI has no adequate remedy at law. BPI is therefore
3 entitled to a preliminary and permanent injunction against further unfair conduct by
4 Defendants.

5 45. Defendants have profited, and are profiting, from such unfair conduct.

6 46. BPI is therefore entitled to recover restitution in the form of
7 Defendants' profits, in an amount to be proved at trial, as a consequence of
8 Defendants' wrongful activities.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, BPI prays for judgment that:

11 1. Brandon Le, Stanley Wells, and Van Le and their agents, servants,
12 distributors, affiliates, employees, attorneys and representatives, and all those in
13 privity or acting in concert with them, or on their behalf, be preliminarily and
14 permanently enjoined and restrained from, directly or indirectly:

15 a. Using the Compostable Mark, or any other mark similar thereto,
16 alone or in combination with other words, names, styles, titles, designs
17 or marks in connection with the manufacture, distribution, sale,
18 advertising, marketing and promotion of any plastic bags, plates,
19 utensils, cups and food containers;

20 b. Using in any other way any other mark or designation so similar
21 to the Compostable Mark as to be likely to cause confusion, mistake or
22 deception;

23 c. Falsely designating the sponsorship or affiliation of their
24 products;

25 d. Continuing to perform in any manner whatsoever any of the acts
26 complained of in this complaint.

27 2. Brandon Le, Stanley Wells, and Van Le be ordered to pay to BPI the
28 compensatory damages sustained by BPI in consequence of the unlawful acts

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1 alleged herein, and that such damages be trebled pursuant to 15 U.S.C. § 1117
2 because of the willful and unlawful acts as alleged herein. Alternatively, Brandon
3 Le, Stanley Wells, and Van Le be ordered to pay to BPI statutory damages pursuant
4 to 15 U.S.C. 1117(c) in the minimum amount of \$1,000,000.

5 3. Brandon Le, Stanley Wells, and Van Le be ordered to pay BPI punitive
6 damages as a consequence of the willful and wanton acts alleged herein.

7 4. Brandon Le, Stanley Wells, and Van Le be required to account for and
8 pay over to BPI all gains, profits and advantages derived by them from the unlawful
9 activities alleged herein, and/or as a result of unjust enrichment.

10 5. Brandon Le, Stanley Wells, and Van Le be required to deliver up for
11 destruction all products, including but no limited to all plastic bags, plates, utensils,
12 cups and food containers, signs, advertisements, shopping bags, packaging,
13 brochures, promotional materials, labels, stickers and any other written materials
14 that bear the aforesaid infringing Compostable Mark, or that bear any statement
15 indicating approval or certification from BPI, together with all plates, molds,
16 matrices and other means and materials for making or reproducing the same.

17 6. Brandon Le, Stanley Wells, and Van Le be required to pay to BPI all of
18 their litigation expenses, including but not limited to reasonable attorney's fees and
19 the costs of this action.

20 7. Brandon Le, Stanley Wells, and Van Le pay BPI' costs of corrective
21 advertising.

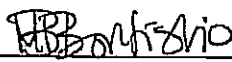
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1 8. BPI be awarded such other and further relief as the Court may deem
2 just and proper.

3 Dated: June 4, 2008

Respectfully submitted,

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5 **EISENBERG RAIZMAN THURSTON & WONG LLP**
6 Adam J. Thurston
7 Melissa B. Bonfiglio

8
9 By: 

10 Melissa B. Bonfiglio
11 Attorneys for Plaintiff
12 The Biodegradable Products Institute
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DEMAND FOR JURY TRIAL

As provided by Rule 38(a) of the Federal Rules of Civil Procedure and by Rule 38-1 of the Local Rules of the United States District Court for the Central District of California, The Biodegradable Products Institute hereby demands a trial by jury for all issues so triable.

Dated: June 4, 2008

Respectfully submitted,

EISENBERG RAIZMAN THURSTON & WONG LLP
Adam J. Thurston
Melissa B. Bonfiglio

By: Melissa B. Bonfiglio
Melissa B. Bonfiglio
Attorneys for Plaintiff
The Biodegradable Products Institute

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HOME ENVIRONMENT PRODUCTS ABOUT CONTACT

Protecting Our Environment

Every day, new reports remind us that we need to take action to protect our environment. At EcoVision Alternatives, we're passionate about staying abreast of the issues, and we believe we can change the world by creating awareness.

So browse some of these facts and reports to see why we believe in offering alternatives that enable each of us to use renewable resources and to decrease our impact on land, air, and water.



EcoVision Service I'

Corn-starch products ar

100% biode

Compostabl yard waste,

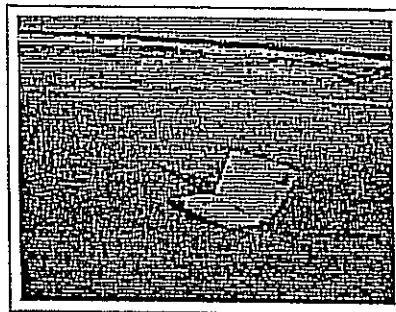
FDA approv

BPI certifiec

Quick Facts

Polystyrene Foam

- Billions of polystyrene foam (Styrofoam) foodware containers enter our landfills each year.
- Polystyrene foam is made from oil, a non-renewable, non-biodegradable, and non-recyclable resource.
- Styrofoam containers end up in landfills, waterways, and oceans.
- Medical studies suggest that chemicals in



polystyrene foam can cause cancer and they can leach into food and drinks.

Plastic Bags

- The US consumes over 380 billion plastic bags, sacks, and wraps each year, according to the US Environmental Protection Agency.
- About 500 billion to 1 trillion plastic bags are consumed worldwide each year.
- In 100 years, a plastic bag will still be intact in a landfill.
- Hundreds of thousands of sea turtles, whales, and other marine mammals die each year from eating discarded plastic bags that they mistake for food.
- Plastic bags are among the 12 items of debris most often found in coastal clean-ups, according to the Center for Marine Conservation.



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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Florence-Marie Cooper and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

CV08- 3661 FMC (VBKx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====:

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

ORIGINAL

AO 440 (Rev. 8/01) Summons in a Civil Action

United States District Court

Central District of California

THE BIODEGRADABLE PRODUCTS INSTITUTE, a
Delaware corporation

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

BRANDON LE, an individual; STANLEY WELLS, an
individual; VAN LE, an individual; and DOES
1-10, inclusive

CV08-03661 FMC

VBK

TO: (Name and address of Defendant)

BRANDON LE, 433 Airport Blvd., Suite 318, Burlingame, CA 94010;
STANLEY WELLS, 433 Airport Blvd., Suite 318, Burlingame, CA 94010;
VAN LE, 433 Airport Blvd., Suite 318, Burlingame, CA 94010; and DOES 1-10,
inclusive.

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Adam J. Thurston (SBN 162636)
Melissa Bonfiglio (SBN 223172)
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Los Angeles, California 90024
Phone: (310) 445-4400 Fax: (310) 445-4410
Email: athurston@ertwllp.com; mbonfiglio@ertwllp.com

an answer to the complaint which is served on you with this summons, within twenty (20) days after
service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken
against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be
filed with the Clerk of this Court within a reasonable period of time after service.

SHERRI R. CARTER

JUN - 4 2008

CLERK

DATE

Natalie Gongora

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾

DATE

NAME OF SERVER (PRINT)

TITLE

Check one box below to indicate appropriate method of service

Served personally upon the defendant. Place where served: _____

Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____

Returned unexecuted: _____

Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself)
THE BIODEGRADABLE PRODUCTS INSTITUTE, a
 Delaware corporation

(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases):

(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
 Adam J. Thurston (SBN 162636)
 Melissa Bonfiglio (SBN 223172)
 EISENBERG RAIZMAN THURSTON & WONG LLP
 10880 Wilshire Blvd., Suite 1101
 Los Angeles, CA 90024
 Phone (310) 445-4400 Fax (310) 445-4410

DEFENDANTS
 BRANDON LE, an individual; STANLEY WELLS, an individual; VAN LE, an individual; and DOES 1-10, inclusive

County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only):

II. BASIS OF JURISDICTION (Place an X in one box only.)

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

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)

Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <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

IV. 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 Multi-District Litigation 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT: \$ 1,000,000.00**

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

VII. NATURE OF SUIT (Place an X in one box only.)

<p>OTHER STATUTES</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commercial/CC Rates/etc</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 880 Other Statutory Actions</p> <p><input type="checkbox"/> 881 Agricultural Act</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Info. Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>	<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p> <p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Fed. Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury-Med Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury-Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p>	<p>TORTS</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p> <p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 444 Welfare</p> <p><input type="checkbox"/> 445 American with Disabilities - Employment</p> <p><input type="checkbox"/> 446 American with Disabilities - Other</p> <p><input type="checkbox"/> 440 Other Civil Rights</p>	<p>PRISONER PETITIONS</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus/Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. & Truck</p> <p><input type="checkbox"/> 650 Airline Regs</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 680 Other</p>	<p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt. Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 780 Other Labor Litig.</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p> <p>PROPER RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input checked="" type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DWW (405(g))</p> <p><input type="checkbox"/> 884 SSID Title XVI</p> <p><input type="checkbox"/> 885 RSI (406(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS - Third Party 28 USC 7609</p>
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VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? No Yes

If yes, list case number(s):

FOR OFFICE USE ONLY: Case Number: _____

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which EACH named plaintiff resides (Use an additional sheet if necessary)

Check here if the U.S. government, its agencies or employees is a named plaintiff.

New York

List the California County, or State if other than California, in which EACH named defendant resides. (Use an additional sheet if necessary).

Check here if the U.S. government, its agencies or employees is a named defendant.

Upon information and belief, all defendants reside in San Mateo County

List the California County, or State if other than California, in which EACH claim arose. (Use an additional sheet if necessary)

Note: In land condemnation cases, use the location of the tract of land involved.

Los Angeles, California

X. SIGNATURE OF ATTORNEY (OR PRO PER): Melissa Bonfiglio Date June 4, 2008

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))