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6 INC., a California corporation

7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

9
10 FLUMGIO TECHNOLOGY, INC., a
California corporation;

11 Plaintiff,

12 vs.

13 LA CARBONELLA WHOLESALE,
14 a California corporation; M MUTAZ
15 AL AYOUN ALDABBAGH, an
16 individual, and DOES 1 through 10,
inclusive.

17 Defendants.
18
19
20
21

Case No.

Assigned to Hon. Judge
Courtroom:

COMPLAINT FOR DAMAGES:

1. **FEDERAL TRADEMARK
INFRINGEMENT UNDER 15
U.S.C. §§ 1114;**
2. **FEDERAL UNFAIR
COMPETITION AND FALSE
ADVERTISING UNDER 15 U.S.C. §
1125(a);**
3. **COMMON LAW
TRADEMARK INFRINGEMENT;
and**
4. **UNFAIR COMPETITION AND
FALSE ADVERTISING UNDER
CAL. BUS. & PROF. CODE §§
17200 AND 17500, ET SEQ.**

JURY TRIAL DEMANDED

22 Plaintiff FLUMGIO TECHNOLOGY, INC., a California corporation, for
23 causes of action against named Defendants LA CARBONELLA WHOLESALE., a
24 California corporation and M MUTAZ AL AYOUN ALDABBAGH, an individual
25 (collectively “DEFENDANTS”), complain and allege as follows:

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27 //

28 //

THE PARTIES

1
2 1. Plaintiff FLUMGIO TECHNOLOGY, INC. (“PLAINTIFF” and/or
3 “FLUMGIO”) is a California corporation, located at 14748 Nelson Ave., Unit C,
4 City of Industry, CA 91744.

5 2. Defendant LA CARBONELLA WHOLESALE (“LCW”) is a California
6 corporation, with its principal place of business located at 10605 Lawson River
7 Ave., Fountain Valley, CA 92708.

8 3. PLAINTIFF is informed and believes, and thereon alleges, that
9 Defendant M MUTAZ AL AYOUN ALDABBAGH (“ALDABBAGH”) is at
10 various times mentioned herein is an officer, director or agent of Defendant LCW
11 and a resident of the County of Orange.

12 4. Hereafter, LCW and ALDABBAGH may at times collectively be
13 referred as DEFENDANTS.

14 5. The true names and capacities, whether individual, corporate, associate,
15 or otherwise, of the defendants named herein as DOES 1 through 25 inclusive, are
16 unknown to PLAINTIFF who therefore sue said defendants by such fictitious names
17 pursuant to the Code of Civil Procedure § 474. PLAINTIFF will amend this
18 Complaint to show their true names and capacities when the same have been
19 ascertained.

20 6. PLAINTIFF is informed and believe, and thereon allege that at all times
21 relevant to this action each of the DEFENDANTS, including DOES 1 through 25
22 inclusive, were responsible in some manner for the acts and omissions alleged in this
23 Complaint, and that PLAINTIFF’S damages, both existing and prospective, are,
24 were, and will be proximately caused by the acts and omissions of the
25 DEFENDANTS, including DOES 1 through 25 inclusive.

26 7. Based upon information and belief, PLAINTIFF alleges there exists,
27 and at all times herein mentioned there existed, a unity of interest and ownership
28 between ALDABBAGH, on the one hand, and LCW on the other hand, such that

1 any individual and separateness between ALDABBAGH, on the one hand, and
2 LCW, on the other hand, have ceased to exist, and ALDABBAGH is the alter ego of
3 LCW in that LCW is, and at all times herein mentioned was a mere shell,
4 instrumentality and conduit through which ALDABBAGH carried on his business
5 and were so inadequately capitalized that, compared with the business to be done by
6 LCW, and the risks of loss, its capitalization was illusory. ALDABBAGH
7 completely controlled, dominated, managed and operated LCW and commingled the
8 assets of each to suit the convenience of ALDABBAGH and to evade payment of
9 the obligations owed to creditors of LCW.

10 8. Adherence to the fiction of the separate existence of ALDABBAGH,
11 on the one hand, and LCW, on the other hand, would permit an abuse of the
12 corporate privilege and would sanction fraud and promote injustice in that
13 ALDABBAGH have perpetrated fraudulent acts in the names of LCW and never
14 taken the steps to maintain the corporate standing of LCW.

15 **VENUE AND JURISDICTION**

16 9. This Court has subject matter jurisdiction of this Complaint pursuant to
17 15 U.S.C. § 1051 *et seq.* (Lanham Act), 28 U.S.C. § 1338(a) (trademark) and 28
18 U.S.C. § 2201 (Declaratory Judgment Act) because it includes claims for
19 declaratory relief and infringement, including federally registered trademarks.

20 10. This Court has personal jurisdiction over the parties as they all reside or
21 do business in this judicial district.

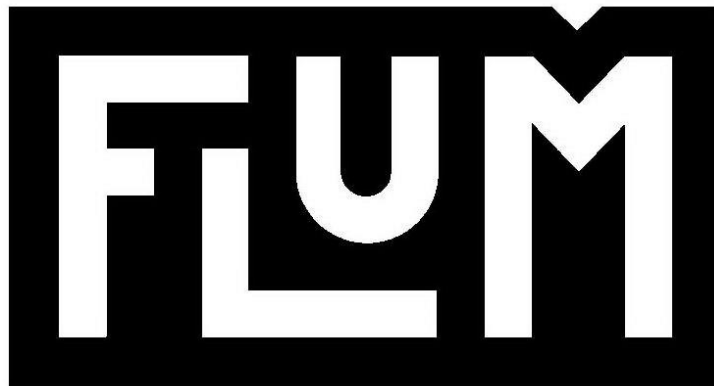
22 11. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)
23 and (c), as DEFENDANTS reside in this judicial district, a substantial part of the
24 events, omissions and acts which are the subject matter of this action occurred
25 within the Central District of California.

26 **FACTUAL ALLEGATIONS**

27 12. PLAINTIFF is a highly successful company which sells products
28 relating to certain nicotine and vapor delivery system products.

1 13. PLAINTIFF is the owner of rights in the design mark FLUM in
2 connection with electronic cigarette liquid (e-liquid) comprised of flavorings in
3 liquid form, other than essential oils, used to refill electronic cigarette cartridges;
4 electronic cigarette liquid (e-liquid) comprised of propylene glycol; electronic
5 cigarette liquid (e-liquid) comprised of vegetable glycerin; electronic cigarettes;
6 chemical flavorings in liquid form used to refill electronic cigarette cartridges;
7 liquid nicotine solutions for use in electronic cigarettes sold in connection therewith
8 (collectively, “Plaintiff’s Goods”), including United States Trademark Registration
9 no. 6692431 filed on April 20, 2021, registered on April 5, 2022, with the first use
10 in commerce date of at least as early as February 9, 2021 (referred to as the
11 registered mark “FLUM”).

12 14. Specifically, PLAINTIFF’S design mark for FLUM is described as a
13 stylized design comprised of the word, FLUM, against a solid rectangle with a small
14 triangle cutout towards the upper right side.



22
23 15. PLAINTIFF’S registered mark is described as “a stylized design
24 comprised of the word, FLUM, against a solid rectangle with a small triangle cutout
25 towards the upper right side.”

26 16. PLAINTIFF has continuously used FLUM in commerce in the United
27 States in connection with Plaintiff’s Goods since at least as early as February 9,
28

1 2021, and is currently using FLUM in United States commerce in connection with
2 Plaintiff's Goods.

3 17. PLAINTIFF has devoted substantial time, effort, and resources to the
4 development and extensive promotion of FLUM and the products offered
5 thereunder. As a result of PLAINTIFF's efforts, the public has come to recognize
6 and rely upon FLUM as an indication of the high quality associated with
7 PLAINTIFF'S vaping-related products.

8 18. As a result of PLAINTIFF'S long-term and widespread use of FLUM
9 in the United States via internet, print advertising, and continuous and unsolicited
10 media coverage, FLUM enjoys a high degree of consumer recognition.

11 19. PLAINTIFF'S mark FLUM is inherently distinctive.

12 20. In or around early November 2021, PLAINTIFF discovered on the
13 United States Patent and Trademark Office ("USPTO") website that DEFENDANT,
14 on August 10, 2021, filed design trademark application no. 90875147, relating to
15 electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other
16 than essential oils, used to refill electronic cigarette cartridges; electronic cigarette
17 liquid (e-liquid) comprised of propylene glycol; electronic cigarette liquid (e-liquid)
18 comprised of vegetable glycerin; electronic cigarettes; chemical flavorings in liquid
19 form used to refill electronic cigarette cartridges; liquid nicotine solutions for use in
20 electronic cigarettes (collectively, "Defendants' Infringing Products"), for the below
21 mark:



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