

CHARLES L. THOEMING (CA State Bar No. 153504)
ASCENDANT IP®
3443 Golden Gate Way, Suite H
Lafayette, California 94549
Telephone: (925) 385,7190
Fax: (855) 312.4463
E-mail: cthoeming@ascendantip.com

Attorneys for Defendant/Counterclaimant
MIZUNETWORK, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ONLINE LEARNING, LLC dba ONE
CLICK TRAFFIC SCHOOL, a California
limited liability company,

Plaintiff,

v.

MIZUNETWORK, LLC dba TRAFFIC
SCHOOL 4 BUSY PEOPLE, a California
limited liability company,

Defendant.

CASE NO.

DEFENDANT'S NOTICE OF REMOVAL

DEFENDANT'S NOTICE OF REMOVAL

Defendant, MIZUNETWORK, LLC dba TRAFFIC SCHOOL 4 BUSY
PEOPLE, a California limited liability company ("Defendant" or "TS4BP"), files this
notice of removal under 28 U.S.C. §1446(a).

A. INTRODUCTION

1. Plaintiff is ONLINE LEARNING, LLC dba ONE CLICK TRAFFIC
SCHOOL, a California limited liability company.

2. On July 27, 2022, Plaintiff sued Defendant for trade name infringement

1 and assorted other business torts in the Superior Court for Santa Clara County,
2 California in Case No. 22CV402129 (“State Court Case”).

3 3. Defendant was served with citation and a copy of Plaintiff’s Complaint
4 in the State Court Case on September 14, 2022. Defendant timely files this notice of
5 removal within the 30-day time period required by 28 U.S.C. §1446(b)(1), because
6 the State Court Case was removable when originally filed under 28 U.S.C. § 1441(a);
7 *Hunter v. Phillip Morris USA*, 582 F.3d 1039, 1042 (9th Cir. 2009) (quoting *Ansley v.*
8 *Ameriquist Mortg. Co.*, 340 F.3d 858, 861 (9th Cir. 2003)).

9 B. BASIS FOR REMOVAL

10 4. Removal is proper because Plaintiff’s suit involves a federal question
11 under 15 U.S.C. §§1051 – 1141n. (See 28 U.S.C. §§ 1331, 1441(a); *Grable & Sons*
12 *Metal Prods., Inc. v. Darue Eng’g & Mfg.*, 545 U.S. 308, 312 (2005); *Broader v. Cablevision*
13 *Sys. Corp.*, 418 F.3d 187, 194 (2d Cir. 2005); *Peters v. Union Pac. R.R.*, 80 F.3d 257, 260
14 (8th Cir. 1996). Specifically, Plaintiff alleges common law trademark, plus state and
15 federal trademark registrations as supporting its trade name infringement cause of
16 action, establishing Federal-question jurisdiction under 15 U.S.C. §§1051 – 1141n.
17 (See Complaint, paragraph 8, pp. 3 – 4).

18 5. Consent of a defendant is not necessary if that defendant is unknown.
19 *Green v. Am. Online (AOL)*, 318 F.3d 465, 470 (3d Cir. 2003). Plaintiff’s complaint
20 includes unknown DOE defendants 1 through 25, inclusive.

21 6. Copies of all pleadings, process, orders, and other filings in the State
22 Court Case are attached to this notice as required by 28 U.S.C. §1446(a).

23 7. Venue is proper in this district under 28 U.S.C. §1441(a) because the
24 state court where the State Court Case is pending is located in this district.

25 8. Defendant will promptly file a copy of this notice of removal with the
26 clerk of the state court where the State Court Case is pending.

27 C. JURY DEMAND

28 9. Plaintiff did not demand a jury in the State Court Case.

//

D. CONCLUSION

10. For these reasons, Defendant asks the Court to remove the suit to the United States District Court for the Northern District of California.

Dated: October 5, 2022

Respectfully submitted,
ASCENDANT IP®
/s/Charles L. Thoeming
Charles L. Thoeming

Attorneys for Defendant,
MIZUNETWORK, LLC dba TRAFFIC
SCHOOL 4 BUSY PEOPLE, a California
limited liability company

CERTIFICATE OF SERVICE

I certify that on October 5, 2022, I electronically transmitted the foregoing document and all referenced attachments to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants of record in this matter.

I certify that on October 5, 2022, I also served copies of the foregoing documents and all referenced attachments to Plaintiff's lawyers as identified in the State Court Case at the following email addresses:

- john@rdlaw.net; and
- greg@rdlaw.net.

/s/ Charles L. Thoeming
Charles L. Thoeming