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9 The United States Olympic Committee and
10 the International Olympic Committee

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 The United States Olympic
14 Committee and the International
15 Olympic Committee,

16 Plaintiffs,

17 v.

18 Xclusive Leisure & Hospitality Ltd.;
19 Beijingticketing.com; 2008-
20 olympics.com;
21 Beijingolympic2008tickets.com;
22 Beijingolympictickets2008.com;
23 Olympic-tickets.net;
24 Olympicticketsbeijing2008.com;
25 Does 1-10, inclusive,

26 Defendants.

Case No. C 08-03514 JSW

FIRST AMENDED COMPLAINT

1 Plaintiffs, the United States Olympic Committee (“USOC”) and the
2 International Olympic Committee (“IOC”), by their attorneys, O’Melveny & Myers
3 LLP, complain and allege as follows:

4 **NATURE OF THE ACTION**

5 1. This is an action concerning Defendants’ use of Plaintiffs’
6 valuable intellectual property on seven websites to advertise the sale of tickets to
7 the 2008 Summer Olympic Games in Beijing, China. On information and belief,
8 the tickets Defendants offer for sale do not exist, will not be delivered, or, in the
9 case of the Opening and Closing Ceremony tickets, cannot be used even if they do
10 exist and are delivered. These claims arise under the Ted Stevens Olympic and
11 Amateur Sports Act, 36 U.S.C. §220501 *et seq.*; the Lanham Act, 15 U.S.C. §§
12 1051 *et seq.*; and the statutory and common law of the State of California, where
13 plaintiffs are suffering injury and defendants are committing wrongful acts as
14 hereinafter averred.

15 **THE PARTIES**

16 2. Plaintiff USOC is a non-profit, federally-chartered corporation
17 with its principal place of business at One Olympic Plaza, Colorado Springs,
18 Colorado 80909-5780. It is the coordinating body for the Olympic Movement in
19 the United States and is recognized by the IOC as the National Olympic Committee
20 for the United States. It trains and underwrites expenses for United States athletes
21 at the Olympic and Paralympic Games, as well as determines which United States
22 city may present a bid to host the Olympic and Paralympic Games. The mission of
23 the USOC is to support United States Olympic and Paralympic athletes in achieving
24 sustained competitive excellence and preserve the Olympic ideals, and thereby
25 inspire all Americans. In 1950, the USOC was granted a federal charter, now
26 codified as the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. §220501
27 *et seq.* (“OASA”).

28 3. Plaintiff IOC is an international, non-governmental, non-profit

1 organization organized and existing under the laws of Switzerland with its principal
2 place of business at Chateau de Vidy, Lausanne, 1007 Switzerland. The IOC was
3 founded on June 23, 1894 by Baron Pierre de Coubertin as the umbrella
4 organization of the Olympic Movement. In 1896, the first Olympic Games of the
5 modern era were hosted in Athens, Greece under the IOC's direction. Since then,
6 the IOC has continued to supervise the organization of the Olympic Games,
7 including 25 Olympic Summer Games and 20 Olympic Winter Games.

8 4. Upon information and belief, Xclusive Hospitality & Leisure
9 Ltd. is a company located in the United Kingdom, which operates the websites
10 Beijingticketing.com, 2008-Olympics.com, Beijingolympic2008tickets.com,
11 Beijingolympictickets2008.com, Olympic-tickets.net,
12 Olympicticketsbeijing2008.com and www.buy-olympic-tickets.co.uk.

13 5. Upon information and belief, Defendant
14 www.Beijingticketing.com is a domain name existing on the registry of third party
15 VeriSign, Inc., located in Mountain View, California, and registered to "XLH."

16 6. Upon information and belief, Defendant www.2008-
17 Olympics.com is a domain name existing on the registry of third party VeriSign,
18 Inc., located in Mountain View, California, and registered to "XLH."¹

19 7. Upon information and belief, Defendant
20 www.Beijingolympic2008tickets.com is a domain name existing on the registry of
21 third party VeriSign, Inc., located in Mountain View, California, and registered to
22 "XLH."

23 8. Upon information and belief, Defendant
24 www.Beijingolympictickets2008.com is a domain name existing on the registry of
25 third party VeriSign, Inc., located in Mountain View, California, and registered to
26 "XLH."

27 _____
28 ¹ With respect to Defendant www.2008-Olympics.com, a zero, rather than the letter "O," precedes the letters "lympics."

1 9. Upon information and belief, Defendant www.Olympic-
2 tickets.net is a domain name existing on the registry of third party VeriSign, Inc.,
3 located in Mountain View, California, and registered to “XLH.”

4 10. Upon information and belief, Defendant
5 www.Olympicticketsbeijing2008.com is a domain name existing on the registry of
6 third party VeriSign, Inc., located in Mountain View, California, and registered to
7 “XLH.”

8 11. The true names and capacities of the Defendants named herein
9 as Does 1-10, inclusive, are unknown to Plaintiffs, who therefore sue said
10 Defendants by such fictitious names. Plaintiffs will seek leave to amend this
11 Complaint to allege their true names and capacities when they are ascertained.
12 Plaintiffs are informed and believe, and based thereon allege, that each of the
13 Defendants is liable to Plaintiffs for the wrongful conduct alleged herein.
14 Whenever and wherever reference is made in this Complaint to any act by a
15 Defendant or Defendants, such allegations and reference shall also be deemed to
16 mean the acts and failures to act of each defendant acting individually, jointly, and
17 severally.

18 **JURISDICTION AND VENUE**

19 12. This Court has jurisdiction over this action pursuant to Title 28
20 U.S.C. Sections 1331, 1338(a) and (b), and 1367(a).

21 13. This Court has personal jurisdiction over the Defendants
22 pursuant to California’s long-arm statute, Cal. Code Civ. Proc. 410.10, because
23 they have sufficient “minimum contacts” with the state of California such that the
24 exercise of personal jurisdiction would comport with the requirements of due
25 process. Defendants have systematic and ongoing business contacts with
26 companies located in California, including ServePath, an Internet Service Provider
27 located in San Francisco, California, that hosts Defendants’ websites, through
28 which they conduct their infringing and unlawful activity. Defendants have also

1 committed tortious acts within this judicial district, including by aiming their
2 deceptive conduct at consumers in the State of California, and actually deceiving
3 consumers in the State of California. Thus, Defendants have purposefully availed
4 themselves of the privileges of conducting their business activities in the State of
5 California such that they should reasonably anticipate being haled into court here.

6 14. This Court has *in rem* jurisdiction over Defendant domain
7 names pursuant to the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. §
8 1125(d)(2) as (1) Defendants have infringed Plaintiffs' rights in their marks; (2)
9 Plaintiffs are unable to ascertain the identity of the individuals who operate
10 Defendant XLH and who have used the domain names ending in .com and .net; and
11 (3) VeriSign, the domain name registry on which all .com and .net domain names
12 reside, is located in the judicial district where this action is brought.

13 15. Venue is proper in this judicial district pursuant to Title 28
14 U.S.C. Section 1391(b)(2) because a substantial part of the events giving rise to
15 these claims occurred in this district. As discussed below, consumers in this
16 District have placed orders for tickets to events at the upcoming Beijing Games on
17 Defendants' websites, after seeing Plaintiffs' marks and believing the websites to
18 be official sources of Olympic tickets. Venue is also proper in this judicial district
19 pursuant to Title 28 U.S.C. Section 1391(b)(2) because a substantial part of the
20 property that is the subject of this action is situated in this district, given that the six
21 defendant domain names exist on the VeriSign registry and thus reside in this
22 judicial district and their corresponding six websites are hosted by an Internet
23 Service Provider located in San Francisco.

24 **THE PLAINTIFFS' VALUABLE RIGHTS**

25 **Background**

26 16. The first modern Olympic Games were held in Athens in 1896.
27 The Games have continued since that time. The 2008 Beijing Olympic Summer
28 Games will begin with Opening Ceremonies on August 8, 2008, will feature

1 numerous athletic events over a period of sixteen days, and will conclude with
2 Closing Ceremonies on August 24, 2008.

3 17. The goal of the modern Olympic Movement is to contribute to
4 building a peaceful and better world by educating youth through sport practiced
5 without discrimination of any kind, in a spirit of friendship, solidarity and fair play.
6 The Olympic Movement encompasses organizations, athletes, and other persons
7 who agree to be guided by the Olympic Charter. These include the IOC (the
8 Olympic Movement's umbrella organization), the international sports federations
9 (non-governmental organizations responsible for the international administration of
10 one or more sports), the USOC and other National Olympic Committees
11 (organizations that lead the Olympic Movement within each country), the
12 Organizing Committees of the Olympic Games, local clubs, and persons belonging
13 to them, particularly the athletes.

14 18. As part of their efforts to further the Olympic Movement,
15 Plaintiffs and the other National Olympic Committees spend significant resources
16 on efforts to promote the upcoming Olympic Games, directly and via their
17 marketing partners. The USOC and its sponsors have spent nearly \$900 million in
18 television advertising during NBC's broadcasts of the last two Olympic Games, and
19 will spend \$437 million during the 2008 Olympic Games this summer. The USOC
20 itself will spend more than \$1.5 million in promoting the U.S. Olympic Team prior
21 to and during the 2008 Olympic Games.

22 **The Olympic Marks**

23 19. Since 1896, Plaintiffs have used certain trademarks in
24 connection with the Olympic Games, including the word OLYMPIC and the well-
25 known Olympic Rings symbol. In addition, Plaintiffs also use specific marks in
26 connection with each Olympic Games. Those marks include City & Year Marks,
27 such as SYDNEY 2000, ATHENS 2004, TORINO 2006, and BEIJING 2008, and
28 various symbols, logos, taglines, and other marks.

1 20. In the United States, the intellectual property rights to the words
2 and symbols associated with the Olympic Games are statutorily protected by the
3 OASA. See 36 U.S.C. §220506(a). The OASA grants to the USOC the “exclusive
4 right to use” various marks associated with the Olympic Games. It further
5 authorizes the USOC to pursue a civil action against any person who uses the
6 protected marks, *inter alia*, “for the purpose of trade” or “to induce the sale of any
7 goods or services.” 36 U.S.C. §220506(c).

8 21. The marks protected by the OASA include the word OLYMPIC,
9 as well as “any trademark, trade name, sign, symbol, or insignia falsely
10 representing association with, or authorization by, the International Olympic
11 Committee, the International Paralympic Committee, the Pan-American Sports
12 Organization, or the [USOC].” 36 U.S.C. §220506(a)(4), (c)(3) and (c)(4).

13 22. In addition to the USOC’s rights under the OASA, Plaintiffs
14 also own statutory and common-law trademark rights to the words, symbols, and
15 other marks they have diligently sought to protect.

16 23. The USOC owns U.S. Trademark Registration Nos. 968,566,
17 2,311,493, and 2,777,890 for the word mark OLYMPIC.

18 24. The IOC registered the word mark BEIJING 2008, as reflected
19 in the U.S. Trademark Registration Nos. 2,739,492 and 2,764,102, and has assigned
20 ownership rights over those registrations to the USOC.

21 25. The IOC also registered, and assigned to the USOC, U.S.
22 Trademark Registration No. 3,043,229 for the official emblem of the Beijing 2008
23 Olympic Games, which consists of a stylized human figure design (“Human Figure
24 Logo”), the words “Beijing 2008” written in a unique calligraphy typeface
25 (“Beijing 2008 Word Design”), and the Olympic rings symbol, as depicted below:
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6 26. The above marks (“Olympic Marks”) are extremely valuable
7 assets to Plaintiffs because of the goodwill they represent and because Plaintiffs’
8 revenues are derived principally from licensing their intellectual property through
9 marketing, licensing and sponsorship programs encompassing the use of the
10 Olympic Marks and from the sale of television rights for broadcasting the Olympic
11 Games. The IOC also receives a portion of the revenue derived from the sale of
12 each ticket to the Beijing Games.

13 27. The USOC receives only very limited, specific funding from the
14 United States’ government. The IOC receives no funding from any government,
15 and much of the revenues that it collects are redistributed to National Olympic
16 Committees and international sports federations to train and support their athletes
17 and promote the Olympic Movement. Thus, the protection of the Olympic Marks is
18 essential to Plaintiffs’ continued ability to help promote and coordinate the
19 Olympic Games and thereby further the Olympic Movement.

20 **Authorized Tickets to the Beijing 2008 Olympic Games**

21 28. The Beijing Organizing Committee for the Olympic Games
22 (“BOCOG”) allots to National Olympic Committees a certain number of tickets to
23 events in the Olympic Games, carefully considering each country’s population,
24 proximity to the Games, the number of athletes in each sport, past experience, and
25 numerous other factors. The USOC and the other National Olympic Committees
26 are responsible for coordinating the sales of tickets in each country, subject to the
27 approval of the IOC and BOCOG.

28 29. Tickets to the 2008 Olympic Games in Beijing were first offered

1 for sale in April 2007. Prices for tickets are intentionally kept low so as to allow as
2 many people as possible to experience the Olympic Games ceremonies and
3 competitions, while still generating revenue sufficient to support the staging of the
4 Games. Thus, the average price for tickets to sports events in the Beijing Games is
5 just \$11.

6 30. The USOC has an exclusive sponsorship agreement with Global
7 Sports Consultants, L.L.C. d/b/a Jet Set Sports or CoSport that governs the sales of
8 all authorized tickets to the 2008 Beijing Olympic Games in the United States. Jet
9 Set Sports and CoSport are the only official providers with the right to distribute
10 and sell Olympic tickets and hospitality packages in the United States, and to use
11 Olympic trademarks in the United States to promote and sell such hospitality and
12 travel packages for the 2008 Beijing Olympic Games.

13 31. All tickets to the Olympic Games are intended to be
14 nontransferable by the purchasing customer. The terms and conditions printed on
15 the back of each ticket states, "You cannot resell or trade your Ticket."

16 32. For security reasons, tickets to the Opening and Closing
17 Ceremonies have been specially designed to prohibit, to the greatest extent possible,
18 counterfeiting and speculative ticket reselling. Specifically, each ticket to the
19 Opening and Closing Ceremonies for the upcoming Games is embedded with a
20 microchip containing the ticket's serial number, which can then be read by a
21 database maintained by BOCOG to retrieve the bearer's photograph, passport
22 details, addresses, e-mail addresses, and telephone numbers. Tickets to the
23 Opening and Closing Ceremonies may be transferred once, but only if both the
24 original purchaser and the transferee fill out and submit a form requiring specific
25 identifying information to BOCOG by June 30th, 2008.

26 **THE DEFENDANTS' UNLAWFUL CONDUCT**

27 **Defendants' Websites Use the Olympic Marks**

28 33. Defendants, on information and belief, operate seven websites

1 (the “Websites”) offering for sale what they claim to be tickets to the 2008 Beijing
2 Olympic Games. One of the Websites, which is located at
3 <http://www.beijingticketing.com> (the “Primary Website”), is the medium through
4 which users may purchase the tickets, as explained below. The other six websites
5 operated by Defendants (the “Secondary Websites”) do not sell tickets, but they do
6 advertise tickets for sale and contain numerous hyperlinks connecting the user to
7 the Primary Website at the point of purchase. The Secondary Websites are located
8 at <http://www.beijingolympic2008tickets.com>, <http://www.olympic-tickets.net>,
9 <http://www.beijingolympictickets2008.com>, <http://www.2008-0lympics.com>;²
10 <http://www.olympicticketsbeijing2008.com> and www.buy-olympic-tickets.co.uk.

11 34. The Secondary Websites are all identical in appearance. The
12 Primary Website looks slightly different than the Secondary Websites, but shares a
13 similar layout and color scheme, uses the same logos and marks, and offers the
14 same tickets for sale.

15 35. The Olympic Marks are used on the Websites and in the
16 Websites’ domain names without Plaintiffs’ consent. The Websites prominently
17 display in several locations a logo of a stylized human figure that closely resembles
18 Plaintiffs’ Human Figure Logo. Directly below each instance of that logo, the
19 Websites also display the words “Beijing 2008” in a typeface that closely resembles
20 the Beijing 2008 Word Design, as shown below:



25 This combination of marks is prominently displayed in three places on the Primary
26 Website’s home page and two places on the home page of each of the Secondary
27 Websites.

28 ² As set forth earlier, this domain name uses a zero rather than the letter O.

1 36. The Websites also repeatedly use the word marks OLYMPIC
2 and BEIJING 2008 without Plaintiffs' authorization.

3 37. Each of the Secondary Websites uses the mark OLYMPIC in its
4 domain name; one of those Websites also uses the BEIJING 2008 mark without
5 Plaintiffs' authorization.

6 38. The sole purpose of the Websites is to sell tickets to the
7 Olympic Games. The Websites offer no other good or service. Thus, every
8 instance of the Websites' use of the Olympic Marks appears in the context of an
9 offer to sell tickets.

10 **Defendants Are Offering To Sell Tickets They Cannot Transfer And Likely Do**
11 **Not Possess**

12 39. The home page of each Website contains links to subpages for
13 39 categories of Olympic events, including the Opening and Closing Ceremonies
14 and 37 categories of individual athletic competitions. Each subpage offers a variety
15 of tickets within each category, including tickets to each day of the competition and
16 frequently including several pricing options depending on where the seats are
17 located at the event. The tickets offered for sale on the Websites range in price,
18 from as low as \$100 for early individual competitions, to as high as \$2150 per
19 ticket for the Opening Ceremonies. When a user clicks on the links provided to
20 purchase the tickets, the user is redirected to a subpage of the Primary Website to
21 select and purchase tickets.

22 40. Plaintiffs are informed and believe, and based thereon allege,
23 that tickets offered for sale on the Websites, and purchased from the Primary
24 Website, are largely, if not entirely, nonexistent.

25 41. Numerous consumers, including residents of California, have
26 placed orders to purchase tickets through the Primary Website, believing it to be an
27 official site because of the site's use of Olympic logos and marks. These
28 consumers, however, including residents of the State of California, have not

1 received the tickets that they ordered. Several of these consumers became
2 suspicious of the validity of Defendants' tickets. One such consumer attempted to
3 cancel his purchase. He exchanged various emails with Defendants regarding his
4 concerns and questioning information on the Websites that he learned was
5 inaccurate. Defendants responded, "Instead of asking questions and going around
6 the houses and spending silly amounts of time in emailing us and trying to catch out
7 after booking, why don't you just ask for your money back and for us to cancel
8 your order instead of trying to make yourself a private detective and wasting your
9 time and ours." The consumer then sought to cancel his order and followed up four
10 times, but Defendants simply ignored his requests. The Website did not ask for,
11 and this consumer did not provide, his photograph, passport details, addresses, e-
12 mail addresses, and telephone numbers, all of which are required by BOCOG for
13 admission, even with a valid ticket, to the Opening Ceremonies. Accordingly, this
14 consumer cannot receive from Defendants a ticket that will gain him admission to
15 the Opening Ceremonies.

16 42. Another customer that purchased tickets to the Opening
17 Ceremony became similarly suspicious that Defendants would be unable to provide
18 legitimate tickets, given the identification and photograph requirements for
19 Opening Ceremony tickets. He also sent a series of emails to Defendants regarding
20 his concerns and attempted to contact them by phone, and received no response.

21 43. Yet another customer, also suspicious that the Opening
22 Ceremony tickets he had purchased from Defendants were fraudulent, received an
23 email from Defendants claiming that "As our tickets come directly from the
24 sponsors no name id or photo pictures are required on the ticket." He then
25 contacted CoSport, which informed him that Defendants' claim was incorrect and
26 that *all* tickets to the Opening Ceremony are embedded with a microchip linked to a
27 photograph and passport information. Not surprisingly, Defendants ignored that
28 customer's subsequent efforts to contact them.

1 44. On information and belief, other consumers have complained
2 about tickets sold on other websites operated by these same Defendants (also using
3 the name XLH). Among the complainants cited in one news article were fans
4 escorted from their seats by security guards when it was discovered that the tickets
5 they had purchased from Defendants to another type of event had been stolen, and
6 another purchaser who received no tickets at all, only an empty envelope.

7 45. A private investigator employed by Plaintiffs visited the Primary
8 Website. He purchased one ticket to the Opening Ceremony and one ticket to the
9 event “Kayak Flatwater,” spending a total of \$1905. His credit card has been
10 charged for the tickets he ostensibly purchased, but he has not received them.

11 46. After completing the transaction, he attempted to contact the
12 Websites’ operator using the email address provided on the Primary Website to
13 inquire as to the status of his order and whether the Website needed more
14 information from him. When he received no response to his inquiries, he attempted
15 to call Defendants several times to request that his order be expedited as provided
16 for on the Website, but without success. Each time he called, he either received
17 looping tape (a menu with choices that repeat over and over, regardless of which
18 option you select), or the phone rang repeatedly for several minutes and then
19 ultimately disconnected. He made yet another inquiry by email and, this time, was
20 told that the Website was “busy” and that his expedited ticket order would not be
21 shipped until July 25, 2008.

22 47. The Website did not ask for, and the investigator did not
23 provide, his photograph, or passport details, required by BOCOG’s policy for
24 admission, even with a valid ticket, to the Opening Ceremony. Accordingly, this
25 investigator cannot receive from Defendants a ticket that will gain him admission to
26 the Opening Ceremony. The consumers referenced above who placed orders for
27 Opening and Closing Ceremony tickets through Defendants websites were similarly
28 not asked for their photographs or their passport information and thus cannot

1 receive from Defendants tickets that will gain them admission to the Opening or
2 Closing Ceremonies under BOCOG'S policy.

3 **Plaintiffs Will Suffer Irreparable Harm From Defendants' Continuing**
4 **Conduct**

5 48. Plaintiffs are filing this action to stop Defendants'
6 misappropriation of their valuable intellectual property to deceive innocent
7 customers. Not only will such customers be harmed by Defendants' conduct, but
8 Plaintiffs will also be harmed in numerous ways.

9 49. First, Defendants' conduct threatens the Olympic brand that
10 Plaintiffs have worked so hard to build and protect. If the Olympic Marks are
11 permitted to be used in connection with fraudulent criminal activity, they will be
12 tarnished in the public eye. Individual customers who purchase tickets from
13 Defendants and do not receive them will likely be soured on their experience
14 attempting to go to the Olympic Games, and may not attend future Games or
15 purchase licensed merchandise, when, instead, they could have purchased from
16 authorized channels. Indeed, customers who are defrauded by a site that uses the
17 Olympic Marks will likely be wary in the future of trusting even authorized sites
18 and vendors using the Olympic Marks, because they will have no assurance that the
19 use of the Olympic Marks does, in fact, denote an authorized agent of the USOC.
20 Given Plaintiffs' dependence on the value of their intellectual property to fund their
21 mission, it is imperative that the Olympic brand be protected from the Defendants'
22 efforts to undermine that brand for their own economic gain to the detriment of the
23 Olympic Movement.

24 50. Defendants also injure Plaintiffs' relationships with their
25 sponsors. The USOC's exclusive partner for ticket sales, Jet Set Sports, suffers
26 directly by having to compete with unauthorized ticket sellers. Both the USOC and
27 the IOC have numerous other sponsors in the United States who have paid
28 substantial sums to be associated with the Olympic brand, the value of which is

1 being threatened by Defendants' activity. Defendants' conduct, if allowed to
2 continue, will likely adversely affect Plaintiffs' ability to attract such sponsors and
3 sponsorship revenues in the future.

4 51. Finally, the unauthorized sales of tickets (whether nonexistent or
5 not) will affect authorized ticket sales by Jet Set Sports. Even as of this late date,
6 there are tickets available for purchase in the United States as part of hospitality
7 packages. Consumers who purchase (or believe they have purchased) tickets from
8 Defendants are less likely to purchase such packages, and the USOC, which
9 receives certain revenue from Jet Set Sports based on ticket sales, suffers directly as
10 a result of Defendants' conduct.

11 **Defendants' Efforts to Conceal Their Identities**

12 52. Defendants are misleading the public as to their true identities
13 and contact information, in an apparent effort to remain anonymous and evade
14 prosecution for their illicit conduct.

15 53. Each of the Websites lists XLH or X.L. & H. Ltd., which, upon
16 information and belief, stand for Xclusive Leisure & Hospitality, as the owner of
17 the site and further states that XLH is a Delaware corporation, with an address at
18 2415 Camelback Road, Suite 700, Phoenix, Arizona, and a phone number that
19 begins with +44, the code for London, UK. Despite this contention, XLH is not a
20 corporation organized in Delaware or Arizona, nor does it have a physical address
21 at 2415 Camelback Road, Suite 700, Phoenix, Arizona. In fact, that address is the
22 address for a law firm.

23 54. Despite Defendants' efforts to conceal their identities, Plaintiffs
24 have learned the identity of XLH. Plaintiffs also have sufficient information to
25 confirm that all of the Defendants have defrauded, and will continue to defraud,
26 consumers in California and throughout the United States. Six of the seven
27 Websites are registered with domain names ending in .com or .net, which are top-
28 level domains commonly used in the United States. Prices for tickets offered on the

1 Websites are all expressly stated in U.S. dollars. And, as explained above, they
2 have multiple contacts with corporations within the state of California, and have
3 completed confirmed sales of tickets they have not delivered, and cannot deliver, to
4 consumers in the state of California.

5 **FIRST CLAIM FOR RELIEF**

6 **Unauthorized Use of the Olympic Marks**
7 **In Violation of 36 U.S.C. § 220506(a) and (c)**

8 55. Plaintiffs repeat and reallege each and every allegation set forth
9 in paragraphs 1 through 54.

10 56. Defendants use the Olympic Marks including by using the word
11 OLYMPIC and logos and other marks that falsely represent association with or
12 authorization by Plaintiffs on the Websites and by using various combinations of
13 the word marks OLYMPIC and BEIJING 2008 in the Websites' domain names.

14 57. Plaintiffs have not consented to Defendants' use of the Olympic
15 Marks.

16 58. Defendants use the Olympic Marks for the purpose of trade and
17 to induce the sale of goods.

18 59. Plaintiffs are entitled, pursuant to §220506(c) of the OASA, for
19 all of the remedies available under the Lanham Act, which include treble damages,
20 costs, and attorneys' fees.

21 60. Plaintiffs have no adequate remedy at law. The conduct of
22 Defendants have caused and, if not enjoined, will continue to cause irreparable
23 harm and damage to Plaintiffs' rights in their trademarks and to Plaintiffs' business,
24 reputation and goodwill. Accordingly, Plaintiffs are entitled to injunctive relief,
25 and Defendants' domain names should be impounded under 15 U.S.C. §§ 1116(a)
26 and 1116(d)(1)(A) and 28 U.S.C. § 1651.

SECOND CLAIM FOR RELIEF

**Infringement of Registered Trademarks
In Violation of Section 32(1) of the Lanham Act,
37 U.S.C. §1114(1)**

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61. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1 through 60.

62. Plaintiffs' federal trademark registrations for the Human Figure Logo, the Beijing 2008 Word Design, and the word marks OLYMPIC and BEIJING 2008 are in full force and effect.

63. The display of logos, symbols, words, and other marks on the Websites and in the Websites' domain names, as alleged herein, constitutes the use in interstate commerce, without Plaintiffs' consent, of reproductions, counterfeits, copies, and colorable imitations of Plaintiffs' registered marks in connection with the sale, offering for sale, distribution, and advertising of goods.

64. Such use is likely to cause confusion, to cause mistake, or to deceive consumers regarding the source of Defendants' goods, as they are likely to lead the public to conclude incorrectly that Defendants' tickets originated with, or are sponsored or authorized by Plaintiffs, to the damage and harm of Plaintiffs and the public.

65. Defendants have acted willfully, with the intent to trade upon the goodwill and reputation of Plaintiffs, and with the intent to cause confusion, to cause mistake, and to deceive.

66. Plaintiffs are entitled to all of the remedies available under the Lanham Act, including treble damages, costs, and attorneys' fees.

67. Plaintiffs have no adequate remedy at law. The conduct of Defendants have caused and, if not enjoined, will continue to cause irreparable harm and damage to Plaintiffs' rights in their trademarks and to Plaintiffs' business, reputation and goodwill. Accordingly, Plaintiffs are entitled to injunctive relief,

1 and Defendants' domain names should be impounded under 15 U.S.C. §§ 1116(a)
2 and 1116(d)(1)(A) and 28 U.S.C. § 1651.

3
4 **THIRD CLAIM FOR RELIEF**

5 **False Endorsement or Association and False Designation of Origin**
6 **In Violation of Section 43(a) of the Lanham Act,**
7 **37 U.S.C. §1125(a)**

8 68. Plaintiffs repeat and reallege each and every allegation set forth
9 in paragraphs 1 through 67.

10 69. By using them on the Websites and in the Websites' domain
11 names, as alleged herein, Defendants use in commerce logos, symbols, words, and
12 other marks that falsely designate the origin of their goods and use false or
13 misleading descriptions of facts and false or misleading representations of facts,
14 which are likely to cause confusion, or to cause mistake, or to deceive as to the
15 origin, sponsorship, or approval of their goods and commercial activities by
16 Plaintiffs.

17 70. Defendants' activities are likely to lead the public to conclude
18 incorrectly that Defendants are endorsed by or associated with Plaintiffs, or that
19 Defendants' tickets originated with, or are sponsored or authorized by, Plaintiffs, to
20 the damage and harm of Plaintiffs and the public.

21 71. Defendants have acted willfully, with the intent to trade upon
22 the goodwill and reputation of Plaintiffs, and with the intent to cause confusion, to
23 cause mistake, and to deceive.

24 72. Plaintiffs are entitled to all of the remedies available under the
25 Lanham Act, including treble damages, costs, and attorneys' fees.

26 73. Plaintiffs have no adequate remedy at law. The conduct of
27 Defendants have caused and, if not enjoined, will continue to cause irreparable
28 harm and damage to Plaintiffs' rights in their trademarks and to Plaintiffs' business,
reputation and goodwill. Accordingly, Plaintiffs are entitled to injunctive relief,

1 and Defendants' domain names should be impounded under 15 U.S.C. §§ 1116(a)
2 and 1116(d)(1)(A) and 28 U.S.C. § 1651.

3
4 **FOURTH CLAIM FOR RELIEF**

5 **False Advertising**
6 **In Violation of Section 43(a) of the Lanham Act,**
7 **37 U.S.C. §1125(a)**

8 74. Plaintiffs repeat and reallege each and every allegation set forth
9 in paragraphs 1 through 73.

10 75. The Websites use in commerce logos, symbols, words, and other
11 marks that falsely designate the origin of Defendants' goods and use false or
12 misleading descriptions of facts and false or misleading representations of facts,
13 which, in commercial advertising or promotion, misrepresent the nature,
14 characteristics, and qualities of Defendants' goods.

15 76. Defendants' conduct has harmed Plaintiffs' ability to conduct
16 their business. In addition to harming the market for Olympic tickets through
17 legitimate channels of trade, Defendants' conduct is also likely to damage the
18 Olympic experience for consumers who purchased nonexistent tickets, many of
19 whom may expend significant sums to travel to Beijing and then discover that they
20 will be unable to attend the Games. Such consumers may be less likely to purchase
21 other Olympic-related merchandise and less likely to purchase tickets to future
22 Olympic Games. Thus, the competitive injury suffered by Plaintiffs will go far
23 beyond tickets sales for the upcoming Olympic Games in Beijing.

24 77. Defendants have acted willfully, with the intent to deceive the
25 public regarding the nature, characteristics, and qualities of the tickets they offer for
26 sale.

27 78. Plaintiffs are entitled to all of the remedies available under the
28 Lanham Act, including treble damages, costs, and attorneys' fees.

79. Plaintiffs have no adequate remedy at law. The conduct of

1 Defendants have caused and, if not enjoined, will continue to cause irreparable
2 harm and damage to Plaintiffs' rights in their trademarks and to Plaintiffs' business,
3 reputation and goodwill. Accordingly, Plaintiffs are entitled to injunctive relief,
4 and Defendants' domain names should be impounded under 15 U.S.C. §§ 1116(a)
5 and 1116(d)(1)(A) and 28 U.S.C. § 1651.

6 **FIFTH CLAIM FOR RELIEF**

7 **Cybersquatting**
8 **In Violation of Section 43(d) of the Lanham Act,**
9 **37 U.S.C. §1125(d)**

10 80. Plaintiffs repeat and reallege each and every allegation set forth
11 in paragraphs 1 through 79.

12 81. Defendants have registered and used Defendant domain names,
13 which incorporate words and phrases that are both (1) protected by reason of 36
14 U.S.C. § 220506 and (2) identical, confusingly similar to, and dilutive of Plaintiffs'
15 registered trademarks.

16 82. Defendants have a bad faith intent to profit from their use of the
17 Olympic Marks, which they have used primarily with the intent to divert consumers
18 from legitimate online locations for sales of authorized Olympic tickets to their own
19 sites accessible under the Defendants' domain names that could harm the business
20 and goodwill represented by the marks for commercial gain, by creating a
21 likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of
22 the Defendants' web sites.

23 83. Defendants have provided false and misleading contact
24 information when applying for the registration of the domain names, have
25 intentionally failed to maintain accurate contact information, and have
26 demonstrated a pattern of such conduct.

27 84. Defendants have registered or acquired multiple domain names
28 which Defendants know are identical to, confusingly similar to and/or dilutive of
Plaintiffs' marks.

1 85. Defendants have extensively incorporated Plaintiffs' marks into
2 their respective domain names.

3 86. Defendants are entitled to an order that Defendants' domain
4 names be forfeited, cancelled, or transferred to Plaintiffs pursuant to 37 U.S.C.
5 §1125(d)(1)(C).

6 **SIXTH CLAIM FOR RELIEF**

7 **Trademark Infringement and Unfair Competition**
8 **In Violation of California Common Law and**
9 **California Business & Professions Code §§ 17200 *et seq.***

9 87. Plaintiffs repeat and reallege each and every allegation set forth
10 in paragraphs 1 through 86.

11 88. This claim arises under California Business & Professions Code
12 §§ 17200 *et seq.* and the common law of this state relating to trademark
13 infringement, unfair competition, and palming off. This Court has jurisdiction over
14 the subject matter of this claim pursuant to the provisions of 28 U.S.C. § 1338(b),
15 this being a claim of unfair competition joined with a substantial and related claim
16 under the Trademark Laws of the United States, and under the principles of
17 supplemental jurisdiction as set forth at 2 U.S.C. § 1367.

18 89. Plaintiffs own all rights, title, and interest in and to the
19 distinctive Olympic trademarks, by virtue of their good-faith, extensive use and in
20 commerce and licensing of those marks.

21 90. Defendant's Websites incorporate matter that constitute replicas
22 and imitations of Plaintiffs' marks. Such unauthorized use by Defendants of
23 Plaintiffs' marks constitutes trademark infringement and unfair competition and is
24 hence unlawful. Defendants' conduct is also fraudulent in that Defendants are
25 using Plaintiffs' marks to falsely represent that they are authorized by or associated
26 with Plaintiffs and are selling legitimate tickets to Olympic events when, in fact,
27 they are not. Such conduct is also inherently unfair and is likely to cause confusion
28 and mistake in the minds of the purchasing public as to Defendants' association or

1 affiliation with Plaintiffs and the source of the tickets sold by Defendants, as they
2 are likely to lead the public to conclude incorrectly that Defendants' tickets
3 originated with, or are sponsored or authorized by Plaintiffs, to the damage and
4 harm of Plaintiffs and the public.

5 91. Defendants' acts entitle Plaintiffs to general and special
6 damages under California common law for all of Defendants' profits derived from
7 their unlawful conduct to the full extent provided for by the common law of the
8 State of California. Defendants' acts also entitle Plaintiffs to restitution and
9 attorneys' fees under California Business and Professions Code § 17200.

10 92. Plaintiffs have no adequate remedy at law. The conduct of
11 Defendants have caused and, if not enjoined, will continue to cause irreparable
12 harm and damage to Plaintiffs' rights in their trademarks and to Plaintiffs' business,
13 reputation and goodwill. Accordingly, Plaintiffs are entitled to injunctive relief.

14 **SEVENTH CLAIM FOR RELIEF**

15 **False Advertising**
16 **In Violation of California Statutory Law,**
17 **California Business & Professions Code §§ 17500 *et seq.***

18 93. Plaintiffs repeat and reallege each and every allegation set forth
19 in paragraphs 1 through 92.

20 94. Defendants' activities constitute wrongful dissemination before
21 the public of the State of California of untrue and misleading statements.

22 95. Upon information and belief, such statements were known, or
23 with the exercise of reasonable care, should have been known, by Defendants to be
24 untrue and misleading, and were made with the intent to induce customers to
25 purchase the products of Defendants.

26 96. Defendants have acted willfully, with the intent to engage in
27 unfair competition with Plaintiffs, and as such Defendants' conduct is malicious
28 and oppressive.

97. Defendants' conduct has harmed Plaintiffs' ability to compete

1 with Defendants. In addition to harming the market for Olympic tickets through
2 legitimate channels of trade, Defendants' conduct is also likely to damage the
3 Olympic experience for consumers who purchased nonexistent tickets, many of
4 whom may expend significant sums to travel to Beijing and then discover that they
5 will be unable to attend the Games. Such consumers may be less likely to purchase
6 other Olympic-related merchandise and less likely to purchase tickets to future
7 Olympic Games. Thus, the competitive injury suffered by Plaintiffs will go far
8 beyond tickets sales for the upcoming Olympic Games in Beijing.

9 98. Defendants' acts entitle Plaintiffs to restitution under California
10 Business and Professions Code § 17535.

11 99. Plaintiffs have no adequate remedy at law. The conduct of
12 Defendants have caused and, if not enjoined, will continue to cause irreparable
13 harm and damage to Plaintiffs' rights in their trademarks and to Plaintiffs' business,
14 reputation and goodwill. Accordingly, Plaintiffs are entitled to injunctive relief
15 under California Business and Professions Code § 17535.

16
17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

19 100. That Defendants, their agents, servants, employees,
20 representatives, successors, and assigns, and all persons, firms, or corporations in
21 active concert or participating with any of them be immediately and permanently
22 enjoined, pursuant to 15 U.S.C. § 1116(a), from:

23 a. displaying the Olympic Marks, or any terms, logos or
24 images that are confusingly similar thereto, on the Websites or any other
25 website;

26 b. directly or indirectly infringing the Olympic Marks in any
27 manner including, but not limited to, advertising, selling, and/or offering for
28 sale any tickets or any other goods or services, that infringe said trademarks;

1 c. engaging in any conduct that tends falsely to represent, or
2 is likely to confuse, mislead, or deceive members of the public into believing,
3 that the actions of Defendants, the tickets sold by Defendants, or Defendants
4 themselves are connected with Plaintiffs, are sponsored, approved, or
5 licensed by Plaintiffs, or are in some way connected or affiliated with
6 Plaintiffs;

7 d. affixing, applying, annexing, or using in connection with
8 tickets or any other goods or services, a false description or representation,
9 including words or other symbols, tending falsely to describe or represent
10 such goods or services as being those of Plaintiffs;

11 e. otherwise competing unfairly with Plaintiffs in any
12 manner;

13 f. registering and maintaining any domain name which
14 bears, incorporates or utilizes on any level the Olympic Marks or any terms
15 which are confusingly similar thereto;

16 g. effecting assignments or transfers, forming new entities or
17 associations or utilizing any other means or device for the purpose of
18 circumventing or otherwise avoiding prohibitions set forth in subparagraphs
19 (a) through (f);

20 101. That Defendants' domain names be impounded under 15 U.S.C.
21 §§ 1116(a) and 1116(d)(1)(A) and 28 U.S.C. § 1651 or, in the alternative, that
22 Defendants be required to forfeit, cancel, or transfer to Plaintiffs any domain name
23 which incorporates any of the Olympic Marks pursuant to 15 U.S.C.
24 §1125(d)(1)(C).

25 102. That Defendants account for and pay over to Plaintiffs all
26 damages sustained by Plaintiffs from lost sales of genuine Olympic tickets and
27 other Olympic-related merchandise, and profits realized by Defendants by reason of
28 Defendants' unlawful acts herein alleged, trebled, to the full extent provided under

1 Sections 35(a) and 35(b) of the Lanham Act, 15 U.S.C. §§ 1117(a)-(b), or in the
2 alternative to statutory damages under Section 35(c) of the Lanham Act, 15 U.S.C.
3 § 1117(c).

4 103. That Defendants account for and pay over to Plaintiffs, in
5 accordance with California law, all damages sustained by Plaintiffs and profits
6 realized by Defendants by reason of Defendants' unlawful acts herein alleged and
7 prejudgment interest and that those profits be increased as provided by law;

8 104. That Plaintiffs recover from Defendants their reasonable
9 attorneys' fees and costs of suit under 15 U.S.C. § 1117;

10 105. That Defendants, within ten days after the service of the
11 judgment herein, be required to file with this Court and serve upon Plaintiffs'
12 attorneys, a written report under oath setting forth in detail the manner in which
13 they have complied with the judgment; and

14 106. That Plaintiffs have all other and further relief as the Court may
15 deem just and proper under the circumstances.

16
17 Dated: July 29, 2008

18 O'MELVENY & MYERS LLP

19
20 By: /s/ Diana M. Torres
21 Diana M. Torres

22 Attorneys for Plaintiffs
23 The United States Olympic Committee and
24 the International Olympic Committee
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27
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