

**United States District Court**  
**Northern District of Illinois**  
**Eastern Division**

Geisha LLC

**JUDGMENT IN A CIVIL CASE**

v.

Case Number: 05 C 5529

Roy Tuccillo

- ☐ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- ☒ Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that Geisha's motion to stay is denied without prejudice. Pursuant to its March 1, 2006 order this court awards attorneys' fees and expenses in favor of Geisha in the amount of \$67,150.46. Tuccillo's motion to strike is denied.

Michael W. Dobbins, Clerk of Court

Date: 7/7/2009

\_\_\_\_\_  
/s/ Ena T. Ventura, Deputy Clerk

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1978, is to be filed in the case of the federal court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

CV-09-2022

## I. (a) PLAINTIFFS

ROY TUCCILLO, an individual

(b) County of Residence of First Listed Plaintiff Nassau  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

ARNOLD L. KERT PLLC  
Garden City, N.Y.  
666 Old Country Road

Arnold L. Kert, Esq.  
Tel: (516) 222-1860

## DEFENDANTS

GEISHA NYC, LLC, d/b/a JAPONAIS and OSSS HOSPITALITY  
NYC, LLC

County of Residence of First Listed Defendant New York  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

Unknown

U.S. DISTRICT COURT

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of U.S. ☐ 1 ☐ DEF ☒ PTF ☐ DEF ☒ PTF  
Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4  
Citizen of Another State ☐ 2 ☐ 2 Incorporated or Principal Place of Business in Another State ☐ 5 ☒ 5  
Citizen or Subject of Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

- |  |  |  |   |  |  |
|--|--|--|---|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input checked="" type="checkbox"/> 840 Trademark<br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DTWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
|--|--|--|---|--|--|

## V. 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 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1051 et seq. 1114-1116, 1225(a), 1125(c), 1125(d)

Brief description of cause:

Trademark Infringement, Unfair Competition, Dilution and Cybersquatting

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**ARBITRATION CERTIFICATION**

I, Arnold L. Kert, Esq., counsel for Plaintiff \_\_\_\_\_ do hereby  
certify pursuant to the Local Arbitration Rule 83.10 that to the best of my knowledge and belief the damages  
recoverable in the above captioned civil action exceed the sum of \$150,000 exclusive of interest and costs.  
✓ Relief other than monetary damages is sought.

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**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:  
N/A

**Please refer to NY-E Division of Business Rule 50.1(d)(2)**

1.) Is the civil action being filed in the Eastern District of New York removed from a New York State court located  
in Nassau or Suffolk County: No

2.) If you answered "no" above:

a.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau  
or Suffolk County? Yes

b.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the  
Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than  
one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the  
claimants, if there is more than one) reside in Nassau or Suffolk County? \_\_\_\_\_

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

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I am currently admitted in the Eastern District of New York and currently a member in good standing of the  
bar of this court.

Yes ✓

No \_\_\_\_\_

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

Yes \_\_\_\_\_ (If yes, please explain)

No ✓

---

Please provide your E-MAIL Address and bar code below. Your bar code consists of the initials of your first and last  
name and the last four digits of your social security number or any other four digit number registered by the attorney  
with the Clerk of Court.

(This information must be provided pursuant to local rule 11.1(b) of the civil rules).

ATTORNEY BAR CODE: ALK3106

E-MAIL Address: ALKERT@optonline.net

I consent to the use of electronic filing procedures adopted by the Court in Administrative Order No. 97-12, "In re  
Electronic Filing Procedures(EFP)", and consent to the electronic service of all papers.

Signature: 

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
ROY TUCCILLO, an individual

Plaintiff,

- against -

GEISHA NYC, LLC d/b/a JAPONAIS and  
OSSS HOSPITALITY NYC, LLC

Defendants.  
-----X

**CV - 09 2022**

Civil Action No.

**BIANCO, J.**

**COMPLAINT AND  
JURY DEMAND**

**WALL, M.**

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

★

★

**COMPLAINT FOR TRADEMARK INFRINGEMENT, UNFAIR COMPETITION, AND DILUTION**

Plaintiff, ROY TUCCILLO, by his attorneys ARNOLD L. KERT PLLC, complaining of  
the defendants, GEISHA NYC, LLC d/b/a JAPONAIS and OSSS HOSPITALITY NYC, LLC,  
allege as follows:

THE PARTIES

1. Roy Tuccillo is an individual residing in the State of New York and operates Japonais restaurant and lounge.
2. Upon information and belief, Geisha NYC, LLC is a Domestic Limited Liability Company, doing business as Japonais, with offices at 420 Lexington Avenue, New York, New York 10170.
3. Upon information and belief, Geisha NYC, LLC owns Japonais New York.
4. Upon information and belief, Geisha NYC, LLC operates Japonais New York.
5. Upon information and belief, OSSS Hospitality NYC, LLC is a Domestic Limited Liability Company, with offices at 420 Lexington Avenue, New York, New York 10170.

6. Upon information and belief, OSSS Hospitality NYC, LLC owns Japonais New York.
7. Upon information and belief, OSSS Hospitality NYC, LLC operates Japonais New York.

#### JURISDICTION AND VENUE

8. This action is for trademark infringement, unfair competition, trademark dilution and cybersquatting committed by the defendants in violation of the laws of the United States and the State of New York. Count I of this action for trademark infringement is brought under the Sections 32-34 of the Trademark Act, 15 U.S.C. §1051 *et seq.* and 15 U.S.C. Sections 1114-1116; Count II for unfair competition is brought under Section 43(a) of the Trademark Act, 15 U.S.C. §1225(a); Count III for dilution is brought under Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c); Count IV for cybersquatting is brought under Section 43(d) of the Trademark Act, 15 U.S.C. §1125(d); Count V is brought pursuant to the common law of New York; and Count VI for injury to business reputation and dilution is brought under New York General Business Law §360-I. Accordingly, this court has jurisdiction pursuant to 15 U.S.C. §§1114-1116 and 1125(a), and 28 U.S.C. §§ 1138(a) and 1138(b) (pendant jurisdiction over unfair competition claims). Upon information and belief, venue is proper in this district, pursuant to 28 U.S.C. §1391, as defendant operates offices and does significant business in New York, and this district is convenient to both litigants in terms of witnesses and evidence.

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