



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
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May-06-2009 10:37 am

Case Number: CGC-09-488101

Filing Date: May-06-2009 10:34

Juke Box: 001 Image: 02487393

COMPLAINT

ANTHONY LA RUSSA VS. TWITTER, INC A DELAWARE CORPORATION et al

001C02487393

Instructions:

Please place this sheet on top of the document to be scanned.

SUMMONS
(CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

TWITTER, INC., a Delaware corporation, and DOES 1-25, inclusive

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ANTHONY LA RUSSA

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
SAN FRANCISCO COUNTY SUPERIOR COURT
400 McAllister Street

CASE NUMBER
(Número del Caso) **09-488101**

San Francisco, CA 94102

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Gregory L. McCoy, CSB #063399 925-837-0585 925-838-5985
Gagen, McCoy, McMahon, Koss, Markowitz & Raines
279 Front Street
Danville, CA 94526

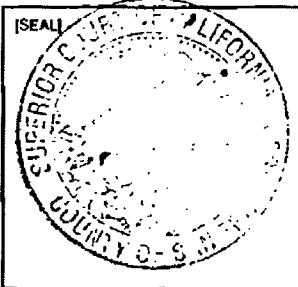
GORDON P. ...
Clerk, by *[Signature]*, Deputy
(Secretario) *(Adjunto)*

DATE: **MAY 6 - 2009**
(Fecha)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

- NOTICE TO THE PERSON SERVED: You are served**
- as an individual defendant.
 - as the person sued under the fictitious name of *(specify):*

- on behalf of *(specify):*
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other *(specify):*
- by personal delivery on *(date):*



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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Gregory L. McCoy, CSB #063399
Gagen, McCoy, McMahon, Koss, Markowitz & Raines
279 Front Street

FILED
Superior Court of California
County of San Francisco

Danville, CA 94526
TELEPHONE NO.: 925-837-0585 FAX NO.: 925-838-5985

MAY 6 - 2009 MAY 6 - 2009

ATTORNEY FOR (Name): Anthony La Russa
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS:
CITY AND ZIP CODE: San Francisco, CA 94102
BRANCH NAME:

GORDON PARK LI, Clerk
By: Ludie C. [Signature]
Deputy Clerk

CASE NAME:

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: CGC-09-488101
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

- Auto Tort**
 - Auto (22)
 - Uninsured motorist (46)
- Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**
 - Asbestos (04)
 - Product liability (24)
 - Medical malpractice (45)
 - Other PI/PD/WD (23)
- Non-PI/PD/WD (Other) Tort**
 - Business tort/unfair business practice (07)
 - Civil rights (08)
 - Defamation (13)
 - Fraud (16)
 - Intellectual property (19)
 - Professional negligence (25)
 - Other non-PI/PD/WD tort (35)
- Employment**
 - Wrongful termination (36)
 - Other employment (15)

- Contract**
 - Breach of contract/warranty (06)
 - Rule 3.740 collections (09)
 - Other collections (09)
 - Insurance coverage (18)
 - Other contract (37)
- Real Property**
 - Eminent domain/inverse condemnation (14)
 - Wrongful eviction (33)
 - Other real property (26)
- Unlawful Detainer**
 - Commercial (31)
 - Residential (32)
 - Drugs (38)
- Judicial Review**
 - Asset forfeiture (05)
 - Petition re: arbitration award (11)
 - Writ of mandate (02)
 - Other judicial review (39)

- Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)**
 - Antitrust/Trade regulation (03)
 - Construction defect (10)
 - Mass tort (40)
 - Securities litigation (28)
 - Environmental/Toxic tort (30)
 - Insurance coverage claims arising from the above listed provisionally complex case types (41)
- Enforcement of Judgment**
 - Enforcement of judgment (20)
- Miscellaneous Civil Complaint**
 - RICO (27)
 - Other complaint (not specified above) (42)
- Miscellaneous Civil Petition**
 - Partnership and corporate governance (21)
 - Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. Large number of separately represented parties
 - b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
 - c. Substantial amount of documentary evidence
 - d. Large number of witnesses
 - e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 - f. Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify):
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 6, 2009
Gregory L. McCoy, CSB #063399
(TYPE OR PRINT NAME)

[Signature]
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

1 GREGORY L. MCCOY, CSB #063399
2 GAGEN, McCOY, McMAHON, KOSS,
3 MARKOWITZ & RAINES
4 279 Front Street
5 P.O. Box 218
6 Danville, CA 94526--
7 Telephone: (925) 837-0585
8 Facsimile: (925) 838-5985

9 Attorneys for Plaintiff
10 ANTHONY LA RUSSA

FILED
Superior Court of California
County of San Francisco

MAY 6 - 2009

MAY 8 - 2009

CASE MANAGEMENT CONFERENCE SET BY GORDON PARK LI, Clerk
Deputy Clerk

OCT 9 - 2009 - 9:00 AM

SUMMONS ISSUED

DEPARTMENT 212
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO

11 ANTHONY LA RUSSA,
12 Plaintiff,

13 vs.

14 TWITTER, INC., a Delaware corporation, and
15 DOES 1-25, inclusive,
16 Defendants.

CGC-09.488101

No.:

**COMPLAINT FOR TRADEMARK
INFRINGEMENT, FALSE
DESIGNATION OF ORIGIN,
TRADEMARK DILUTION,
CYBERSQUATTING,
MISAPPROPRIATION OF NAME,
AND MISAPPROPRIATION OF
LIKENESS**

19 Plaintiff alleges:

20 FIRST CAUSE OF ACTION

21 (Trademark Infringement)

22 1. Defendant TWITTER, INC. ("TWITTER") is a Delaware corporation with
23 its principal place of business in San Francisco, California.

24 2. Plaintiff ANTHONY LA RUSSA ("LA RUSSA") is an individual residing
25 in Alamo, California.

26 3. The true names and capacities, whether individual, corporate, associate, or
27 otherwise of Defendants DOES 1-25, inclusive, are unknown to Plaintiff at this time, and
28 Plaintiff therefore sues these Defendants under such fictitious names. When the true

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1 names, capacities, and activities of these Defendants are ascertained, Plaintiff will amend
2 this Complaint accordingly. Plaintiff is informed and believes and thereon alleges that
3 each of the Defendants designated herein as a DOE is responsible in some manner for the
4 events and happenings referred to herein, and that Plaintiff's damages as alleged herein
5 were proximately caused by such Defendants.

6 4. Plaintiff is informed and believes and thereon alleges that at all times herein
7 mentioned, each of the Defendants, including the DOE Defendants, were acting as
8 agents, servants, and/or employees of each of the remaining Defendants, and in doing the
9 things hereinafter alleged were acting within the course and scope of such agency and/or
10 employment and with the permission and consent of the other Defendants. Plaintiff is
11 further informed and believes and thereon alleges that each of the Defendants acted with
12 full knowledge and advice of the other Defendants, and expressly and impliedly ratified
13 the acts of each of the other Defendants in all respects and adopted as his/her/its acts the
14 acts of such Defendants, and each of them.

15 5. Plaintiff LA RUSSA is a well-known manager for Major League Baseball
16 ("MLB"). He has managed teams in the MLB for 30 years, and currently manages the St.
17 Louis Cardinals. He ranks third all-time among MLB managers for both games managed
18 and games won. He has been the subject of several books and has lent his name to a
19 series of successful computer and video games entitled "Tony La Russa Baseball". In
20 addition to his athletic achievements, Plaintiff founded Tony La Russa's Animal Rescue
21 Foundation ("ARF"), headquartered in Walnut Creek, California, which saves abandoned
22 and injured animals and arranges for them to be adopted and to visit hospital patients,
23 elders, and abused children.

24 6. Plaintiff LA RUSSA'S name and image have garnered fame, significance
25 and distinction worldwide for both his athletic and philanthropic achievements. He
26 maintains the domain names tonylarussa.com, tonylarussa.org, and tonylarussa.net. Each
27 domain directs you to the website for ARF (www.arf.net).

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1 damage to the goodwill of his mark. Further, Plaintiff is entitled to exemplary damages
2 as a result of Defendant's malicious actions as described above.

3 THIRD CAUSE OF ACTION

4 (Trademark Dilution)

5 14. Plaintiff incorporates and realleges at this point as though set forth in full
6 each and every allegation contained in paragraphs 1-8.

7 15. Defendant's use of Plaintiff's famous mark in commerce, which began after
8 Plaintiff's mark was already famous, creates a likelihood of dilution of the mark's
9 distinctive value by diminishing the capacity of the mark to identify and distinguish
10 Plaintiff's goods and services.

11 16. Defendant's actions as described herein are in direct violation of Section
12 43(c) of the Lanham Act (15 U.S.C. 1125).

13 17. As a direct and proximate result of Defendant's actions as stated herein,
14 Plaintiff has suffered significant emotional distress, damage to his reputation, and
15 damage to the goodwill of his mark. Further, Plaintiff is entitled to exemplary damages
16 as a result of Defendant's malicious actions as described above.

17 IN WITNESS WHEREOF, Plaintiff prays judgment as hereinafter set forth.

18 FOURTH CAUSE OF ACTION

19 (Cybersquatting)

20 18. Plaintiff incorporates and realleges at this point as though set forth in full
21 each and every allegation contained in paragraphs 1-8.

22 19. Defendant's actions as stated herein, including its registration and use of
23 the domain name twitter.com/TonyLaRussa in an intentional attempt to divert the public
24 away from Plaintiff's authorized websites to Defendant's website, constitute a bad faith
25 intent to profit from and injure Plaintiff's mark, is intended to increase traffic to
26 Defendant's site, or were done with knowledge that injury to Plaintiff's mark was
27 substantially certain to occur.

28
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1 the consuming public to believe that Plaintiff was connected to, authored, and/or
2 endorsed the Site.

3 28. Plaintiff's privacy interests outweigh any potentially alleged public interest
4 served by Defendant's unauthorized use of Plaintiff's likeness.

5 29. As a direct and proximate result of Defendant's actions as stated herein,
6 Plaintiff has suffered significant emotional distress, damage to his reputation, and
7 damage to the goodwill of his mark. Further, Plaintiff is entitled to exemplary damages
8 as a result of Defendant's malicious actions as described above.

9 IN WITNESS WHEREOF, Plaintiff prays judgment as hereinafter set forth.

10 SEVENTH CAUSE OF ACTION

11 (Invasion of Privacy)

12 30. Plaintiff incorporates and realleges at this point as though set forth in full
13 each and every allegation contained in paragraphs 1-8.

14 31. California Civil Code §3344(a) provides that anyone who knowingly uses
15 another's name, signature, photograph or likeness, in any manner, for the purpose of
16 advertising or selling or soliciting without such person's prior consent shall be liable for
17 any damages sustained.

18 32. Defendant has made an unauthorized use of Plaintiff's name, signature,
19 photograph and likeness, in a manner to which he has not consented.

20 33. As a direct and proximate result thereof, Plaintiff has suffered emotional
21 distress, damage to his reputation and general damages in the sum to be shown according
22 to proof.

23 34. Pursuant to the provisions of California Civil Code §3344, Plaintiff is
24 entitled to an award of reasonable attorney's fees in connection with this action.

25 35. Further pursuant to Civil Code §3344, Plaintiff is entitled to a recovery of
26 punitive damages.

27 IN WITNESS WHEREOF, Plaintiff prays judgment as hereinafter set forth.

28
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1 EIGHTH CAUSE OF ACTION

2 (Intentional Misrepresentation)

3 36. Plaintiff incorporates and realleges at this point as though set forth in full
4 each and every allegation contained in paragraphs 1-8.

5 37. Defendant on its website from and after April 19, 2009, and continuing
6 until the present, has published the false and fraudulent representation that "Tony
7 LaRussa is using Twitter."

8 38. The representing contained on Defendant's website is made to all members
9 of the public over the internet.

10 39. The foregoing representation is false and fraudulent in that Plaintiff does
11 not have a webpage on Twitter, nor does Plaintiff use Twitter.

12 40. As a direct and proximate result of Defendant's actions as stated herein,
13 Plaintiff has suffered significant emotional distress and damage to his reputation, all to
14 his general damage in a sum to be shown according to proof.

15 41. Plaintiff is further entitled to an award of punitive and exemplary damages.

16 IN WITNESS WHEREOF, Plaintiff prays judgment as follows:

17 1. For general damages for injury to Plaintiff's mark and resulting profit to
18 Defendant, in a sum to be shown according to proof.

19 2. For general damages for mental anguish and emotional distress.

20 3. For an order enjoining Defendant from further use of Plaintiff's mark and
21 assignment of the Site to Plaintiff.

22 4. For an award of attorney's fees and costs.

23 5. For exemplary damages.

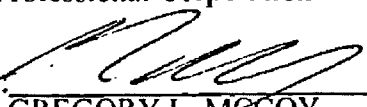
24 6. For all costs of suit incurred herein; and

25 7. For such other and further relief as the Court deems just and proper.

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1 Dated: May 6, 2009

GAGEN, McCOY, McMAHON, KOSS,
MARKOWITZ & RAINES
A Professional Corporation

By: 

GREGORY L. MCCOY
Attorneys for Plaintiff, ANTHONY LA
RUSSA

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Hey there! TonyLaRussa is using Twitter.

Twitter is a free service that lets you keep in touch with people through the exchange of quick, frequent answers to one simple question: What are you doing? Join today to start receiving TonyLaRussa's updates.

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TonyLaRussa

- *Name Tony La Russa*
- *Location Tossing Pujols' salad*
- *Web <http://madd.org>*
- *Bio Parodies are fun for everyone.*

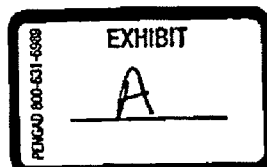
0 Following 4 Followers

1. Lost 2 out of 3, but we made it out of Chicago without one drunk driving incident or dead pitcher... I'd call that an I-55 series.8:01 PM Apr 19th from web
2. Fortunately, Ian Snell sucks now... when Molina and Duncan Jr. go deep off of you it's time to look yourself in the mirror, have an ice-...3:33 PM Apr 8th from web
3. drinking a cold Zima and wishing fucking Hancock was alive, I bet he could've gotten Jack Wilson out.4:13 PM Apr 7th from web

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[RSS feed of TonyLaRussa's updates](#)



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