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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MBL/TONI&GUY PRODUCTS, L.P. and TONI&GUY HAIRDRESSING ACADEMY FRANCHISE, LP,) No.
) VERIFIED COMPLAINT
Plaintiffs,)
vs.)
MICHAEL KENNARD, BETTY STOCK KENNARD; and TONI & GUY HAIRDRESSING ACADEMY, INC.,)
Defendants.)

PLAINTIFFS' VERIFIED COMPLAINT

MBL/TONI&GUY Products, L.P. and TONI&GUY Hairdressing Academy Franchise, LP (collectively, "TONI&GUY") file this Verified Complaint, complaining of Michael Kennard, Betty (Cis) Stock Kennard, and Toni & Guy Hairdressing Academy, Inc. (collectively, "Defendants").

JURISDICTION, PARTIES, AND VENUE

1. MBL/TONI&GUY Products, L.P. ("TONI&GUY Products") is a Texas limited partnership with its principal place of business located in the State of Texas.

1 2. TONI&GUY Hairdressing Academy Franchise, LP (“TONI&GUY LP”) is a
2 Delaware limited partnership with its principal place of business located in the State of Texas.

3 3. Defendant Michael Kennard, upon information and belief, is an individual
4 residing in the State of Washington at 2915 Eldridge Avenue, Bellingham, Washington 98225-
5 1504. All actions or omissions of Michael Kennard alleged herein were performed on behalf of
6 and for the benefit of his marital community.

7 4. Defendant Betty (Cis) Stock Kennard, upon information and belief, is an
8 individual residing in the State of Washington at 2915 Eldridge Avenue, Bellingham,
9 Washington 98225-1504. All actions or omissions of Betty Kennard alleged herein were
10 performed on behalf of and for the benefit of her marital community.

11 5. Defendant Toni & Guy Hairdressing Academy, Inc., upon information and belief,
12 is a Washington corporation with its principal place of business at 203 W. Holly Street, Suite
13 206, Bellingham, Washington 98225. Toni & Guy Hairdressing Academy, Inc.’s registered
14 agent, upon information and belief, is Michael Kennard at 2915 Eldridge Avenue, Bellingham,
15 Washington 98225-1504.

16 6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§1331 and
17 1338(a), because it arises under the Federal Trademark Act, 15 U.S.C. §1052, et. seq.
18 Jurisdiction over the state law claims for relief is proper under 28 U.S.C. §1338(b) because the
19 asserted state law claims are joined with a substantial and related claims under the federal
20 trademark laws.

21 7. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b)(2), because a
22 substantial part of the events giving rise to this claim occurred in this jurisdiction.

23 **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

24 ***TONI&GUY***

25 8. TONI&GUY is one of the most powerful hairdressing brands in the world. The
26 TONI&GUY® trademark was founded and first used in 1963. From a single unit in suburban

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1 London, TONI&GUY has grown to a multinational company comprised of (i) hairdressing
2 salons, (ii) educational academies, and (iii) hair care, cosmetics, and skincare accessories and
3 products¹ throughout the world.

4 9. With over 200 salons worldwide (including 61 salons in the United States and
5 Canada), TONI&GUY offers stylists an opportunity for advancement through educational
6 programs focused on both artistry and business. The salon division of TONI&GUY operates
7 nationally with company-owned and partnership units. The salons are generally located in
8 regional malls, which offer a steady source of clients, while creating an environment that
9 supports career longevity and quality for the stylists.

10 10. The second component of TONI&GUY's business structure is its cosmetology
11 schools, which assist TONI&GUY in recruiting and retaining quality stylists. TONI&GUY
12 Hairdressing Academies train beginner and advanced stylists, in which new stylists have a
13 dependable resource and advanced stylists and chemical technicians can strive to reach the top of
14 their profession. In the United States, there are nine (9) TONI&GUY® Hairdressing Academies,
15 including one in Bellingham, Washington.

16 11. For over forty years, TONI&GUY has remained at the forefront of the
17 hairdressing industry, with the goal to upgrade the 'professional hairdresser.'

18 12. Under a service mark license agreement, non-party TONI&GUY (USA) Limited
19 ("TONI&GUY Ltd.") granted non-party TONI&GUY Hairdressing Academy, LP ("TGHA") a
20 non-exclusive license to use and sublicense certain trademarks in the United States.
21 Subsequently, TGHA granted TONI&GUY LP a non-exclusive sublicense to use and sublicense
22 certain trademarks in the United States in connection with beauty, hairdressing and cosmetology
23 schools that are operated by its franchisees. Effective as of April 1, 2009, TONI&GUY Ltd.
24 sold, assigned, transferred, and set over to TONI&GUY Products all its right, title and interest in
25

26 ¹ TONI&GUY markets and sells its hair care and cosmetic accessories, BED HEAD, through the
product line entity, TIGI®.
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1 and to certain trademarks. A true and correct copy of the assignment agreement is attached as
2 Exhibit "A." Therefore, TONI&GUY Products (as trademark holder) and TONI&GUY LP (as
3 sublicensee and franchisor) jointly bring this trademark infringement action against Defendants.

4 13. TONI&GUY Products has registered for the following well-known and famous
5 trademarks and service marks on the Principal Register of the United States Patent and
6 Trademark Office:

<u>Mark</u>	<u>Serial/ Registration No.</u>	<u>Application/ Registration Date</u>	<u>Status</u>
TONI&GUY	1,525,304	Feb. 21, 1989	Registered
TONI&GUY HAIRDRESSING	3,236,350	May 1, 2007	Registered
TONI&GUY HAIRDRESSING ACADEMY	3,486,906	Aug. 19, 2008	Registered

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17 The foregoing trademarks and service marks will collectively be referred to as the "Marks." True
18 and correct copies of the Marks' registration certificates are attached as Exhibit "B." The Marks
19 are used for instructional purposes, hairdressing and beauty salon services, and for educational
20 services, namely providing courses and seminars for persons engaged in the operation of
21 hairdressing and beauty salons.

22 14. TONI&GUY LP is a franchisor that offers franchises for the operation of
23 TONI&GUY® Hairdressing Academies throughout the United States. Through franchise
24 agreements, TONI&GUY LP grants rights to franchisees to construct or convert, own and
25 operate a TONI&GUY® Hairdressing Academy at a designated site for an initial term of ten (10)
26 years. Such franchisees are allowed to use TONI&GUY LP's business methods, designs,

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No.
M40326-1187160

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1 arrangements and standards for developing and operating TONI&GUY® Hairdressing
2 Academies (the “Business Operating System”). In addition, the franchisees are allowed to use (i)
3 the TONI&GUY service mark and logo, (ii) the TONI&GUY trade name, (iii) the elements and
4 components of a TONI&GUY Hairdressing Academy’s Trade Dress, and (iv) any and all
5 additional, different or replacement trade names, trademarks, service marks, logos and slogans
6 that TONI&GUY LP adopts to identify its Business Operating System.

7 15. TONI&GUY has continuously used each of the Marks since the date of their
8 registration and these Marks are in full force and effect pursuant to 15 U.S.C. §1065, in
9 connection with the unique services offered at its salons and academies.

10 16. TONI&GUY has given notice to the public of the registration of the Marks as
11 provided in 15 U.S.C. §1111.

12 17. TONI&GUY also has the following registered domain names, which promote the
13 company’s business throughout the United States: www.toniguy.com and
14 www.toniguyacademy.com.

15 18. TONI&GUY has invested substantial time, skill, effort and money to develop the
16 TONI&GUY brand and goodwill in its trade names, trademarks, and service marks, which cause
17 consumers throughout the United States (and internationally) to recognize the Marks as distinctly
18 designating TONI&GUY services and products as originating with TONI&GUY.

19 19. The value of the goodwill developed in the Marks does not lend itself to a precise
20 monetary calculation, but because (i) the TONI&GUY® trademark and salons are nationally and
21 internationally recognized, and (ii) TONI&GUY LP has a national franchise system and is widely
22 known as a provider of quality hairdressing academies, the value of TONI&GUY’s goodwill is
23 substantial.

24 20. In addition, locations operated by TONI&GUY and its affiliates, including
25 TONI&GUY LP’s franchisees, have inside and outside signage using one or more of the Marks.
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1 21. TONI&GUY has produced a significant number of brochures and other print,
2 radio, and television advertisements bearing one or more of the Marks. TONI&GUY has
3 distributed these advertisements throughout the United States and internationally.

4 *The Kennards and Toni & Guy Hairdressing Academy, Inc.*

5 22. Upon information and belief, the Kennards are the owners and operators of
6 Bellingham Beauty School in Bellingham, Washington. The Bellingham Beauty School is
7 located at 4192 Meridian Street, Bellingham, Washington. Upon information and belief, the
8 Bellingham Beauty School provides orientation, basic training, clinics, and test preparation for
9 individuals seeking to obtain his or her cosmetology license from the State of Washington. More
10 information regarding the Bellingham Beauty School may be found at
11 www.bellinghambeautyschool.edu. More information regarding the Kennards can be found on
12 this same website under the “Faculty” tab.

13 23. Upon information and belief, TONI&GUY’s now-current franchisee in
14 Bellingham, Washington, who operates a TONI&GUY® Hairdressing Academy (the
15 “Bellingham Franchisee”), approached the Kennards in 2007 regarding the purchase of the
16 Bellingham Beauty School. Upon information and belief, the Bellingham Franchisee informed
17 the Kennards that he would be opening a TONI&GUY® Hairdressing Academy in Bellingham.
18 Upon information and belief, although the Kennards provided the Bellingham Franchisee with
19 information and financials regarding the Bellingham Beauty School, the parties did not
20 consummate a sale.

21 24. In March 2009, TONI&GUY learned that the Kennards are also the owners of an
22 entity called “Toni & Guy Hairdressing Academy, Inc.” TONI&GUY has since discovered
23 additional information regarding Defendants, which has caused TONI&GUY to experience
24 substantial harm and disruption to its franchise system.

25 25. Under the Corporations Division of the State of Washington Secretary of State,
26 Toni & Guy Hairdressing Academy, Inc. is an active, for-profit corporation. Toni & Guy

1 Hairdressing Academy, Inc. was incorporated on November 6, 2007—just a few months AFTER
2 the Bellingham Franchisee informed the Kennards that his TONI&GUY® Hairdressing Academy
3 would be opening in Bellingham. Toni & Guy Hairdressing Academy, Inc.’s corporate license
4 registration is set to expire on November 30, 2009. Michael Kennard is Toni & Guy
5 Hairdressing Academy, Inc.’s registered agent. A true and correct copy of the Registration Detail
6 for Toni & Guy Hairdressing Academy, Inc. from the Washington Secretary of State is attached
7 as Exhibit “C.”

8 26. In addition, Toni & Guy Hairdressing Academy, Inc. has filed (and obtained) its
9 business registration with the City of Bellingham. Toni & Guy Hairdressing Academy, Inc.
10 operates under the business name “Toni & Guy Hairdressing Academy.” Toni & Guy
11 Hairdressing Academy, Inc.’s business location is 203 W. Holly St. #206, Bellingham,
12 Washington 98225 (the “Infringing Location”). A true and correct copy of the Business
13 Registration is attached as Exhibit “D.” Toni & Guy Hairdressing Academy, Inc.’s business
14 license has also been disclosed to the public through the Internet. The issuance of Toni & Guy
15 Hairdressing Academy, Inc.’s business license can be found at
16 <http://www.thebellinghambusinessjournal.com/september2008/businessLicenses.php>.

17 27. Toni & Guy Hairdressing Academy, Inc. has also registered (and obtained) its
18 Washington State Business License from the Department of Licensing. In addition to listing its
19 mailing address as the Kennard’s home address, Toni & Guy Hairdressing Academy, Inc. has
20 registered twenty (20) trade names, including trade names starting with “TIGI” (i.e.,
21 TONI&GUY’s product line, *see* FN 1) and “BEAUTYWERKS” and “BEAUTYWORKS” (i.e.,
22 upon information and belief, the Kennard’s registered trade name for the sole proprietorships for
23 the Kennards). True and correct copies of the License Detail from Washington State’s
24 Department of Licensing for Toni & Guy Hairdressing Academy, Inc. and the Kennards’ sole
25 proprietorships are attached as Exhibit “E.”
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1 28. Toni & Guy Hairdressing Academy, Inc. has also obtained a listing in the
2 Whatcom County Yellow Pages under the name “Toni & Guy Hairdressing Academy,” located at
3 “203 W. Holly St APT 206.” A true and correct copy of the Yellow Pages listing is attached as
4 Exhibit “F.” When the telephone number listed in the Yellow Pages is called, no one answers.
5 After a few rings, the operator intercepts the call and states that the voice mail has not been set
6 up yet. Therefore, all consumers who call Toni & Guy Hairdressing Academy, Inc., under the
7 mistaken belief that they are calling TONI&GUY, are directed to a dead end, resulting in
8 substantial and irreparable harm to TONI&GUY.

9 29. Defendants have NO authority from TONI&GUY to use the Marks in connection
10 with the operation of Toni & Guy Hairdressing Academy, Inc. or otherwise.

11 30. Interestingly, upon information and belief, Defendants do not operate a beauty
12 school or hairdressing academy from the Infringing Location. Despite the unlawful
13 advertisements, business registrations, and representations to the public, the Infringing Location
14 is a shared office space in which the doors to the office suite regularly remained locked.
15 Therefore, any consumer who visits the Infringing Location, under the mistaken belief that it is
16 related to TONI&GUY, is led to a dead end, again, resulting in substantial and irreparable harm
17 to TONI&GUY.

18 31. Defendants’ actions to divert potential TONI&GUY clients to an unattended
19 telephone line or to a locked business space are intentional, willful, and deliberate.

20 ***TONI&GUY notified Defendants of their infringement***

21 32. In a letter dated March 5, 2009, TONI&GUY notified Defendants that their use of
22 the Marks in the name “Toni & Guy Hairdressing Academy, Inc.” to denote and describe their
23 business and in connection with hairdressing and beauty school services constituted, at a
24 minimum, trademark infringement. TONI&GUY demanded that Defendants immediately cease
25 using the Marks and any other marks confusingly similar to the Marks. A true and correct copy
26 of the March 5th cease and desist letter is attached as Exhibit “G.”

1 WHEREFORE, pursuant to 15 U.S.C. §1114, TONI&GUY demands judgment against

2 Defendants:

3 a. Temporarily, preliminarily, and permanently restraining and enjoining
4 Defendants, their agents, servants, employees, and attorneys, and all those who act in concert or
5 participation with them, from (i) using TONI&GUY®, TONI&GUY HAIRDRESSING®, or
6 TONI&GUY HAIRDRESSING ACADEMY® or any other name or marks confusingly similar
7 to the Marks, and (ii) marketing, promoting, or selling goods or services at the Infringing
8 Location or at any other location using the Marks or promoting any goods or services related to
9 the Marks;

10 b. Ordering Defendants to deliver to TONI&GUY for destruction any and all
11 labels, signs, prints, packages, wrappers, products, receptacles, advertisements and any other
12 materials bearing TONI&GUY®, TONI&GUY HAIRDRESSING®, or TONI&GUY
13 HAIRDRESSING ACADEMY® as a trade name or trademark;

14 c. Awarding to TONI&GUY all of Defendants' profits, any damages
15 sustained by TONI&GUY, and the costs of this action, pursuant to 15 U.S.C. §1117(a), and that
16 any damages awarded be tripled and any profits awarded be increased to an amount this Court
17 finds just;

18 d. Ordering Defendants to notify promptly the appropriate telephone
19 company(ies) and all telephone directory listing agencies and to authorize the transfer of the
20 number currently being used by Toni & Guy Hairdressing Academy, Inc. to TONI&GUY;

21 e. Ordering Defendants to notify promptly the Corporations Division of the
22 State of Washington Secretary of State and cancel the registration of Toni & Guy Hairdressing
23 Academy, Inc.;

24 f. Ordering Defendants to notify promptly the City of Bellingham and cancel
25 the business registration of Toni & Guy Hairdressing Academy, Inc.;

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1 g. Ordering Defendants to notify promptly the Washington State Department
2 of Licensing and cancel any trade name registration that uses or incorporates any TONI&GUY
3 trademark.

4 h. Ordering that Defendants file with the Court and serve on TONI&GUY
5 (through its legal counsel) within five (5) days after the issuance of any injunction, a report in
6 writing and under oath setting forth in detail the manner and form with which they have
7 complied with the injunction; and

8 i. Granting TONI&GUY its attorneys' fees, costs of suit, and such other and
9 further relief, in law and in equity, as this Court shall deem just and proper.

10 **SECOND CLAIM FOR RELIEF**

11 ***Use of False and Misleading Representation—15 U.S.C. §1125(a)(1)(a)***

12 40. TONI&GUY realleges and incorporates herein by reference each of the factual
13 allegations above as though fully set forth herein.

14 41. Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a), provides that “[a]ny person
15 who, on or in connection with any goods or services ... uses in commerce any word, term, name,
16 symbol ... or any false designation of origin, false or misleading description of fact, or false or
17 misleading representation of fact, which is likely to cause confusion or to cause mistake, or to
18 deceive as to affiliation ... or as to the origin, sponsorship, or approval of ... goods [or] services
19 ... shall be liable in a civil action ...”

20 42. Because of TONI&GUY’s continuous and extensive use of the Marks, the name
21 “Toni & Guy Hairdressing Academy, Inc.” has come to denote the services on TONI&GUY.

22 43. Defendants’ use of the Marks constitutes use in connection with TONI&GUY’s
23 business and offering of services of a false designation of origin, false or misleading description
24 of fact, or false or misleading representation of fact that is likely to cause confusion, or to cause
25 mistake, or to deceive as to the affiliation of Toni & Guy Hairdressing Academy, Inc. with
26 TONI&GUY.

1 44. Defendants' ongoing acts of infringement in violation of Section 43(a) of the
2 Lanham Act are malicious, fraudulent, willful, and deliberate.

3 45. TONI&GUY has no adequate remedy at law.

4 46. No previous injunctive relief has been awarded with respect to this matter or in
5 this case or any other case.

6 WHEREFORE, pursuant to 15 U.S.C. §1125(a), TONI&GUY demands judgment against
7 Defendants as outlined in the First Claim for Relief, including attorneys' fees, costs of suit, and
8 such other and further relief as this Court shall deem just and proper.

9 **THIRD CLAIM FOR RELIEF**

10 ***Federal Trademark Dilution—15 U.S.C. §1125(c)***

11 47. TONI&GUY realleges and incorporates herein by reference each of the factual
12 allegations above as though fully set forth herein.

13 48. Paragraph 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), provides that “[t]he
14 owner of a famous mark shall be entitled, subject to the principles of equity and upon such terms
15 of the court deems reasonable, to an injunction against another person’s commercial use in
16 commerce of a mark or trade name, if such use begins after the mark has become famous and
17 causes dilution of the distinctive quality of the mark, and to obtain such other relief as is
18 provided in this subparagraph.”

19 49. Defendants' use of the Marks in connection with goods and services at the
20 Infringing Location, after the Marks became famous, has caused and will continue to cause
21 dilution and disparagement of the distinctive quality of the Marks, and has lessened and will
22 continue to lessen the capacity of the Marks to identify and distinguish the goods and services of
23 TONI&GUY, all in violation of Paragraph 43(c) of the Lanham Act.

24 50. Defendants' ongoing acts of infringement in violation of Section 43(c) of the
25 Lanham Act are malicious, fraudulent, willful, and deliberate.

26 51. TONI&GUY has no adequate remedy at law.

1 52. No previous injunctive relief has been awarded with respect to this matter or in
2 this case or any other case.

3 WHEREFORE, pursuant to 15 U.S.C. §1125(c), TONI&GUY demands judgment against
4 Defendants as outlined in the First Claim for Relief, including attorneys' fees, costs of suit, and
5 such other and further relief as this Court shall deem just and proper.

6 **FOURTH CLAIM FOR RELIEF**

7 ***Washington State Trademark Dilution—WASH. REV. CODE §19.77.160***

8 53. TONI&GUY realleges and incorporates herein by reference each of the factual
9 allegations above as though fully set forth herein.

10 54. Pursuant to the Revised Code of Washington §19.77.160(1), "the owner of a mark
11 that is famous in this state shall be entitled ... to an injunction against another person's
12 commercial use in this state of a mark, commencing after the mark becomes famous, which
13 causes dilution of the distinctive quality of the mark, and to obtain such other relief as is
14 provided in this section."

15 55. Defendants' use of the Marks in connection with goods and services at the
16 Infringing Location, after the Marks became famous, has caused and will continue to cause
17 dilution and disparagement of the distinctive quality of the Marks, and has lessened and will
18 continue to lessen the capacity of the Marks to identify and distinguish the goods and services of
19 TONI&GUY, all in violation of Section 19.77.160 of the Revised Code of Washington.

20 56. Defendants' ongoing acts of infringement are malicious, fraudulent, willful, and
21 deliberate.

22 57. TONI&GUY has no adequate remedy at law.

23 58. No previous injunctive relief has been awarded with respect to this matter or in
24 this case or any other case.

25 WHEREFORE, pursuant to the Revised Code of Washington §19.77.160, TONI&GUY
26 demands judgment against Defendants as outlined in the First Claim for Relief, including

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1 attorneys' fees, costs of suit, and such other and further relief as this Court shall deem just and
2 proper.

3 **FIFTH CLAIM FOR RELIEF**

4 ***Washington Statutory and Common Law Unfair Competition / Misappropriation***

5 59. TONI&GUY realleges and incorporates herein by reference each of the factual
6 allegations above as though fully set forth herein.

7 60. Pursuant to the Revised Code of Washington §19.86.020, unfair methods of
8 competition in the conduct of any trade or commerce are unlawful.

9 61. Defendants have used the Marks in trade or commerce and such use constitutes
10 unfair competition and an unfair or deceptive act or practice in violation of TONI&GUY's rights
11 under Washington statutory law.

12 62. TONI&GUY developed its Marks, reputation, and goodwill through extensive
13 time, skill, labor and money. Defendants have used the Marks and TONI&GUY's trade name in
14 competition with TONI&GUY to gain a special advantage in competition, which affects the
15 public interest.

16 63. Defendants gained a particular advantage because they were not burdened with the
17 expense incurred by TONI&GUY in developing the Marks and TONI&GUY's trade name,
18 reputation, and goodwill.

19 64. By these actions, Defendants have gained a financial benefit for themselves and
20 have caused financial loss and damages to TONI&GUY, TONI&GUY LP's Business Operating
21 System, and TONI&GUY LP's franchisees to an unknown extent and which cannot be
22 determined. In sum, TONI&GUY has suffered injury to its business and property rights.

23 65. A causal link exists between Defendants' use of the Marks and TONI&GUY's
24 injury and damages. Such actions by Defendants have caused and will continue to cause
25 TONI&GUY irreparable injury for which TONI&GUY has no adequate remedy at law.

26 66. TONI&GUY has incurred damages and seeks injunctive relief.

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1 WHEREFORE, TONI&GUY demands judgment against Defendants as outlined in the
2 First Claim for Relief, including an increase in the award of damages to an amount not to exceed
3 three times the actual damages sustained as allowed pursuant to the Revised Code of Washington
4 §19.86.090.

5 **SIXTH CLAIM FOR RELIEF**

6 ***Tortious Interference with Existing Contract***

7 67. TONI&GUY realleges and incorporates herein by reference each of the factual
8 allegations above as though fully set forth herein.

9 68. TONI&GUY LP has a valid and enforcement contract (i.e., franchise agreement)
10 with its franchisee in Bellingham, Washington for the operation of a TONI&GUY® Hairdressing
11 Academy.

12 69. Defendants are not parties to the franchise agreement, but have actual knowledge
13 of the franchise agreement, or, at minimum, have knowledge of facts and circumstances that
14 would lead a reasonable person to believe there was a contract in which TONI&GUY LP has an
15 interest.

16 70. Defendants' willful and intentional use of the Marks has wrongfully interfered
17 with TONI&GUY LP's relationship with its franchisee by diminishing the value of the
18 intellectual property rights and business rights that the franchisee bargained for in the franchise
19 agreement.

20 71. Defendants' conduct has proximately caused injury to TONI&GUY LP by
21 actually (or threatening to) reduce its royalty stream by unlawful diverting TONI&GUY
22 consumers to a competing business.

23 72. TONI&GUY LP has incurred damages and seeks injunctive relief.

24 WHEREFORE, TONI&GUY LP demands judgment against Defendants as outlined in
25 the First Claim for Relief, including attorneys' fees, costs of suit, and such other and further
26 relief as this Court shall deem just and proper.

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1 **SEVENTH CLAIM FOR RELIEF**

2 ***Civil Conspiracy***

3 73. TONI&GUY realleges and incorporates herein by reference each of the factual
4 allegations above as though fully set forth herein.

5 74. Defendants have knowingly encouraged, participated in, and benefited from the
6 wrongful conduct described in this Verified Complaint. A civil conspiracy exists under the facts
7 because two or more persons have acted in collusion to accomplish an unlawful purpose or to
8 accomplish a lawful purpose by unlawful means.

9 75. Defendants have engaged in a civil conspiracy to (i) interfere tortiously with
10 TONI&GUY's ongoing and prospective business relations; (ii) engage in unfair competition with
11 TONI&GUY; and (iii) infringe and misappropriate the Marks.

12 76. Since at least November 2007, Defendants, in varying degrees, have participated
13 in, and are engaged in, an ongoing pattern of unlawful and unfair competition. In addition,
14 Defendants have associated together for a common purpose of engaging in a course of conduct
15 and as an ongoing and continuing organization or unit to conduct the unlawful and tortious
16 activities described in this Verified Complaint.

17 77. Defendants have conspired and aided and abetted each other in furtherance of
18 these unlawful schemes. This conduct was caused, permitted, aided, abetted, and assisted by
19 each Defendant in order to maintain their pattern of unlawful activity.

20 78. Accordingly, TONI&GUY has been, and continues to be, damaged in its business
21 and property.

22 WHEREFORE, TONI&GUY demands judgment against Defendants as outlined in the First
23 Claim for Relief, including attorneys' fees, costs of suit, and such other and further relief as this
24 Court shall deem just and proper.

1 DATED this 14th day of April, 2009.

2 **GRAHAM & DUNN PC**

3
4 By 

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25 altresha.burchett-williams@
26 haynesboone.com

VERIFIED COMPLAINT -- 17

No.
M40326-1187160

GRAHAM & DUNN PC
Pier 70, 2801 Alaskan Way ~ Suite 300
Seattle, Washington 98121-1128
(206) 624-8300/Fax: (206) 340-9599

VERIFICATION

STATE OF TEXAS §
 §
 §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Tamara Dickerson, who after being by me first duly sworn, deposed and stated as follows:

1. I am over the age of eighteen (18) years, am of sound mind and am otherwise qualified and capable to make this Verification.

2. I am the Vice President of Risk Management of TONI&GUY USA, LLC and TONI&GUY Hairdressing Academy, LLC. I am authorized to make this verification on behalf of MBL/TONI&GUY Products, L.P. and TONI&GUY Hairdressing Academy Franchise, LP (collectively, "TONI&GUY").

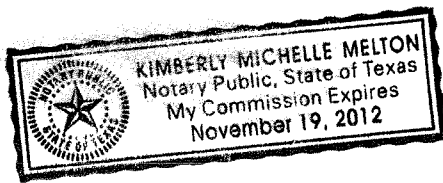
3. I have read the foregoing Verified Complaint and the allegations contained therein. Except as to allegations alleged upon information and belief, which allegations I believe to be true, the factual allegations contained in the Verified Complaint are true and correct based on my personal knowledge, the records of TONI&GUY and/or information available though employees and agents of TONI&GUY.

4. I am also the designed custodian of records for TONI&GUY. Attached to the Verified Complaint are Exhibits A through H. Exhibits G and H are records kept by TONI&GUY in the regular course of business, and it was the regular course of TONI&GUY's business for an employee or representative of TONI&GUY with knowledge of the act, event,

1 condition, or opinion recorded to make the record or to transmit information thereof to be
2 included in such record, and the record was made at or near the time or reasonably soon
3 thereafter. The records attached hereto are exact duplicates of the originals.
4

5 Tamara Dickerson
6 TAMARA DICKERSON

7
8
9 SWORN TO AND SUBSCRIBED before me this 13th day of April, 2009.



14 Kimberly Michelle Melton
15 Notary Public

16
17 (PERSONALIZED SEAL)

18
19
20
21
22
23
24
25
26
VERIFIED COMPLAINT -- 19

No.
m40326-1187160.doc

GRAHAM & DUNN PC
Pier 70, 2801 Alaskan Way ~ Suite 300
Seattle, Washington 98121-1128
(206) 624-8300/Fax: (206) 340-9599

TRADEMARK ASSIGNMENT

THIS TRADEMARK ASSIGNMENT (this “**Assignment**”) dated as of April 1, 2009 (the “**Effective Date**”), is made by **Toni & Guy (USA) Limited**, a private limited company incorporated in England and Wales (“**Assignor**”), and **MBL/Toni&Guy Products, L.P.**, a Texas limited partnership (“**Assignee**”).

WHEREAS, Assignor has agreed to sell and Assignee has agreed to purchase certain intellectual property, including without limitation, the trademarks listed on Schedule A hereto (the “**Trademarks**”); and

WHEREAS, Assignor is the registered owner of the Trademarks and the goodwill associated with the Trademarks.

NOW, THEREFORE, for good and valuable consideration (including the premises and covenants set forth in the Agreement), the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Assignor hereby irrevocably sells, assigns, transfers and sets over to Assignee all of Assignor’s right, title and interest in and to the Trademarks, together with the goodwill of the business in connection with which the Trademarks are used, and all registrations, applications therefor and renewals and extensions of the foregoing in the United States, now or hereafter in effect, for Assignee’s own use and enjoyment, and for the use and enjoyment of Assignee’s successors, assigns or other legal representatives, as fully and entirely as the same would have been held and enjoyed by Assignors if this assignment and sale had not been made, together with all income, royalties or payments due or payable in relation to the Trademarks, including, without limitation, all claims for damages by reason of past, present or future infringement or other unauthorized use of the Trademarks, with the right to sue for and collect the same for Assignee’s own use and enjoyment and for the use and enjoyment of its successors, assigns or other legal representatives.

Assignor authorizes and requests the United States Commissioner of Patents and Trademarks to record Assignee as the assignee and owner of the Trademarks and issue any and all registrations thereon to Assignee, as assignee of the entire right, title and interest in, to and under the same, for the sole use and enjoyment of Assignee and its successors, assigns or other legal representatives.

Assignor shall provide to Assignee, its successors, assigns or other legal representatives, cooperation and assistance at Assignee’s request and expense (including, without limitation, the execution and delivery of any and all affidavits, declarations, oaths, samples, exhibits, specimens and other documentation as may be reasonably required) in connection with: (1) preparation and prosecution of any application for registration or renewal of a registration covering any of the Trademarks; (2) prosecution or defense of any cancellation, opposition, infringement or other proceedings that may arise in connection with any of the Trademarks, including, without limitation, testifying as to any facts relating to the Trademarks and this Assignment; (3) obtaining any additional trademark protection for the Trademarks that Assignee reasonably may deem appropriate that may be secured under the laws now or hereafter in effect in the United

States or for all foreign countries; and (4) implementation, perfection and/or recording of this Assignment.

This Assignment may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be duly executed as of the date first above written.

ASSIGNOR

TONI & GUY (USA) LIMITED

By: David Schwartz
Name: David Schwartz
Title: Attorney-in-fact

STATE OF New Jersey SS:
COUNTY OF Bergen

On this 1 day of April, 2009 before me, David Schwartz, known to me to be attorney-in-fact of Toni & Guy (USA) Limited, who acknowledged that he signed this instrument as a free act on behalf of Toni & Guy (USA) Limited.

Joan H. Connelly
Notary Public:
My commission expires:

JOAN H. CONNELLY
Notary Public of New Jersey
Commission Expires 11/6/2011

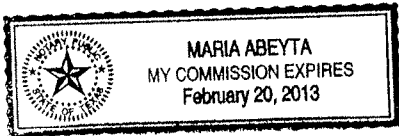
ASSIGNEE

MBL/TONI&GUY PRODUCTS, L.P.

By: Bruno A. Mascolo
Bruno A. Mascolo
President

STATE OF TEXAS)
) SS:
COUNTY OF DALLAS)

On this 1 day of APRIL, 2009 personally appeared before me, Bruno A. Mascolo, known to me to be President of MBL/Toni&Guy Products, L.P., who acknowledged that he signed this instrument as a free act on behalf of MBL/Toni&Guy Products, L.P.



Maria Abeyta
Notary Public:
My commission expires: 2-20-2013

SCHEDULE A: Trademarks

Country	Mark	Class and/or Goods	Appl/ Ser. No.	Filing Date	Reg. No.
United States	TONI & GUY	Class 21 - Hair care accessories, namely, hair brushes, hair combs and shaving cups	75/919016	2/15/00	2955204
United States	TONI & GUY	Class 3 - Hair care products, namely, shampoo, conditioner, spray, gel, polish, sculpting liquid, straightener, hair stick, curl maker, split-end ender, shine texturizer, mousse, tonic, cream, detangler, spray shine and pomade, skin care products, namely, eye cream, cleansing foam, moisture cream, scrub, lotion, line-control serum, toner, facial cream, moisture mask, and cosmetics, namely, powder, foundation, lip liner, eye shadow, lip gloss, mascara, blush, lip color, concealer, liquid makeup, brow gel, eyeliner, lipstick, lipstick pencil, makeup remover	75873782	12/15/99	2711680
United States	TONI & GUY	Class 9 - Video tapes and films for instructional purposes Class 16 - Instructional magazines and posters for hair dressers and beauticians Class 41 - Educational services, namely providing courses and seminars for persons engaged in the operation of hairdressing and beauty salons; Class 42- Hair dressing and beauty salon services	666660	6/15/87	1525304
United States	TONI & GUY ACADEMY	Class 41- Educational services Class 44 - hairdressing, beauty salon and cosmetology services	77/018097	10/10/06	
United States	TONI & GUY HAIRDRESSING	Class 44 - Hair dressing and beauty salon services	78/762908	11/29/05	3236350
United States	TONI & GUY HAIRDRESSING ACADEMY	Class 41- Educational services Class 44 - hairdressing, beauty salon and cosmetology services	77/018025	10/10/06	3,468,906

Country	Mark	Class and/or Goods	Appl/ Ser. No.	Filing Date	Reg. No.
United States	TONIGUY.COM	Class 3 – Hair care products, namely, shampoos, hair lotions, hair conditioners, hair creams, hair gels, color gels and conditioners and hair mousses and cosmetics, namely, eye shadows, lipsticks, foundations, freshening toner and skin conditioners	75739142	6/28/99	2751574
United States	TONIGUY.COM	Class 16 - Instructional books and magazines in the field of beauty for hairdressers and beauticians, instructional books and magazines featuring hair styling techniques for hairdressers and beauticians	75739148	6/28/99	2548781
United States	TONIGUY.COM	Class 41 - Educational services, namely conducting courses and seminars in the field of haircutting, hairstyling, beauty salons, cosmetics and skin care	75759963	7/26/99	2538946
United States	TONIGUY.COM	Class 42 - Hair dressing and beauty salon services	75739144	6/28/99	2538923
United States	TONIGUY.COM	Class 9 - pre-recorded instructional films and videotapes featuring haircutting and hairstyling techniques, cosmetic and skin care techniques	75739146	6/28/99	2862990

Int. Cls.: 9, 16, 41 and 42

Prior U.S. Cls.: 21, 38, 100 and 107

United States Patent and Trademark Office

Reg. No. 1,525,304

Registered Feb. 21, 1989

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

TONI & GUY

F. MASCOLO & SONS LIMITED (UNITED
KINGDOM COMPANY)
10/12 DAVIES STREET
LONDON, ENGLAND W1Y 1LL

FOR: VIDEOTAPES AND FILMS FOR IN-
STRUCTIONAL PURPOSES, IN CLASS 9 (U.S.
CLS. 21 AND 38).

FIRST USE 9-1-1977; IN COMMERCE
1-1-1981.

FOR: INSTRUCTIONAL MAGAZINES AND
POSTERS FOR HAIR DRESSERS AND BEAU-
TICIANS, IN CLASS 16 (U.S. CL. 38).

FIRST USE 10-1-1975; IN COMMERCE
1-1-1976.

FOR: EDUCATIONAL SERVICES, NAMELY
PROVIDING COURSES AND SEMINARS FOR
PERSONS ENGAGED IN THE OPERATION OF
HAIR DRESSING AND BEAUTY SALONS, IN
CLASS 41 (U.S. CL. 107).

FIRST USE 9-1-1975; IN COMMERCE
11-1-1979.

FOR: HAIR DRESSING AND BEAUTY
SALON SERVICES, IN CLASS 42 (U.S. CL. 100).

FIRST USE 1-1-1963; IN COMMERCE
11-1-1979.

SER. NO. 666,660, FILED 6-15-1987.

STEVEN R. FINE, EXAMINING ATTORNEY

Int. Cl.: 44

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,236,350

Registered May 1, 2007

**SERVICE MARK
PRINCIPAL REGISTER**

TONI & GUY HAIRDRESSING

TONI & GUY (USA) LIMITED (UNITED KING-
DOM CORPORATION)
2311 MIDWAY ROAD
CARROLLTON, TX 75006

OWNER OF U.S. REG. NO. 1,525,304.

FOR: HAIR DRESSING AND BEAUTY SALON
SERVICES, IN CLASS 44 (U.S. CLS. 100 AND 101).

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE HAIRDRESSING, APART FROM
THE MARK AS SHOWN.

FIRST USE 1-1-1963; IN COMMERCE 11-1-1979.

SER. NO. 78-762,908, FILED 11-29-2005.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

ALICE BENMAMAN, EXAMINING ATTORNEY

Int. Cls.: 41 and 44

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 3,486,906

Registered Aug. 19, 2008

SERVICE MARK
PRINCIPAL REGISTER

TONI&GUY HAIRDRESSING
ACADEMY

TONI & GUY (USA) LIMITED (UNITED KING-
DOM CORPORATION)
2311 MIDWAY ROAD
CARROLLTON, TX 75006

FOR: EDUCATIONAL SERVICES, NAMELY,
BEAUTY, COSMETOLOGY, AND HAIRSTYLING
SCHOOLS AND DISTRIBUTING COURSE MATERI-
ALS IN CONNECTION THEREWITH; PROVIDING
COURSES OF INSTRUCTION AT THE POST-HIGH-
SCHOOL LEVEL; CONDUCTING CLASSES, CON-
FERENCES, SEMINARS, AND WORKSHOPS IN
THE FIELD OF BEAUTY, COSMETOLOGY, AND
HAIRSTYLING; CONDUCTING PROGRAMS IN
THE FIELD OF BEAUTY, COSMETOLOGY, AND
HAIRSTYLING; PROVIDING MOTIVATIONAL
AND EDUCATIONAL SPEAKERS; CONDUCTING
ON-LINE EXHIBITIONS AND DISPLAYS IN THE
FIELD OF BEAUTY, COSMETOLOGY, AND HAIR-
STYLING, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 11-1-1979; IN COMMERCE 11-1-1979.

FOR: HAIRDRESSING, BEAUTY SALON, AND
COSMETOLOGY SERVICES PROVIDED VIA BEAU-
TY SCHOOLS AND VOCATIONAL TRAINING CEN-
TERS, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 11-1-1979; IN COMMERCE 11-1-1979.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "HAIRDRESSING ACADEMY",
APART FROM THE MARK AS SHOWN.

SER. NO. 77-018,025, FILED 10-10-2006.

COLLEEN KEARNEY, EXAMINING ATTORNEY

Corporations: Registration Detail

Corporations Division - Registration Data Search

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TONI & GUY HAIRDRESSING ACADEMY, INC.

UBI Number	602778382
Category	REG
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
Date of Incorporation	11/06/2007
Expiration Date	11/30/2009
Dissolution Date	
Registered Agent Information	
Agent Name	MICHAEL KENNARD
Address	2915 ELDRIDGE AVE
City	BELLINGHAM
State	WA
ZIP	982251504
Special Address Information	
Address	
City	

State

Zip

Governing Persons

Title

Name

Address

President

KENNARD , MICHAEL

BELLINGHAM , WA

[« Return to Search List](#)

You can find this information at: http://www.secstate.wa.gov/corps/search_detail.aspx?ubi=602778382

CITY OF BELLINGHAM

BUSINESS REGISTRATION

Business Name: Toni & Guy Hairdressing Academy

Business Location: 203 W Holly St #206
Bellingham, WA 98225

Business Owner: Toni & Guy Hairdressing Academy Inc

TONI & GUY HAIRDRESSING ACADEMY
2915 ELDRIDGE AVE
BELLINGHAM, WA 98225

Business Registration Number: 036679

Effective Date: January 31, 2009

TO BE POSTED IN A CONSPICUOUS PLACE

NOT TRANSFERABLE

Department of Licensing

License Query System**License Detail**[Help us improve this online se](#)**License Information:**

Entity Name: TONI & GUY HAIRDRESSING ACADEMY, INC.
Firm Name: TONI & GUY HAIRDRESSING ACADEMY
License Type: Washington State Business
Entity Type: Profit Corporation
UBI: 602778382 Business ID:001 Location ID:0001
Status To check the status of this company, go to [Secretary of State.](#)

Location Address:

203 W HOLLY ST STE 206
 BELLINGHAM, WA, 98225

Mailing Address:

2915 ELDRIDGE AVE
 BELLINGHAM, WA, 98225-1504

Governing People:

MICHAEL SCOTT KENNARD

Registered Trade Names:

BEAUTYWERKS BARBERING & STYLING COLLEGE
 BEAUTYWERKS BEAUTY SCHOOL
 BEAUTYWERKS COSMETOLOGY TRAINING
 BEAUTYWERKS HAIRDRESSING ACADEMY
 BEAUTYWERKS HAIRSTYLING INSTITUTE
 BEAUTYWORKS BARBERING & STYLING COLLEGE
 BEAUTYWORKS BEAUTY SCHOOL
 BEAUTYWORKS COSMETOLOGY TRAINING
 BEAUTYWORKS HAIRDRESSING ACADEMY
 BEAUTYWORKS HAIRSTYLING INSTITUTE
 TIGI BARBERING & STYLING COLLEGE
 TIGI BEAUTY SCHOOL
 TIGI COSMETOLOGY TRAINING
 TIGI HAIRDRESSING ACADEMY
 TIGI HAIRSTYLING INSTITUTE
 TONI & GUY BARBERING & STYLING COLLEGE
 TONI & GUY BEAUTY SCHOOL
 TONI & GUY COSMETOLOGY TRAINING
 TONI & GUY HAIRDRESSING ACADEMY
 TONI & GUY HAIRSTYLING INSTITUTE

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License Query System**License Detail**[Help us improve this online se](#)**License Information:**

Name: TONI & GUY HAIRDRESSING ACAD
License Type: School
License Number: 2083
License Status: Active
First Issued Date: Aug 7 2008
License Issued: Aug 8 2008
Expiration Date: Aug 7 2009

Address:

203 W HOLLY ST STE 206
 BELLINGHAM WA 98225

Endorsements on this license:

[Barber](#)
[Cosmetologist](#)
[Esthetician](#)
[Instructor](#)
[Manicurist](#)

Endorsement Status

Active
 Active
 Active
 Active
 Active

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Entity Name: BETTY S KENNARD
Firm Name: BETTY S KENNARD
License Type: Washington State Business
Entity Type: Sole Proprietor
UBI: 600478689 Business ID:002 Location ID:
Status: To check the status of this business, go to [Department of Revenue](#)

Location Address:**Mailing Address:**[View Additional Locations](#)**Governing People:**

BETTY S KENNARD

Registered Trade Names:

YAKIMA BEAUTY SCHOOL; BEAUTY WORKS

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Entity Name: MICHAEL SCOTT KENNARD
Firm Name: MICHAEL SCOTT KENNARD
License Type: Washington State Business
Entity Type: Sole Proprietor
UBI: 600478689 Business ID:001 Location ID:
Status To check the status of this business, go to [Department of Revenue](#)

Location Address:**Mailing Address:**[View Additional Locations](#)**Governing People:**

MICHAEL SCOTT KENNARD

Registered Trade Names:

YAKIMA BEAUTY SCHOOL; BEAUTY WORKS

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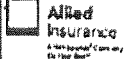
Motorcycle • RV • Boat • ATV

Personal Umbrella

Kurt Brunhaver *PROGRESSIVE*

733-7790

1738 Iowa St. • Bellingham, WA 98229



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 22 671-0771
 26 390-2115
 756-2488
 733-2064
 229 674-5979
 733-7026
 734-6414
 371-4352
 354-6016
 714-1903
 650-0828
 592-4206
 733-7486
 730-1604
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 366-9980
 733-7826
 734-9120
 676-1792
 371-5938
 734-4113
 354-5311
 933-1565
 371-7025
 354-4773

TOLLIVER Don & Karen
 2310 39th St BLNGHM 98229 714-1861
 Tom 529 32nd St Apt 33 BLNGHM 98225 656-6320
TOLLUM Naomi 734-6698
TOLSMMA Frank LYND 98264 398-0121
 G & S 7310 Lankhaar Rd LYND 98264 354-2641
 John SR 9666 Depot Rd LYND 98264 354-1296
 John & Caroline
 316 Kwanzan DRIVE LYND 98264 354-4696
 John & Caroline 316 Kwanzan Drive LYND 98264 392-7882
 Mark 911 Pine St LYND 98264 354-7480
 Russell & Laurean
 2887 Alderproove Rd FRNDL 98248 384-4135
TOLSON Robert MPL PLS 98266 599-3264
TOLSTAD Truk 733-7698
 Truk 1405 Woodstock Way BLNGHM 98226 527-9610
TOM K Jr 4283 Lummi Shore Dr FRNDL 98248 758-2287
 Karen 527-9571
 Tammy 647-9851
 Virginia & Pete 2693 Salmon Rd BLNGHM 98226 758-2079
TOMAS K 738-8260
TOMASI Rika 2801 Huntington St BLNGHM 98226 752-2462
TOMASZEWSKI Aldry DMNG 98244 392-0077
 Karol BLNGHM 98226 592-5308
TOMAZIN Lindsey 11 Pat Ln BLNGHM 734-4092
TOMBERLIN MARC MD
 410 Birchwood Ave Ste 201 BLNGHM 98225 752-9919
TOMICH A L 621 14th St BLNGHM 98225 734-4527
TOMLIN Don & Christie
 3036 Birchwood Ct BLNGHM 98225 733-0783
 Ed & Michelle
 3013 Cedarwood Ave BLNGHM 98225 734-7847
 Katie 4242 Spring Ct BLNGHM 98226 392-8929
TOMLINSON Deloris BLN 98230 392-5067
 Glen 2400 Donovan Ave BLNGHM 98225 734-5352
 Rebecca 3310 Whatcom St BLNGHM 98229 734-4855
TOMLONOVIC K M
 901 N Forest St BLNGHM 98225 676-9840
TOMMERVIK S DMNG 98244 592-1336
 3654 Nelson Rd DMNG 98244 595-2679
TOMMY TAILOR THE
 1307 Railroad Ave BLNGHM 98225 650-9168
TOMMY V FRNDL 98248 313-0251
TOMO Natasha FRNDL 98248 380-1479
TOMPKINS-PATAKY Candace & Bela FRNDL 98248 380-2419
TOM'S TOP SHOP & UPHOLSTERY
 1608 Country Ln BLNGHM 98225 671-8929
TOMSIC Gary & Renate 2128 Dodd St BLN 98230 332-4711
TOMTAN Becky 6188 Apollo Pl FRNDL 98248 380-2036
TON Than 2216 Humboldt St BLNGHM 98225 734-2438
TONER Katie E
 3420 W McLeod Rd UNIT 40 BLNGHM 98225 715-1918
 Mike & Rhonda 6210 Church Rd FRNDL 98248 380-5340
 Mike & Rhonda 6210 Church Rd FRNDL 98248 933-0422
 N 505 W 1st St NKSKK 98276 966-2790
 Phillip A 1518 Mill Ave BLNGHM 98225 734-2456
 Robert 1970 Fraser St Apt 204 BLNGHM 98229 656-5876
 Todd 33 Lake Louise Dr BLNGHM 98229 393-4837
TONEY Marie 808 W 2nd St Apt B NKSKK 98276 933-1757
 Mark 203 N Garden St BLNGHM 98225 671-2361
TONI & GUY HAIRDRESSING ACADEMY
 203 W Holly St APT 206 BLNGHM 98225 738-6800
TONI & GUY HAIRDRESSING ACADEMY
 1411 Railroad Ave BLNGHM 98225 676-8444
TONI'S BILLING SERVICES
 1713 Akron Ct BLNGHM 98226 734-5471
TONY'S COFFEE DRIVE THRU
 1657 Birchwood Ave BLNGHM 98225 715-9492
TONY'S COFFEE HOUSE
 1101 Harris Ave BLNGHM 98225 738-4710
TONY'S COFFEES & TEAS
 3924 Iron Gate Rd BLNGHM 98226 733-6319
TONY'S JUST A BITE
 679 Peace Portal Dr BLN 98230 332-8669
TONY'S TAVERN 2920 Main St CSTR 98240 366-5150
TONZETICH Geo 7840 Sante Fe Tr MPL PLS 98266 599-3224
TOOF John 2516 Texas St BLNGHM 98229 738-7548
TOOHEY P 734-4375

Whatcom County

haynesboone

March 5, 2009

Direct Phone Number: (214) 651-5260
Direct Fax Number: (214) 200-0865
deborah.coldwell@haynesboone.com

Via Certified Mail / Return Receipt Requested and E-Mail (cisandmike@comcast.net)

Michael Kennard
Betty (Cis) Stock Kennard
2915 Eldridge Avenue
Bellingham, WA 98225-1504

Via CM-RRR #7160 3901 9845 9384 7437

Michael Kennard
Betty (Cis) Stock Kennard
203 W. Holly Street #206
Bellingham, WA 98225

Via CM-RRR #7160 3901 9845 9384 7444

Re: TONI & GUY HAIRDRESSING ACADEMY, INC.
203 W. Holly Street, Bellingham, WA

Dear Mr. and Mrs. Kennard:

This firm represents TONI&GUY USA, LP, TONI&GUY Hairdressing Academy Franchise, L.P., and TONI&GUY (USA) Limited (collectively, referred to as "TONI&GUY") in connection with the protection and enforcement of their intellectual property rights.

TONI&GUY has become aware that in November 2007, you registered a for-profit corporation under the name "Toni & Guy Hairdressing Academy, Inc." with the Washington Secretary of State. In addition, you applied for (and have been awarded) a business license to operate under the name "Toni & Guy Hairdressing Academy" at 203 W. Holly Street, #206, Bellingham, Washington 98225. The information has been distributed to the public by various channels and publications, including Washington's Corporations Division and the Bellingham Business Journal at <http://www.thebellinghambusinessjournal.com/september2008/businessLicenses.php>. In addition, you have published an advertisement in Whatcom County's Yellow Pages under the name "Toni & Guy Hairdressing Academy."

As you may know, based on its work and innovation over the past 40 years, TONI&GUY has become an industry leader in the salon and cosmetology school industries. TONI&GUY's hairdressing academies provide a cosmetology vocational training school that will prepare an individual for a successful career in hairdressing. TONI&GUY has spent a significant amount of money, time, and energy in building its reputation and goodwill. TONI&GUY has registered and/or submitted pending registration applications for the marks TONI&GUY®, TONI&GUY

D-1730532.3

Haynes and Boone, LLP
Attorneys and Counselors
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
Phone: 214.651.5000
Fax: 214.651.5940
www.haynesboone.com

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Betty (Cis) Stock Kennard
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Hairdressing®, TONI&GUY Academy and TONI&GUY Hairdressing Academy (the "TONI&GUY Marks"). Moreover, TONI&GUY® has been registered with the United States Patent and Trademark Office since February 21, 1989, and TONI&GUY Hairdressing® has been registered since May 1, 2007.

The business operations of "Toni & Guy Hairdressing Academy," at 203 W. Holly Street, Bellingham, Washington, are undoubtedly unlawful and infringe upon TONI&GUY's intellectual property, specifically, its trade name, trademarks, and service marks. You do not have authorization from TONI&GUY to use its trade name, trademarks, service marks, or any other proprietary materials or products associated with TONI&GUY. Therefore, you are violating state and federal copyright and trademark laws by your unauthorized use of TONI&GUY's Marks. Your representations to the public (including the State of Washington and the City of Bellingham) are tortious, willful, and must cease immediately.

On TONI&GUY's behalf, we therefore demand that you and each and every person affiliated with you:

1. Immediately cease and desist all uses of the trade name TONI&GUY®, or any other name that is the same or substantially similar to this trade name, which may cause confusion to the public or create a false designation as to the services that you offer;
2. Immediately cease and desist operations of the "Toni & Guy Hairdressing Academy" at 203 W. Holly Street, Bellingham, Washington;
3. Immediately cancel your registration of "Toni & Guy Hairdressing Academy, Inc." (UBI Number 602778382) with the Washington Secretary of State, Corporations Division;
4. Immediately cancel your registration of "Toni & Guy Hairdressing Academy" (Business Registration Number 036679) with the City of Bellingham;
5. Immediately cancel (or do not renew) your subscription of your listing in the Yellow Pages (or any other telephone directory) under the name "Toni & Guy Hairdressing Academy;" and
6. Immediately cease and desist from all advertising, marketing, publishing, and any use of products, photographs, brochures, materials, Internet postings, website, or any other marketing or promotional materials that you use with the trade name TONI&GUY®.

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7. Immediately route and permanently assign the telephone number you are using for the business at 203 W. Holly Street, #206, Bellingham, WA, ((360) 738-6800), to the TONI&GUY franchisee located at 1411 Railroad Ave, Bellingham, WA.

Please do not destroy any copies of materials related to your continued use of TONI&GUY's intellectual property, including, without limitation, any materials containing the TONI&GUY® Marks, as such actions would constitute spoliation of evidence. Any materials on hard drives of computers, such as e-mails, accounting information, and customer lists, should be preserved since this evidence will be relevant in litigation if we cannot resolve these issues amicably.

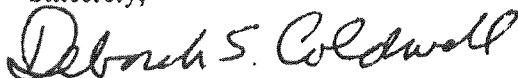
TONI&GUY demands that you send proof of compliance with its requests, including photographs showing the removal of all items bearing the name TONI&GUY®, by **Friday, March 13, 2009, at 12:00 p.m.** Please send all correspondence, compliance documents, and photographs to my attention at the address above.

If you fail to comply with the above requests by the stated date and time, TONI&GUY will take all appropriate legal action to prevent any further unauthorized use and infringement of its intellectual property rights and to recover appropriate damages, including punitive damages for willful and unauthorized use of the TONI&GUY® Marks and lost revenues from student tuition, student kits and student services/retail revenues generated through your misappropriation of, and false advertising using, the TONI&GUY® Marks. TONI&GUY will also seek its reasonable costs including attorneys' fees and interest from you.

This letter does not constitute nor shall it be deemed to be an election of remedies by TONI&GUY or a waiver by TONI&GUY of any additional rights, remedies, or claims that TONI&GUY may have against you and any other persons or entities that have caused or are causing these infringing activities. It is also recommended that you contact your insurance carrier immediately.

Your immediate compliance with this demand will be appreciated. Please contact me, or have your attorney to contact me if you have engaged one, if you have any questions or would like to discuss.

Sincerely,



Deborah S. Coldwell

2. Article Number



7160 3901 9645 9304 7437

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Michael Kennard
Betty (Cis) Stock Kennard
2915 Eldridge Avenue
Bellingham, WA 98225-1504

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

Betty Kennard

B. Date of Delivery

3-23-09

C. Signature

Betty Kennard

Agent
 Addressee

D. Is delivery address different from item 1? If YES, enter delivery address below

Yes
 No

Reference Information

DSC-80871
Tom/Guy 22744.7

PS Form 3811, January 2005

Domestic Return Receipt