UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

AUDUBON REAL ESTATE ASSOCIATES, L.L.C.	**CIVIL ACTION**
	NO:
VERSUS	
AUDUBON REALTY, L.L.C.	

COMPLAINT FOR DECLRATORY JUDGMENT

Plaintiff Audubon Real Estate Associates, L.L.C., by its attorneys, and for its complaint against Audubon Realty, L.L.C. alleges:

NATURE OF ACTION

1.

This is an action for declaratory judgment relating to a claim of unfair competition, trademark infringement, trademark dilution, false designation of origin, and unfair trade practices arising under the Lanham (Trademark) Act, Title 35 United States Code.

PARTIES

2.

Audubon Real Estate Associates, L.L.C., is a Louisiana limited liability company domiciled in Baton Rouge, Louisiana.

3.

Defendant, Audubon Realty, LLC is a Louisiana limited liability company domiciled in Metairie, Louisiana.

JURISDICTION AND VENUE

4.

This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), and 1338 (civil action arising under an Act of Congress relating to trademarks).

5.

Venue is proper in this district pursuant to 28 U.S.C. § 1391.

BASIS FOR DECLARATORY RELIEF

6.

Plaintiff, Audubon Real Estate Associates, L.L.C., is a real estate broker that sells real estate in the city of Baton Rouge and the parishes surrounding Baton Rouge including East Baton Rouge, West Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St Helena, West Baton Rouge, West Feliciana, St Tammany, and Tangipahoa.

7.

Audubon Real Estate Associates filed its organizational documents with the Louisiana Secretary of State on January 18, 2011.

8.

On November 18, 2014, Audubon Real Estate Associates was granted a service mark by the Louisiana Secretary of State over its logo which features its name "Audubon Real Estate Associates." *See* La. SOS Service Mark registration, attached as Exhibit 1.

9.

Defendant Audubon Realty is a real estate broker that sells real estate in the city of New Orleans and parishes surrounding New Orleans including Orleans Parish, Jefferson Parish, St. Tammany Parish and St. Bernard Parish.

10.

On or about February 12, 2015, Plaintiff received a letter from Mr. Duris Holmes, counsel for Audubon Realty (a copy of which is attached as Exhibit 2), asserting that Plaintiff's use of the name "Audubon Real Estate Associates" was infringing on the alleged trademark rights of "Audubon Realty", and threatening to file a lawsuit alleging unfair competition, trademark infringement, trademark dilution, false designation of origin, and unfair trade practices if Audubon Real Estate Associates did not immediately cease using its name in commerce.

11.

On February 25, 2015, Plaintiff received a second letter from counsel for Audubon Realty again threatening to file a lawsuit (a copy of which is attached as Exhibit 3).

12.

In view of the February 12, 2015 and February 25, 2015 letters received from Audubon Realty's counsel, there is an actual case or controversy between plaintiff, Audubon Real Estate Associates, and defendant, Audubon realty, within the meaning of 28 U.S.C. § 2201 concerning the defendant's asserted trademark infringement and unfair competition claims.

COUNT I – DECLARATORY JUDGMENT THAT PLAINTIFF HAS NOT INFRINGED UPON ANY LEGALLY PROTECTABLE TRADEMARK OF AUDUBON REALTY

13.

The United States Court of Appeals For The Fifth Circuit has recognized that a threshold showing of a mark's eligibility for protection or its registrability is necessary prior to deciding whether an infringement of a legally protectable mark has occurred. *See World Carpets, Inc. v. Dick Litrell's New World Carpets*, 438 F.2d 482, 487 (5th Cir. 1971) ("Having disposed of the threshold question of registrability, we must examine the gravamen of any action for trademark infringement – confusion ….").

14.

Audubon Realty cannot meet the threshold for trademark protection or registrability under the Lanham Act because the mark "Audubon Realty" is primarily geographically descriptive of the origin of Audubon Realty's services. *See* 15 U.S.C. §1052(e)(2) ("No trademark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration … unless it … (e) Consists of a mark which … (2) when used on or in connection with the goods of the applicant is primarily geographically descriptive of them….").

15.

Under Section 1210.01(a) of the Trademark Manual of Examining Procedure, a mark is primarily geographically descriptive when the following is demonstrated:

(1) The primary significance of the mark is a generally known geographic place or location;
(2) The goods and/or services for which the applicant seeks registration originate in the geographic place identified in the mark; and

(3) Purchasor would be likely to make a goods-place or services-place association; that is, purchasors would be likely to believe that the goods and/or services originate in the geographic place identified in the mark.

TMEP §1210.01(a); *see also In re Carolina Apparel*, 48 USPQ2d 1542 (TTAB 1998); *In re California Pizza Kitchen, Inc.*, 10 USPQ2d 1704 (TTAB 1988).

16.

"Audubon" is a neighborhood of the city of New Orleans. It is in fact a sub district of the Uptown/Carrolton Area with boundaries that are defined by the City Planning Commission. Since Audubon Realty is actually selling realty within the Audubon geographic area (as well as surrounding areas), customers are likely to make a services-place association.

17.

Moreover, the term "realty" is merely descriptive of the services provided by "Audubon Realty" because Audubon is in fact selling "realty" in the Audubon area (and the surrounding areas). The addition of generic or highly descriptive wording to a geographic word or term does not diminish that geographic word or term's primary geographic significance. *See In re JT Tobacconists*, 59 USPQ2d 1080 (TTAB 2001) (holding MINNESOTA CIGAR COMPANY primarily geographically descriptive of cigars); *see also In re Chalk's Int'l Airlines Inc.*, 21 USPQ2d 1637 (TTAB 1991) (holding PARADISE ISLAND AIRLINES primarily geographically descriptive of the transportation of passengers and goods by air.").

18.

Accordingly, Plaintiff seeks a declaratory judgment that Audubon Realty has no legally protectable trademark rights that Plaintiff has infringed upon because the mark "Audubon Realty" is primarily geographically descriptive of the origin of Audubon Realty's services.

COUNT II – DECLARATORY JUDGMENT THAT PLAINTIFF'S USE OF THE SERVICE MARK "AUDUBON REAL ESTATE ASSOCIATES" DOES NOT INFRINGE UPON ANY TRADEMARK RIGHTS OF THE DEFENDANT IN THE MARK "AUDUBON REALTY"

19.

Even if the Defendant had a legally protectable interest or trademark rights over the term "Audubon Realty," which is denied, Plaintiff asserts that its service mark "Audubon Real Estate Associates" does not infringe upon the mark "Audubon Realty."

20.

The term "Real Estate Associates" is not synonymous with the term "Realty." "Real Estate Associates" are persons who are engaged in the business of real estate. "Realty" obviously refers to immovable property itself. Accordingly, the marks "Audubon Real Estate Associates" and "Audubon Realty" are different in sound, appearance, presentation and meaning. Average consumers can therefore readily distinguish between the marks and would not likely be confused by the origin of the brokerage services.

21.

In its cease and desist letters Audubon Realty improperly attempts to frame the issue as whether the word "realty" is confusingly similar to the word "real estate." This is an incorrect

recitation of the dispute before the Court. The correct issue before the Court is whether the term "Real Estate Associates" is confusingly similar to the word "Realty."

22.

As further proof that the marks "Audubon Real Estate Associates" and "Audubon Realty" are not confusingly similar, Plaintiff notes that the service mark "Heritage Real Estate Associates" was registered on the USPTO's Principal Register on March 6, 2012. On February 14, 2014, in connection with an application for trademark protection over the term "Heritage Realty Services" the USPTO's trademark examiner found that "The Office records have been searched and there are no similar registered or pending marks that would bar registration [of Heritage Realty Services] under the Trademark Act Section 2(d), 15 U.S.C. § 1052(d). TMEP §704.02."

23.

Accordingly, even if "Audubon Realty" had a legally protectable interest (*i.e.* if it was not primarily geographically descriptive), then it still is not confusingly similar to the mark "Audubon Real Estate Associates."

24.

Plaintiff thus seeks a declaratory judgment that its service mark "Audubon Real Estate Associates" does not infringe upon any trademark rights that Defendant may have in the mark "Audubon Realty."

Request for Relief

WHEREFORE, Plaintiff Audubon Real Estate Associates, L.L.C. requests that a declaratory judgment be entered in its favor against Audubon Realty, L.L.C., as follows:

A. Adjudging that Audubon Realty, L.L.C. has no legally protectable trademark rights that Plaintiff has infringed upon because the mark "Audubon Realty" is primarily geographically descriptive of the origin of Audubon Realty's services;

B. Adjudging that Plaintiff's service mark "Audubon Real Estate Associates" does not infringe upon any trademark rights that Defendant may have in the mark "Audubon Realty";

C. Adjudging that Plaintiff is not liable to Defendant for unfair competition, trademark infringement, trademark dilution, false designation of origin, and unfair trade practices;

D. Awarding Plaintiff the reasonable costs of this action; and,

E. Granting such other and further relief as the Court deems appropriate.

Respectfully submitted,

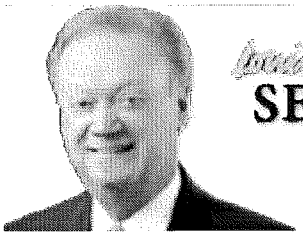
/Charles D. Marshall, III/

Charles D. Marshall, III. (#27564)
Scott C. Barney, T.A. (#21868)
CHAFFE McCALL, L.L.P.
1100 Poydras Street, Suite 2300
New Orleans, LA 70163-2300
Telephone: (504) 585-7000
Telefax: (504) 544-6095
Attorneys for Audubon Real Estate Associates, LLC

PLEASE SERVE:
Audubon Realty, L.L.C.
Through its registered agent for service of process:

David D. Reso
2901 Ridgelake Dr.
Metairie, LA. 70002

(http://www.sos.la.gov/Pages/default.aspx)
(http://www.sos.la.gov/Pages/default.aspx)



SECRETARY OF STATE

Search for Louisiana Business Filings

tp://www.sos.la.gov/Pages/default.aspx)

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GET HELP

Service Mark Details

Type(s) Registered:	SERVICE MARK
Registered Name:	LOGO: CAPITAL A IN WHITE LETTERING ON NAVY BLUE BACKGROUND ABOVE THE WORD AUDUBON IN GREEN CAPITAL LETTERS ABOVE THE WORDS REAL ESTATE ASSOCIATES IN NAVY BLUE CAPITAL LETTERS.
Applicant:	AUDUBON REAL ESTATE ASSOCIATES, L.L.C. 8710 JEFFERSON HWY BATON ROUGE, LA 70809
Type Of Business:	ADVERTISING AND BUSINESS
Book #:	65-5630
Current Status:	ACTIVE

Dates

Registration Date:	11/18/2014
Expiration Date:	11/18/2024
Date First Used:	11/12/2014
Date First Used (in La.):	11/12/2014

Current Classes

Class Name	Start Date	End Date
43 ADVERTISING AND BUSINESS	11/18/2014	

Expired Classes

No Expired Classes

Amendments On File

No Amendments on file

Print

EXHIBIT
tabbies
1

DK&S
DEUTSCH, KERRIGAN & STILES

755 Magazine Street
New Orleans, LA 70130
Direct (504) 593-0659
Main (504) 581-5141
Fax (504) 566-4059
dholmes@dkslaw.com
www.dkslaw.com

DURIS L. HOLMES
Counselor at Law

February 12, 2015

Certified Mail
Return-Receipt Requested
No. 7013 0600 0001 1976 3091

Mr. Beau J. Box
Audubon Real Estate Associates, L.L.C.
5500 Bankers Avenue
Baton Rouge, Louisiana 70808

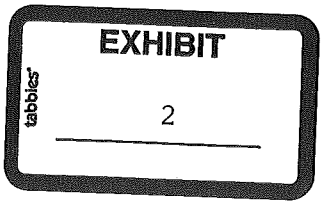
RE: Infringement of Audubon Realty Tradename/Trademark

Dear Mr. Box:

We are attorneys for Audubon Realty, L.L.C. We write to demand that you immediately cease and desist from infringing any trademarks and/or trade names owned by our client.

On September 22, 2003, Audubon Realty, L.L.C. registered with the Secretary of State of Louisiana the trade name Audubon Realty, L.L.C. ("Audubon Realty") to be used in association with the class "real estate sales and services." Our client has utilized this mark since September 17, 2003.

Recently, our client learned that you organized Audubon Real Estate Associates, L.L.C. Your use of that name in any fashion associated with real estate sales and services is an unlawful trading on the goodwill of our client. Your activity is actionable under federal and state law and causes you to be liable to our client for unfair competition, intentional trademark infringement, trademark dilution, false designation of origin, and unfair trade practices. Our client demands that you immediately cease and desist from any and all use of any name and any marks similar to Audubon Realty in the real estate sales and services business.



If you refuse, federal and state law provide numerous remedies, including, but not limited to, preliminary and permanent injunctive relief, money damages, your profits, provisions for the destruction or confiscation of infringing products and promotional materials. Further, considering that you attempted to purchase our client's business, you are well aware of our client's use of the trade name and would be liable for intentional infringement, which would permit attorneys' fees, personal liability and possible treble money damages.

Our client prefers to resolve this matter without taking legal action, but it is prepared to file a lawsuit if necessary to protect its rights and business. You may avoid legal action by signing this letter where indicated below, returning the signed letter to me on or before February 26, 2015, and taking all steps necessary to remedy the infringement on or before March 12, 2015.

This letter is sent without prejudice to our client's rights and claims, all of which are expressly reserved. I am sending you a copy of this letter by regular first class mail in case you refuse to accept the certified mail, return receipt requested version of this letter.

Sincerely,

Duris L. Holmes

The undersigned covenants to take the following actions on or before March 12, 2015: (i) cease and desist from any and all use of the name Audubon Real Estate Associates, L.L.C. and any marks similar to Audubon Realty, L.L.C. in the real estate sales and services business and (ii) remove from its place of business any and all signs, paper goods, and any other material bearing the name Audubon Real Estate Associates, L.L.C. and any marks similar to Audubon Realty, L.L.C. insofar as same relates to the real estate sales and services business.

Dated: February ___ 2015.

_____

BY:
Printed name:
Title:

DK&S
DEUTSCH,
KERRIGAN
& STILES

755 Magazine Street
New Orleans, LA 70130
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www.dkslaw.com

DURIS L. HOLMES
Counselor at Law

February 25, 2015

Via Email Only

Charles D. Marshall, III, Esq.
Chaffe McCall, L.L.P.
2300 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

Re: Infringement of Audubon Realty Tradename/Trademark
Our ref.: 02334-00001

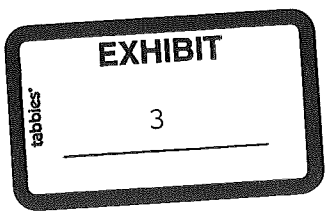
Dear Mr. Marshall:

Thank you for your letter earlier today. We must disagree, however, with your analysis of the USPTO's actions with respect to marks involving the terms "REALTY" and "REAL ESTATE" and respectfully suggest that the USPTO's actions actually support our demands.

On September 3, 2014, the examiner for the "Tennessee Realty" registration specifically refused to register the mark based on the likelihood of confusion between the terms, stating (citations omitted)

> Both the applicant and registrants' marks contain the wording "TENNESSEE" and the wording "REAL ESTATE" or the synonym "REALTY". Consumer confusion has been held likely for marks that do not physically sound or look alike but that convey the same idea, stimulate the same mental reaction, or may have the same overall meaning. In this case, the wording "REAL ESTATE" and "REALTY" combined with the wording "TENNESSEE" gives the same commercial impression. The mere deletion of wording from a registered mark may not be sufficient to overcome a likelihood of confusion. Hence the marks are confusingly similar.

On December 29, 2014, the examiner refused to register "Rocket Realty," stating (citations omitted):

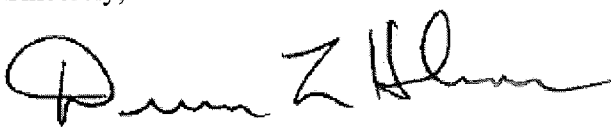


> Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 2288697 and 2760309….
>
> ***
>
> Applicant's mark is ROCKET REALTY.
>
> U.S. Registration No. 2288697 is for the mark ROCKETLOAN. The second cited registered mark is HOME ROCKET REAL ESTATE and design.
>
> The marks are highly similar since both utilize the word "ROCKET" combined with highly descriptive language. As a result, consumers are likely to believe that the marks represent similar service-offerings from the same company.

As for the Louisiana Secretary of State's registration on behalf of your client, the Secretary of State does not perform the same examinations as the USPTO. Furthermore, at the time of your client's registration, La. Rev. Stat. § 12:23F specifically permitted injunctions against improper registrations. Likewise, relief is permitted under La. Rev. Stat. § 51:211 *et seq.*, which the courts have interpreted in accordance with federal law.

For these, my client reiterates its demand that your client comply with the demands in my original cease and desist letter.

Sincerely,



Duris L. Holmes

cc: Mr. David Reso (via e-mail)

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 provied by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Audubon Real Estate Associates, L.L.C.

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
Charles D. Marshall, III
Chaffe McCall, LLP
1100 Poydras St., Suite 2300
New Orleans, LA 70163-2300
(504) 585-7000

DEFENDANTS

Audubon Realty, L.L.C.

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

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

Attorneys (If Known)

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

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S.Govemment Defendant
- ☐ 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)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☒ 4	☒ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☒ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA(1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(8))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access
- ☐ 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):
28 USC 1331 and 1338

Brief description of cause: declaratory judgment relating to trademark infringement

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
03/02/2015

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

MIDDLE District of LOUISIANA

AUDUBON REAL ESTATE ASSOCIATES, L.L.C.

Plaintiff

v.

AUDUBON REALTY, L.L.C.

Defendant

Civil Action No. 3:15-cv-115

Middle District of LA

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Audubon Realty, L.L.C. Through its agent for service of process
David D. Reso
2901 Ridgelake Dr.
2901 Ridgelake Drive, Metairie, LA 70002

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Charles D. Marshall, III
Chaffe McCall, L.L.P.
1100 Poydras St., Suite 2300
New Orleans, LA 70163-2300

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)*

_____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)*

_____ , a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)*

_____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____

I declare under penalty of perjury that this information is true.

Date: _____

_____

Server's signature

_____

Printed name and title

_____

Server's address

Additional information regarding attempted service, etc: