

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF ALABAMA**

THE YARD MILKSHAKE BAR
PROPERTIES, LLC, and
THE YARD MILKSHAKE BAR
FRANCHISING, LLC,

Plaintiffs,

vs.

BBH CREATIONS, LLC; BO STEELE
a/k/a ROBERT K. STEELE; and
SHERRI STEELE,

Defendants.

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Case No.

COMPLAINT

Plaintiffs, THE YARD MILKSHAKE BAR PROPERTIES, LLC, and THE YARD MILKSHAKE BAR FRANCHISING, LLC (“Plaintiffs”) sue Defendants, BBH CREATIONS, LLC, BO STEELE a/k/a ROBERT K. STEELE and SHERRI STEELE (collectively “Defendants”) and allege as follows.

Parties, Jurisdiction, and Venue

1. This is an action for damages, equitable relief, and permanent injunctive relief. Each and every allegation in this Complaint is made both together and in the alternative to each and every other allegation, consistent with Fed. R. Civ. P. 8(d).

2. The Yard Milkshake Bar Properties, LLC (“Yard Properties”) is an Alabama limited liability company with its principal place of business in Baldwin County, Alabama.

3. The Yard Milkshake Bar Franchising, LLC (“Yard Franchising”) is an Alabama limited liability company with its principal place of business in Baldwin County, Alabama.

4. BBH Creations, LLC (“BBH”) is a South Carolina limited liability company with its principal place of business in Myrtle Beach, South Carolina.

5. Bo Steele a/k/a Robert K. Steele (“Bo Steele”) is an individual resident of South Carolina.

6. Sherri Steele is an individual resident of South Carolina.

7. This Court has original federal question subject matter jurisdiction under 28 U.S.C. § 1331.

8. In addition, this Court has diversity subject matter jurisdiction under 28 U.S.C. § 1332.

9. This Court has personal jurisdiction over Defendants because, as more fully described below, Defendants (a) intentionally stole Plaintiffs’ data created, transmitted, and stored in Alabama from Sysco Corporation, (b) intentionally copied elements from Plaintiffs’ copyrighted website that is created, hosted, and disseminated from Alabama, (c) advertise their copycat goods and services over the

internet in Alabama, (d) advertise and solicit franchise applicants in Alabama, and (e) have purchased products directly from Plaintiffs' affiliates in Alabama in order to copy them.

10. Venue is appropriate in this district because a substantial portion of the events underlying this lawsuit arose in Baldwin County, Alabama, Defendants' actions were purposefully directed towards Baldwin County, Alabama, and the majority of the damage caused by Defendants' actions was felt in Baldwin County, Alabama.

Facts

11. Logan Green and Chelsea Green (the "Greens") are the owners of The Yard Milkshake Bar Holdings, Inc., which owns Yard Properties and Yard Franchising.

12. The Greens have well over a decade of experience owning and operating ice cream and dessert-oriented restaurants.

13. In 2017, the Greens began operations of a dessert-oriented restaurant in Gulf Shores, Alabama called The Yard Milkshake Bar.

14. The first The Yard Milkshake Bar restaurant in Gulf Shores became an immediate success and was featured in local, regional, and national media, including The Food Network.

15. The concept of The Yard is a restaurant offering premium, unique milkshakes, edible cookie dough, and various other dessert items. As used in this Complaint “The Yard” refers to Plaintiffs’ restaurant concept.

16. The Yard has become famous nationwide for unique milkshakes that utilize high-quality and distinctive ingredients, a unique aesthetic preparation, served in mason jars.

17. The nation-wide attraction to The Yard’s milkshakes is not just the milkshakes in the jar, but the outrageous and original artistic additions on the top of each of its milkshakes. Each staple milkshake at The Yard includes a unique arrangement of certain toppings over and above the mason jar itself. These arrangements and designs are each original works developed by Plaintiffs.

18. The distinctive souvenir mason jar and extravagant toppings serve only to add to the aesthetic features of the milkshakes—and these features have proven to be a huge success.

19. After the original The Yard Milkshake Bar opened in Gulf Shores, the Greens expanded to several additional locations in Panama City Beach, Florida, Fairhope, Alabama, and Austin, Texas through wholly-owned business entities.

20. Additionally, drawing on the success of their company-owned stores, the Greens began franchising The Yard concept in 2018 through Plaintiff Yard Franchising.

21. In 2019, the Greens appeared on the nationally-broadcast and famous Shark Tank television show and—after receiving multiple offers from the “sharks”—agreed to an offer from Mark Cuban to invest in The Yard Milkshake Bar Holdings, Inc. This TV appearance increased The Yard’s notoriety, making its milkshakes famous across the nation and its clever restaurants a household name.

22. Since 2017, Plaintiffs, their affiliates, and franchisees have consistently used the following trademarks and service marks in company-owned and franchised stores: THE YARD, THE YARD MILKSHAKE BAR, THE MERMAID, THE UNICORN, THE GREEN MONSTER (the “Marks”) and many others.

23. All of the aforementioned Marks are owned by Plaintiff Yard Properties.

24. Likewise, Plaintiff Yard Properties is the sole owner of the copyrights in nearly twenty unique milkshake designs (collectively, the “Works”).

25. The Yard restaurants have also developed distinctive trade dress, which includes milkshakes served in mason jars, unique non-functional preparations of menu items, and menu appearance.

26. Plaintiff Yard Franchising enjoys a license from Yard Properties to use all of the Marks, copyrighted designs, and trade dress of The Yard, along with the right to sue and enforce same under an agreement between Yard Franchising and Yard Properties.

27. As of the date of this Complaint, Plaintiff Yard Franchising now has franchises in numerous states, numerous franchise agreements signed with additional franchised restaurants under development, and a large pipeline of additional franchise prospects in the process of entering into new franchise agreements.

28. Each of Plaintiffs' affiliated entities and franchisees maintains the ingredients of The Yard's menu items in strict confidence. Because of the inherent value of the included information, each and every franchisee and managerial employee is contractually obligated to maintain the confidentiality of ingredients, preparation, and other processes of The Yard.

29. As part of its obligations, Yard Franchising provides a supplier list and designated suppliers for goods, such as ice cream, sprinkles, chocolate, fruit, candy, cookie dough, etc.

30. Yard Franchising also negotiates for pricing, availability, and delivery times with suppliers, including Sysco Corporation.

31. Since 2015, the Greens, individually and through various business entities including The Yard Milkshake Bar Holdings, Inc. as the sole owner of Plaintiffs, have spent hundreds of thousands of dollars developing a proprietary menu, utilizing the best ingredients and preparation methods.

32. Using complex and highly-specific, confidential information, Yard Franchising, Yard Properties, and their affiliates developed a confidential “order guide” with Sysco Corporation.

33. Yard Franchising and Yard Properties provided all necessary information to Sysco Corporation from their headquarters in Baldwin County, Alabama, based on a relationship with Sysco Corporation that originated and was based in Baldwin County, Alabama.

34. This “order guide” allows franchisees of Yard Franchising to be able to order all of the ingredients for a specific The Yard Menu item, for example, THE UNICORN™.

35. The Yard entities, including Yard Franchising, Yard Properties, and all franchisees, do not share the confidential Sysco order guide with anyone except for certain individuals employed by Sysco Corporation on a need-to-know basis, and management-level store employees subject to confidentiality agreements.

36. Plaintiffs’ confidential Sysco order guides are highly valuable, because Plaintiffs have spent years and hundreds of thousands of dollars developing the recipes and formulae reflected therein, and because The Yard restaurants generate many millions of dollars per year in sales using these unique and confidential recipes, formulae, and preparations.

37. Only certain individuals employed by Sysco Corporation responsible for Plaintiffs' account are supposed to have direct access to The Yard's confidential order guide.

38. At all material times, Defendant Bo Steele has been an employee of Sysco Corporation. Upon information and belief, he has been employed by Sysco Corporation for at least several years.

39. Defendant Bo Steele was not authorized to access The Yard's confidential order guide. He was also contractually restricted by Sysco Corporation from having an ownership interest in any restaurant concept in order to keep him from using information he accessed through Sysco Corporation to compete with Sysco's customers.

40. Despite his lack of authorization, Defendant Bo Steele used Sysco Corporation's computer system to access The Yard's confidential order guide, which was in Sysco Corporation's possession only as a result of its Alabama-Based relationship with The Yard.

41. Defendant Bo Steele knew that The Yard's order guide was confidential, and he knew that it came from Plaintiffs in Baldwin County, Alabama.

42. Using a stolen copy of The Yard's confidential order guide, elements of Plaintiffs' trade dress, and certain of Plaintiffs' marks, Defendants Bo Steele and his wife Sherri Steele opened a restaurant concept called "THE CRAZY MASON

MILKSHAKE BAR” in Myrtle Beach, South Carolina in March of 2020. It is unclear as to whether they did so under the corporate form of BBH or individually.

43. Defendants Bo Steele and Sherri Steele, individually and upon information and belief as members of BBH, have repeatedly accessed Plaintiffs’ website at www.theyardmilkshakebar.com to copy the fonts, imagery, descriptions, Marks, and details of Plaintiffs’ menu items to incorporate them into The Crazy Mason Milkshake Bar. Bo Steele has ordered products from the above-referenced website to be shipped from Alabama to South Carolina, for the sole purpose of copying Plaintiffs’ products.

44. Upon information and belief, Defendants Bo Steele and/or Sherri Steele, individually and as members of BBH, have repeatedly visited The Yard restaurants for the purpose of copying Plaintiff’s trade dress, menu items, methods, and processes.

45. After Sysco Corporation learned of Defendant Bo Steele’s breach of his employment agreement, he was offered the opportunity to resign or be terminated. Around the beginning of September 2020, Defendant Bo Steele resigned from Sysco Corporation so he could pursue operation of The Crazy Mason Milkshake Bar full time.

46. The Crazy Mason Milkshake Bar offers menu items identical to those offered by The Yard, in identical jars, using legally identical and confusingly similar names to The Yard's Marks.

47. The Crazy Mason Milkshake Bar, through The Yard's website, has access to Plaintiff Yard Properties' original copyrighted milkshake designs.

48. Defendants have routinely—without any authorization—accessed The Yard's website to obtain these original designs, and thereafter, copied and reproduced those non-functional, artistic copyrighted elements of Plaintiff's milkshakes, prepared derivative works based upon the Plaintiff's milkshakes, and publically displayed the works. The following table depicts examples of Defendants' unauthorized copying and infringement in comparison to Plaintiff's original copyrighted designs and Marks:

Defendants' Menu Items	Plaintiff's Menu Items
 The Unicorn	 The Unicorn



I'd Rather be a Mermaid



The Mermaid



The Green Monstah/ The Green Monster



Mint Green Monster



Cereal Killer



C is for Cookie



Cookie Monster



Old School Banana Split





Have Your Cake and Eat it Too



Birthday Cake



Donut Kill My Vibe



Doughnut Touch my Coffees and Cream



49. In October of 2020, Defendants’ scheme to copy nearly every single one of Plaintiffs’ products and designs was made even more apparent when Plaintiffs produced new seasonal milkshakes. First, Plaintiffs produced the “Basic Witch” which Defendants promptly copied with the “Witches Be Crazy.” Second, Plaintiffs produced the “Beetlejuice” as depicted below. Within hours, Defendants produced an identical copy of the Beetlejuice, and promoted the same on their own social media channels. Last, Plaintiffs produced a design titled “I Put a Spell on You, Now You’re Mine,” and while not an exact copy, Defendants released their third milkshake that had clearly been “inspired” by Plaintiffs.



Witches Be Crazy



Basic Witch



Beetlejuice



50. Defendants have advertised The Crazy Mason and all of its menu items over the internet on a nationwide basis since 2020, including within the Southern District of Alabama. Defendants have done so on www.thecrazymason.com, [Facebook.com](https://www.facebook.com), [Instagram.com](https://www.instagram.com), and other outlets.

51. Defendants have at all material times known that their actions would damage Plaintiffs and their operations in Baldwin County, Alabama. In fact, Defendants have begun distribution of their copycat concept via a franchise model, and are actively advertising and soliciting franchise applicants in Alabama. Defendants have also purchased Plaintiffs' products from Baldwin County, Alabama for the sole purpose of copying them.

52. Plaintiffs initially learned of Defendants' actions when a prospective franchisee in the South Carolina market backed out of entering into a franchise agreement that would have been entered into in Baldwin County, Alabama after learning of the existence of The Crazy Mason Milkshake Bar. That prospective franchisee informed Plaintiffs of The Crazy Mason's identical menu offerings, trade dress infringement, and identical or confusingly similar marks, and expressed that such a copycat was diluting the value of Plaintiffs' brand.

53. As a result, Plaintiff Yard Franchising was damaged by losing approximately \$300,000 in prospective franchise fees and royalty payments from just one franchise.

54. Plaintiff has, or is likely to lose additional franchisees as a result of Defendants' unlawful actions.

55. Additionally, Plaintiffs have learned that Defendants' restaurant has caused actual confusion among relevant consumers between its goods and services and those of The Yard.

COUNT ONE –DEFEND TRADE SECRETS ACT

56. Plaintiffs incorporate paragraphs 1 to 55 as if fully set forth herein.

57. This is a cause of action by Plaintiffs against Defendants BBH, Bo Steele, and Sherri Steele for violation of the Defend Trade Secrets Act.

58. This Court has original jurisdiction over this action pursuant to 18 U.S.C. § 1836(c).

59. Plaintiffs maintained confidential “order guides” with Sysco Corporation that contained the precise menu ingredients for Plaintiffs’ unique, distinctive menu offerings.

60. Both Plaintiffs and Sysco Corporation maintained such order guides in strict confidence as Plaintiffs derive economic value from their being kept secret. Sysco Corporation employees without a need to access such order guides were and are restricted from accessing them.

61. Defendant Bo Steele acquired Plaintiffs’ order guides from Sysco Corporation’s computer system without authorization and by improper means. He was not authorized to access Plaintiffs’ order guides and had no reason to access them except to steal them.

62. Defendant Bo Steele misappropriated Plaintiffs’ order guides to use them to start The Crazy Mason.

63. Defendants Sherri Steele and BBH knew that the order guides were secret and that they had been improperly obtained by Bo Steele.

64. Nonetheless, Sherri Steele and BBH misappropriated Plaintiffs’ confidential order guides to copy the same menu items and start The Crazy Mason.

65. As a result of Defendants' misappropriation of Plaintiffs' confidential order guides, which qualify as trade secrets as defined in 18 U.S.C. § 1839(3), Plaintiffs have been significantly damaged.

WHEREFORE, premises considered, Plaintiffs demand that the Court award damages from all Defendants for actual damages, any unjust enrichment Defendants received, a reasonable royalty, exemplary damages, attorneys' fees and costs, injunctive relief, and all other relief available at law or equity in an amount to be proven at trial.

COUNT TWO – ALABAMA TRADE SECRETS ACT

66. Plaintiffs incorporate paragraphs 1 to 55 as if fully set forth herein.

67. This is a cause of action by Plaintiffs against Defendants BBH, Bo Steele, and Sherri Steele for violation of the Alabama Trade Secrets Act.

68. This Court has supplemental jurisdiction over this claim pursuant to 28 U.S.C. § 1367.

69. Plaintiffs maintained confidential "order guides" with Sysco Corporation that contained the precise menu ingredients for Plaintiffs' unique, distinctive menu offerings.

70. Both Plaintiffs and Sysco Corporation maintained such order guides in strict confidence as Plaintiffs derive economic value from the order guides being

kept secret. Sysco Corporation employees without a need to access such order guides were and are restricted from accessing them.

71. Defendant Bo Steele acquired Plaintiffs' order guides from Sysco Corporation's computer system without authorization and by improper means. He was not authorized to access Plaintiffs' order guides and had no reason to access them except to steal them.

72. Defendant Bo Steele misappropriated Plaintiffs' order guides to use them to start The Crazy Mason.

73. Defendants Sherri Steele and BBH knew that the order guides were a trade secret belonging to Plaintiffs and that they had been improperly obtained by Bo Steele.

74. Nonetheless, Sherri Steele and BBH misappropriated Plaintiffs' confidential order guides to copy the same menu items and start The Crazy Mason.

75. The Crazy Mason is still in business, profiting from the trade secrets of Plaintiffs.

76. As a result of Defendants' misappropriation of Plaintiffs' confidential order guides, which qualify as trade secrets as defined by Alabama law, Plaintiffs have been significantly damaged.

WHEREFORE, premises considered, Plaintiffs demand that the Court award damages from all Defendants for actual damages, recovery of any profits and other

benefits Defendants' received from the misappropriation, attorneys' fees and costs, exemplary damages, injunctive relief, and all other relief available at law or equity in an amount to be proven at trial.

COUNT THREE – SOUTH CAROLINA TRADE SECRETS ACT

77. Plaintiffs incorporate paragraphs 1 to 55 as if fully set forth herein.

78. This is a cause of action by Plaintiffs against Defendants for violation of the South Carolina Trade Secrets Act.

79. This Court has supplemental jurisdiction over this claim pursuant to 28 U.S.C. § 1367.

80. Plaintiffs maintained confidential "order guides" with Sysco Corporation that contained the precise menu ingredients for Plaintiffs' unique, distinctive menu offerings.

81. Both Plaintiffs and Sysco Corporation maintained such order guides in strict confidence as Plaintiffs derive economic value from the order guides being kept secret. Sysco Corporation employees without a need to access such order guides were and are restricted from accessing them.

82. Defendant Bo Steele acquired Plaintiffs' order guides from Sysco Corporation's computer system without authorization and by improper means. He was not authorized to access Plaintiffs' order guides and had no reason to access them except to steal them.

83. Defendant Bo Steele misappropriated Plaintiffs' order guides to use them to start The Crazy Mason.

84. Defendants Sherri Steele and BBH knew that the order guides were a trade secret belonging to Plaintiffs and that they had been improperly obtained by Bo Steele.

85. Nonetheless, Sherri Steele and BBH misappropriated Plaintiffs' confidential order guides to copy the same menu items and start The Crazy Mason.

86. The Crazy Mason is still in business, profiting from the trade secrets of Plaintiffs.

87. As a result of Defendants' misappropriation of Plaintiffs' confidential order guides, which qualify as trade secrets as defined by South Carolina law, Plaintiffs have been significantly damaged.

WHEREFORE, premises considered, Plaintiffs demand that the Court award damages from Defendants for actual damages, lost profits, any unjust enrichment received by Defendants, exemplary damages, attorneys' fees and costs, injunctive relief, and all other relief available at law or equity in an amount to be proven at trial.

COUNT FOUR – LANHAM ACT UNFAIR COMPETITION

88. Plaintiffs incorporate paragraphs 1 to 55 as if fully set forth herein.

89. This is a cause of action by Plaintiffs against Defendants for unfair competition under the Lanham Act. Defendants' infringement of Plaintiff's

registered marks is actionable under 15 U.S.C. § 1114, and Defendant's infringement of Plaintiff's unregistered marks is actionable under 15 U.S.C. § 1125(a).

90. This Court has jurisdiction over this claim pursuant to 15 U.S.C. § 1121.

91. Plaintiff Yard Milkshake Bar Properties, LLC owns the Marks described in paragraph 22.

92. Plaintiff Yard Milkshake Bar Franchising, LLC has the contractual right to enforce the Marks described in paragraph 22.

93. Plaintiffs and their affiliates and predecessors-in-interest have continually used the Marks in commerce in connection with dessert-oriented restaurant services and goods since 2017, as described in paragraphs 11 through 23.

94. The public has come to strongly associate the Marks with Plaintiffs and The Yard restaurants in connection with restaurant services featuring milkshakes and desserts including edible cookie dough, as evidenced by press coverage.

95. The Yard's Marks have become famous on a national basis, as reflected in local, regional, and national press coverage, including the Food Network.

96. Beginning in the Spring or Summer of 2020, Defendants began using the following terms that are confusingly similar to Plaintiff's Marks:

- Crazy Mason Milkshake Bar
- The Green Monster

- The Unicorn
- I'd Rather be a Mermaid

97. As a result of Defendants' use of identical or confusingly similar terms, Plaintiffs have been damaged.

WHEREFORE, premises considered, Plaintiffs respectfully request that the Court award damages from all Defendants for actual damages, attorneys' fees and costs, statutory damages, injunctive relief, and all other relief available at law or equity in an amount to be proven at trial.

COUNT FIVE – TRADE DRESS INFRINGEMENT

98. Plaintiffs incorporate paragraphs 1 to 55 as if fully set forth herein.

99. This is a cause of action by Plaintiffs against all Defendants for trade dress infringement.

100. This Court has jurisdiction over this claim pursuant to 15 U.S.C. § 1121.

101. The Yard has become famous nationwide for their unique milkshakes that utilize high-quality, one-of-a-kind aesthetic preparation, served in mason jars.

102. The top of the souvenir mason jar containing the milkshake is dipped and rolled in a topping or candy coating.

103. Plaintiffs' products have drawn national attention from not just the milkshake inside the jar, but the outrageous and, literally, over-the-top additions that

top each of its milkshakes. The toppings of each milkshake range from entire donuts, slices of cheesecake, and cupcakes, to entire bananas, and rock candy. The milkshakes feature a mountain of toppings, stacked high and far past the brim of the jar, creating an eye-catching milkshake different from any you've ever seen. Each milkshake is nothing short of a work of art.

104. The distinctive souvenir mason jar and extravagant toppings serve only to add to the aesthetic features of the milkshakes—and these features have proven to be a huge success.

105. The mason jar and wild toppings have made The Yard's milkshakes a national sensation. The value of Plaintiffs' products comes from their aesthetic. Countless social media users and influencers have traveled to one of The Yard's shops for the opportunity to pose with one of their unique milkshakes.

106. After obtaining access to Plaintiffs' confidential order guide and elements of Plaintiffs' trade dress, Defendant Bo Steele and his wife Sherri Steele formed Defendant BBH and opened a milkshake bar called "the Crazy Mason Milkshake Bar" in Myrtle Beach, South Carolina.

107. Defendants Bo Steele and/or Sherri Steele have repeatedly accessed Plaintiffs' website and, upon information and belief, visited The Yard's shops to copy the unique look and trade dress of its milkshakes.

108. Defendants BBH, Sherri Steele, and Bo Steele sell specialty milkshakes, and offers menu items identical to those offered by the Yard, in identical mason jars, using legally identical and confusingly similar names.

109. The aesthetic of Defendants' milkshakes are confusingly and deceptively similar to those of The Yard.

110. Defendants have intentionally replicated the unique features of The Yard's trade dress so as to profit off of The Yard's notoriety in the marketplace.

WHEREFORE, premises considered, Plaintiffs respectfully request that the Court enter an award for Plaintiffs from Defendants for actual damages, attorneys' fees and costs, statutory damages, injunctive relief, and all other relief available at law or equity in an amount to be proven at trial.

COUNT SIX – COMPUTER FRAUD AND ABUSE ACT

111. Plaintiffs incorporate paragraphs 1 to 55 as if fully set forth herein.

112. This is a cause of action for violation of the Computer Fraud and Abuse Act against Defendant Bo Steele.

113. This Court has original jurisdiction over this claim pursuant to 28 U.S.C. § 1331.

114. During his employment with Sysco Corporation, Defendant Bo Steele intentionally accessed a protected Sysco Corporation computer, and exceeded his

granted authority to access the computer, in order to purloin Plaintiffs' confidential order guides.

115. Defendant Bo Steel obtained data containing Plaintiffs' confidential order guides, and thereafter, used such data to create a copycat restaurant concept called the Crazy Mason Milkshake Bar.

116. Bo Steele intentionally accesses Sysco Corporation's protected computers without authorization in order to obtain information for his own personal economic advantage.

117. Plaintiffs have lost several-hundred-thousand dollars or more, including lost franchise fees and royalties, goodwill, and sales, as a result of Defendant Bo Steele exceeding his granted authority to Sysco Corporation's protected computers and obtaining Plaintiff's trade secrets.

WHEREFORE, premises considered, Plaintiffs respectfully request that the Court award damages from Defendant Bo Steele for actual compensatory damages, injunctive relief, and all other relief available at law or equity in an amount to be proven at trial.

COUNT SEVEN– COPYRIGHT INFRINGEMENT

118. Plaintiffs incorporate paragraphs 1 to 55 as if fully set forth herein.

119. This is a cause of action by Plaintiffs against Defendant BBH for copyright infringement.

120. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1338.

121. Those non-functional, artistic elements of Plaintiffs milkshakes are original, tangible works of authorship entitled to copyright protection under the Copyright Act (the “Works”).

122. Likewise, the photos on Plaintiffs’ website depicting the original milkshakes are original works of authorship entitled to copyright protection under the Copyright Act.

123. Plaintiff Yard Properties is the sole owner of the copyrighted Works.

124. As depicted in the table within paragraph 48, Defendants willfully infringed Plaintiff Yard Properties’ exclusive rights to (1) reproduce the Works, (2) prepare derivative works based upon the Works, and (3) display the Works publicly.

125. Plaintiff Yard Properties did not license, authorize, permit, or consent to Defendants’ reproduction of the Works in copies, preparation of derivative works based upon the Works, or the public display of unauthorized copies of the Works.

126. Defendants’ infringements were committed “willfully” within the meaning of 17 U.S.C. § 504(c)(2).

127. As a result of Defendant’s infringements, Plaintiff Yard Properties has been damaged.

WHEREFORE, premises considered, Plaintiff The Yard Milkshake Bar Properties, LLC respectfully requests that the Court award damages from BBH for actual damages, lost profits, attorneys' fees and costs, statutory damages, injunctive relief and all other relief available at law or equity in an amount to be proven at trial.

**COUNT EIGHT – CONTRIBUTORY COPYRIGHT
INFRINGEMENT**

128. Plaintiffs incorporate paragraphs 1 to 55 as if fully set forth herein.

129. This is a cause of action by Plaintiffs against Defendants Bo Steele and Sherri Steele for copyright infringement.

130. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1338.

131. Those non-functional, artistic elements of Plaintiffs milkshakes are original, tangible works of authorship entitled to copyright protection under the Copyright Act (the "Works").

132. Likewise, the photos on Plaintiffs' website depicting the original milkshakes are original works of authorship entitled to copyright protection under the Copyright Act (also, the "Works").

133. Plaintiff Yard Properties is the sole owner of the copyrighted Works.

134. Defendants knew, or had reason to know, that Plaintiff was the sole owner of the Works and BBH was not authorized to (1) reproduce the Works, (2) prepare derivative works based upon the Works, and (3) display the Works publicly.

135. Nonetheless, Bo Steel caused, and materially contributed to the copyright infringement of BBH by obtaining trade secret information from former employer Sysco that would allow BBH to reproduce to Works.

136. Likewise Bo Steele and Sherri Steele cause, and a materially contributed to the copyright infringement of BBH by gathering information from The Yard's website, ordering products from The Yard to replicate and design the infringing products for BBH.

137. Defendants' contributions to BBH's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

138. As a result of Defendants' contributory infringements, Plaintiff Yard Properties has been damaged.

WHEREFORE, premises considered, Plaintiff The Yard Milkshake Bar Properties, LLC respectfully requests that the Court award damages from Defendants Bo Steele and Sherri Steele for actual damages, lost profits, attorneys' fees and costs, statutory damages, injunctive relief and all other relief available at law or equity in an amount to be proven at trial.

COUNT NINE– CIVIL CONSPIRACY

139. Plaintiffs incorporate paragraphs 1 to 55 as if fully set forth herein.

140. This is an action by Plaintiffs for civil conspiracy against Defendant Sherri Steele.

141. This Court has supplemental jurisdiction over this claim pursuant to 28 U.S.C. § 1367.

142. Upon information and belief, Defendant Sherri Steel conspired with Defendant Bo Steele, outside of operation of BBH, to steal Plaintiffs' trade secrets, infringe upon Plaintiffs' Marks and trade dress, and engage in unfair competition with Plaintiffs.

143. Defendants' conspiracy was intended to achieve an unlawful purpose or a lawful purpose by unlawful means.

WHEREFORE, premises considered, Plaintiffs demand that the Court award damages from Defendants Bo Steele and Sherri Steele for actual damages, lost profits, attorneys' fees and costs, punitive damages, restitution of profits, statutory damages, and all other relief available at law or equity in an amount to be proven at trial.

/s/ Kristopher O. Anderson

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