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18 *Attorneys for Plaintiff U-Haul International, Inc.*

19 **IN THE UNITED STATES DISTRICT COURT**  
 20 **FOR THE DISTRICT OF ARIZONA**

21 U-Haul International, Inc., a Nevada  
 22 corporation,  
 23  
 24 Plaintiff,  
 25  
 26 v.  
 27 Public Storage Operating Company, a  
 28 Maryland foreign business trust,  
 Defendant.

Case No:

**COMPLAINT**

Plaintiff, U-Haul International, Inc. (“U-Haul”), pursuant to the Federal Declaratory Judgment Statute, 28 U.S.C. § 2201, complains against Defendant, Public Storage Operating Company (“Public Storage” or “Defendant”), as follows:

1 **NATURE OF ACTION**

2 1. U-Haul brings this action to protect its right to continue its longstanding use of  
3 the color orange and the word “orange” in connection with the promotion and marketing of its  
4 self-moving and storage business.

5 2. Defendant has engaged in a multi-faceted and corrupt campaign to wrongfully  
6 appropriate rights in the use of the color and word “orange” in connection with self-storage  
7 services and to assert such rights against U-Haul, its sister companies, its dealers and licensees  
8 (the “U-Haul Businesses”). This campaign includes Defendant’s filing of fraudulently  
9 manufactured evidence with the United States Patent and Trademark Office (“USPTO”) in an  
10 effort to keep trademark registrations alive for marks that Defendant is not using, filing false  
11 statements with the USPTO claiming substantially exclusive use of the color orange in various  
12 forms of purported trade dress, and also making baseless demands that others, including U-  
13 Haul cease using the color and/or the term “orange” in connection with their businesses, which  
14 has necessitated this action.

15 3. For 79 years, U-Haul has continuously and prominently featured the color  
16 orange in connection with its truck, trailer, and towing equipment rental including tow dollies,  
17 and auto transports and self-storage services (“Self-Moving and Storage Services”), and  
18 through extensive sales and promotion of those Self-Moving and Storage Services, has  
19 developed strong common law and registered trade dress rights in the color orange relating to  
20 its Self-Moving and Storage Services, embodying invaluable goodwill. U-Haul’s Self-Moving  
21 and Storage solutions including truck, trailer and towing rental equipment, rental of self-  
22 storage facilities, rental of portable moving containers, as well as sales of vehicle cargo  
23 equipment, towing hitches and towing wiring, boxes and packing supplies. Self-Moving and  
24 Storage Services are inextricably intertwined in the minds of consumers. Self-Moving and  
25 Storage Services address the same basic need for customers: how they deal with their  
26 belongings in transition. Self-moving is “they have their things here; they want them there”  
27 while self-storage is “they have their things now; they want them later”. In short, U-Haul has  
28 been providing solutions for Self-Moving and Storage needs for 79 years.

1           4.       U-Haul originally decided to paint the trailers orange because it was a color  
2 that was readily identifiable, looked clean, bright and attractive, and formed moving billboards  
3 to promote U-Haul services at service stations throughout a city.

4           5.       Orange U-Haul self-move truck, trailer, and towing equipment were always  
5 used not only for self-moving, but to store customer's goods as well. As part of its provision  
6 of Self-Moving and Storage services, U-Haul has also prominently used the color orange for  
7 at least 50 years in connection with the self-storage services it provided at its self-storage  
8 facilities and has expended substantial resources utilizing the color orange to promote those  
9 services. U-Haul currently has over 1 million orange storage doors at its facilities.

10          6.       Despite U-Haul's longstanding nationwide use of the color orange in  
11 connection with its Self-Moving and Storage Services, as well as extensive nationwide third-  
12 party use of the color orange in connection with self-storage services, Defendant has now  
13 demanded that the U-Haul Businesses cease use of the color orange on a website operated by  
14 U-Haul relating to self-storage and cease its use of the term "orange" in connection with its  
15 Self-Moving and Storage business. This demand is part of an improper scheme by Defendant  
16 to wrongfully assimilate and steal the orange trade dress of U-Haul Businesses and third-  
17 parties and to monopolize the color orange and term "orange" within the self-storage industry  
18 and foreclose others from using the color orange and/or the term "orange" in connection with  
19 self-storage services.

20          7.       Defendant is so determined to monopolize the color and/or the term "orange"  
21 that it has fabricated use of trademarks containing the term "orange" and knowingly filed  
22 fraudulent evidence of trademark use with the USPTO to maintain registrations for the  
23 trademarks containing the term "orange" that Defendant has asserted against U-Haul and likely  
24 many other parties in the self-storage space.

25          8.       Defendant's demands are not only unjustified and improper given the  
26 longstanding and extensive use of the color orange by the U-Haul Businesses as well as the  
27 extensive use of the color by hundreds of independent self-storage providers, but they also  
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1 create a substantial and immediate controversy between Defendant and U-Haul that threatens  
2 to disrupt U-Haul's business.

3 9. Accordingly, U-Haul asks this Court for a declaration that U-Haul's use of the  
4 color orange and the term "orange" does not violate Defendant's alleged rights, and, in  
5 particular, does not constitute trademark infringement, trademark dilution, unfair competition,  
6 or a violation of the Anticybersquatting Consumer Protection Act with respect to any alleged  
7 rights of Defendant. In addition, U-Haul asks this Court to invalidate certain trademark  
8 registrations asserted by Defendant on the basis that Defendant perpetrated a fraud upon the  
9 USPTO by filing evidence it intentionally fabricated in an effort to maintain such trademark  
10 registrations and/or on the basis of non-use and abandonment.

### 11 **THE PARTIES**

12 10. U-Haul is a corporation organized and existing under the laws of the State of  
13 Nevada having a principal place of business at 2727 North Central Avenue, Phoenix, Arizona  
14 85004.

15 11. Defendant is a publicly traded real estate investment trust organized and  
16 existing under the laws of the State of Maryland having a principal place of business at 701  
17 Western Avenue, Glendale, California 91201.

18 12. Defendant is registered to transact business in Arizona and, upon information  
19 and belief, regularly transacts business in Arizona, including within this District.

### 20 **JURISDICTION AND VENUE**

21 13. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331,  
22 1338(a), and 1338(b). This Court also has jurisdiction pursuant to the Lanham Act, 15 U.S.C.  
23 § 1121, and federal supplemental jurisdiction under 28 U.S.C. § 1367.

24 14. Venue is proper pursuant to 28 U.S.C. § 1391(b) in that U-Haul resides in and  
25 is doing business in this District, a substantial part of the events giving rise to this action  
26 occurred in this District, and Defendant is subject to jurisdiction in this District. Defendant  
27 sent its demand to U-Haul in this District demanding that U-Haul cease activities that U-Haul  
28 undertakes in this District. U-Haul is located in Phoenix, Arizona, within the jurisdiction of

1 this Court. Defendant's actions have caused and will continue to cause injury and threatened  
2 harm to U-Haul in this District. Thus, the consequences of Defendant's actions have a direct  
3 impact in Arizona and within this District, thereby producing effects in and directly  
4 implicating this District and Arizona.

5 **U-HAUL AND ITS ORANGE MARKS AND TRADE DRESS**

6 15. U-Haul is the leading provider of Self-Moving and Storage Services in the  
7 United States. Throughout its long history, U-Haul has developed and maintained an  
8 exceptional national reputation for its Self-Moving and Storage Services.

9 **U-Haul's Use of and Service Mark Rights to the Color Orange in Connection**  
10 **With its Self-Moving and Storage Services**

11 16. Since 1945, U-Haul has prominently used the color orange as an eye-catching  
12 identifier of Self-Moving and Storage business, specifically its offering of do-it-yourself  
13 trucks, trailers, and towing equipment including tow dollies, and auto transports for rent.

14 17. Since its earliest inception, U-Haul has prominently and consistently displayed  
15 the color orange directly on the trailers and vehicles it offers for rent, on its rental facilities in  
16 all 50 states, and in nationwide advertising and promotional materials for its Self-Moving and  
17 Storage Services, including from retail locations within this judicial district. Here are a few  
18 examples showing early looks of U-Haul trailers:





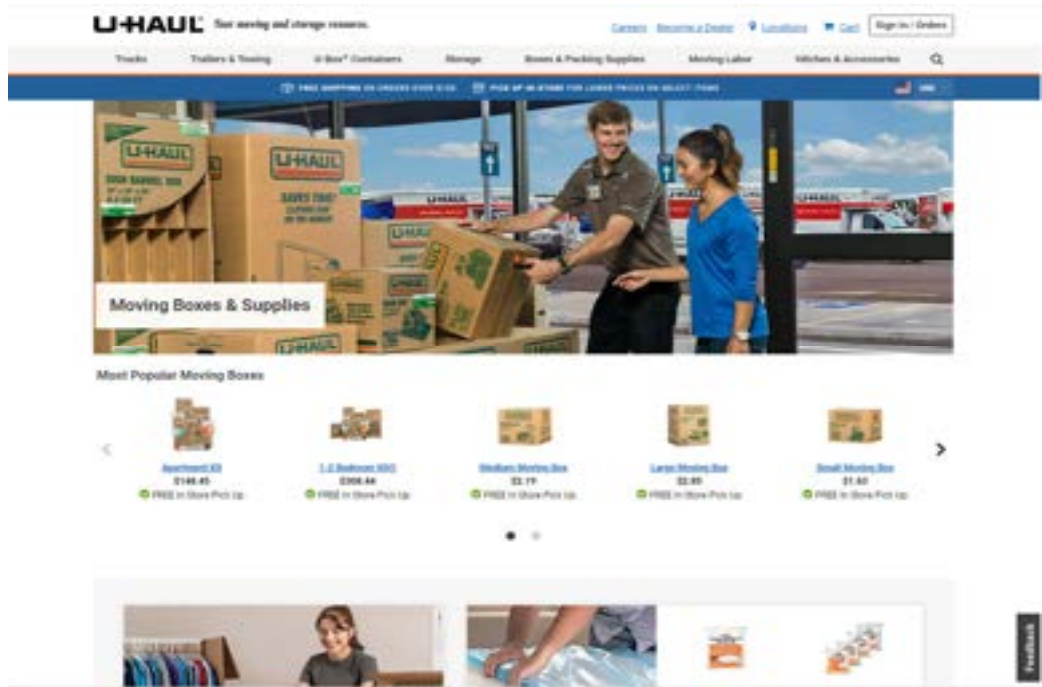
18. U-Haul promotes its Self-Moving and Storage Services using the color orange by prominently featuring the color on roadside and building signage. Examples of U-Haul's use of the color orange in promoting its Self-Moving and Storage Services are pictured below and in **Exhibit A** attached hereto:



19. U-Haul also heavily promotes its Self-Moving and Storage Services via the Internet, including on its website accessible at [www.uhaul.com](http://www.uhaul.com) and the U-Haul app, which U-Haul's customers use to find U-Haul's rental facilities located in all 50 states and make rental reservations as shown below:



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20. In addition, the packet U-Haul provides its customers when they rent a truck, trailer, or towing equipment, which includes rental information and a move-in guide prominently displays the color orange as shown below:



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21. Notably, the vehicles and trailers U-Haul rents, examples of which are pictured below, prominently and consistently feature the color orange, and serve as thousands of rolling billboards all across America promoting U-Haul Self-Moving and Storage Services:





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22. In addition, as shown below and in **Exhibit A** attached hereto, U-Haul’s rental facilities, which are located in all 50 states, prominently feature the color orange both on the exterior of the facilities and on in-store displays, and have done so for several decades, thereby further developing and creating an association between the color orange and U-Haul Self-Moving and Storage Services:



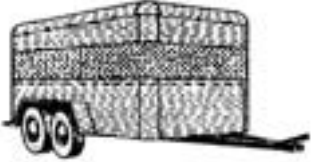




23. In addition, the over 21,000 independent businesses that are dealers of U-Haul products and services -- including over 5000 independent self-storage facilities -- are licensed to use, among other things, U-Haul's orange trademarks, orange services marks and orange trade dress.


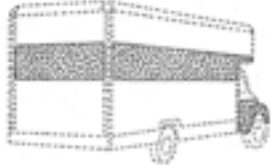


24. U-Haul has invested substantial resources developing, advertising, promoting and marketing its Self-Moving and Storage Services under the color orange in connection with its trade dress and various trademarks throughout the United States and establishing its

1 Services in the minds of consumers as high-quality services offered by U-Haul. As a result,  
 2 and in addition to its registered rights described below, U-Haul enjoys extremely strong  
 3 common law trade dress rights in its trademarks and trade dress featuring the color orange  
 4 relating to its Self-Moving and Storage Services, embodying invaluable goodwill.

5 25. In addition to its extensive common law trademarks and trade dress rights  
 6 featuring the color orange relating to its Self-Moving and Storage Services, U-Haul owns the  
 7 following long-standing federal registrations for trade dress and trademarks that incorporate  
 8 the color orange reciting vehicle rental and related services:






Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
 <p data-bbox="272 1140 751 1209">The mark is lined for the colors orange and aluminum</p> 	73096387 1075214	Aug. 12, 1976 Oct. 11, 1977	Jun. 15, 1946	<b>Class 39:</b> rental of automobile freight trailers
 <p data-bbox="272 1707 751 1776">The drawing is lined for the colors blue and orange</p>	73103035 1094740	Oct. 13, 1976 Jun. 27, 1978	Sep. 14, 1974	<b>Class 39:</b> truck and automobile trailer rentals and warehouse storage services

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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				
 <p data-bbox="272 835 751 1157">The mark consists of an orange and white color combination as applied to truck and moving vans. The drawing is lined for the color orange, and orange and white are claimed as part of the mark. The dotted lines shown on the drawing are not part of the mark and serve only to show the position of the mark on the goods.</p> 	74695959 1968672	Jun. 21, 1995 Apr. 16, 1996	Oct. 15, 1987	<b>Class 39:</b> truck and moving van rental services
 <p data-bbox="272 1753 719 1822">The drawing is lined for the colors silver and orange.</p>	72208429 827358	Dec. 18, 1964 Apr. 11, 1967	Jun. 15, 1946	<b>Class 39:</b> rental or automobile freight trailer



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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				
 <p data-bbox="272 758 753 831">The drawing is lined for the color orange</p> 	72176274 786156	Sep. 04, 1963 Mar. 02, 1965	Jul. 15, 1959	<b>Class 39:</b> truck rentals
 <p data-bbox="272 1381 753 1455">The drawing is lined for the color orange</p> 	73038107 1024321	Nov. 25, 1974 Nov. 04, 1975	Nov. 15, 1969	<b>Class 39:</b> truck and automobile trailer rentals

26. These registrations are valid, subsisting, and in full force and effect. True and correct copies of documents retrieved from the USPTO's online Trademark Status &



1 Document Retrieval database (“TSDR”) evidencing the current status and U-Haul’s ownership  
2 of the registrations are attached hereto as **Exhibit B**.

3 27. Notably, these registrations have achieved incontestable status pursuant to 15  
4 U.S.C. § 1065. Accordingly, the registrations provide conclusive evidence of the validity of  
5 the registered trade dress and trademarks, U-Haul’s ownership of the registered trade dress and  
6 service marks, and U-Haul’s exclusive right to use the registered trade dress and service marks  
7 in connection with the services recited in the certificates of registration for the trade dress and  
8 service marks. 15 U.S.C. § 1115(b).

9 **U-Haul’s Longstanding Use of the Color Orange**  
10 **In Connection With Its Self-Moving and Storage Services at self-storage**  
11 **facilities**

12 28. U-Haul also offers Self-Moving and Storage Services at self-storage facilities.  
13 From the beginning, U-Haul customers used its orange rental equipment to store their goods,  
14 and since as early as 1974, U-Haul has directly used the color orange for sale and promotion  
15 of U-Haul Self-Moving and Storage Services at self-storage facilities.

16 29. Notably, Self-Moving and Storage Services are inextricably linked in the  
17 minds of consumers because many consumers who are moving need to store their belongings,  
18 whether it is in a truck, a trailer or in a self-storage facility, and customers who are storing  
19 their belongings need to move them to and from storage. Even prior to U-Haul’s operation of  
20 self-storage facilities, U-Haul’s customers regularly rented self-move vehicles and trailers  
21 from U-Haul to use for self-storage. And of course today, many customers who rent storage  
22 units at a self-storage facility also rent vehicles to move possessions to or from those self-  
23 storage units.

24 30. Like U-Haul, Public Storage over the years has provided its customers with  
25 options for moving their belongings.

26 31. U-Haul prominently displays the color orange directly on its self-storage  
27 facilities and in nationwide advertising and promotional materials for those Self-Moving and  
28 Storage Services, including, but not limited to, roadside and building signage and the Internet.

1 32. As pictured below, U-Haul also promotes its services provided at self-storage  
2 facilities on the trucks it rents using an image of an orange storage doors like those used in  
3 many of U-Haul's self-storage facilities:




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14 33. U-Haul advertises and sells its self-storage services under the color orange  
15 throughout the United States in all 50 states, including from retail locations in this judicial  
16 district. Representative examples of U-Haul's various uses of the color orange in connection  
17 with its self-storage services are pictured below and in **Exhibit C** attached hereto.





34. U-Haul has invested substantial resources developing, advertising, promoting and marketing its self-storage services under various trademarks and trade dress that feature the color orange throughout the United States.

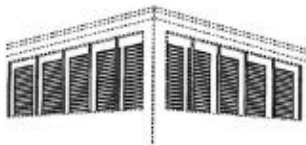


35. In addition, U-Haul owns the following long-standing federal registrations for trade dress and service marks that incorporate the color orange reciting storage services:

Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
	78468909 3034911	Aug. 17, 2004 Dec. 27, 2005	Aug. 01, 2000	<p><b>Class 35:</b> Retail store services featuring truck and automobile trailer hitches, boxes for storage and moving, truck and automobile towing systems, lights, transmission coolers, and propane; retail outlet services featuring trucks and trailers</p> <p><b>Class 39:</b> Rental</p>


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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				services, namely, rental of trucks, vans, automobiles, automobile freight trailers, hitches, pads, tow bars, dollies, carriers, hand trucks, moving equipment, vehicles, moving vans, moving boxes, storage rooms; general storage services; rental of warehouse space; warehouse storage services, rental of garage space; parking lot services; rental of parking spaces; cargo handling cargo unloading; moving van services, moving van transport; rental of moving vans; furniture moving; delivery of

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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				goods by truck, car or van; truck hauling, truck towing
 <p>The mark consists of ten windows arranged along two perpendicular edges of a building with orange storage doors visible through the windows. The matter shown in broken lines on the drawing serves to show positioning of the mark and no claim is made to it.</p> 	75176756 2286782	Oct. 04, 1996 Oct. 12, 1999	Oct. 01, 1992	<p><b>Class 35:</b> retail store services featuring packaging and moving supplies</p> <p><b>Class 39:</b> self-storage services; rental of moving vans and trucks</p>
 <p>The drawing is lined for the colors blue and orange</p>	73103035 1094740	Oct. 13, 1976 Jun. 27, 1978	Sep. 14, 1974	<b>Class 39:</b> truck and automobile trailer rentals and warehouse storage services



Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				

36. These registrations are valid, subsisting, and in full force and effect. True and correct copies of documents retrieved from the USPTO’s online TSDR database evidencing the current status and U-Haul’s ownership of the registrations are attached hereto as **Exhibit D**.

37. Notably, Registration Nos. 1094740 and 3034911 have achieved incontestable status pursuant to 15 U.S.C. § 1065. Accordingly, these registrations provide conclusive evidence of the validity of the registered service marks, U-Haul’s ownership of the registered service marks, and U-Haul’s exclusive right to use the registered service marks in connection with the services recited in the certificates of registration for the service marks. 15 U.S.C. § 1115(b).

**DEFENDANT’S IMPROPER AND FRAUDULENT ATTEMPTS TO CLAIM EXCLUSIVE RIGHTS IN THE COLOR ORANGE AND THE WORD “ORANGE”**

38. Defendant is U-Haul’s direct competitor in the self-storage market in 40 states and Washington D.C. Although Public Storage’s founder, Wayne Hughes, has admitted that Public Storage originally and intentionally knocked-off the color orange to draw an association with U-Haul as a way to attract customers to Public Storage, it is only over the past few years that Public Storage has made a dramatic shift in its branding and promotion of its self-storage services away from prominently using the colors purple and/or yellow together with the color orange in its promotional materials, self-storage facilities, and signage to

1 prominently featuring only the color orange, a shade of orange that is much closer to the shade  
2 of orange used by U-Haul.

3 39. In conjunction with this shift, Defendant has improperly attempted to claim  
4 exclusive nationwide rights to use and exclude others from using the color orange in various  
5 formats as well as the word “ORANGE” for self-storage and related services by, among other  
6 things, filing several federal trademark applications seeking to register these marks.

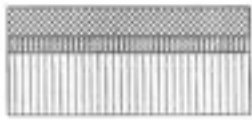

7 **Defendant’s Prior Use of the Colors Purple and/or Yellow**  
8 **in Combination with the Color Orange**

9 40. Upon information and belief, starting in 1994 and for many years thereafter,  
10 Defendant predominantly featured the color purple in combination with the color orange in  
11 its logo, on promotional materials, as well as on its self-storage facilities. Examples of Public  
12 Storage’s past use of the colors purple in combination with the color orange are pictured  
13 below:

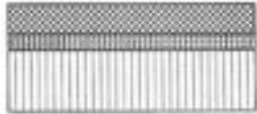









41. Starting in 1996, Defendant even sought to protect its rights in the combination of the colors purple and/or yellow and orange by filing applications to register and obtaining registrations for trade dress and service marks that incorporate both colors for its self-storage services including those listed below:

Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
 <p>The mark consists of three stripes which are applied in the colors and the proportions shown to the exterior of buildings used for providing the services. The mark is lined for the colors orange, yellow, and purple.</p> 	75821977 2371339	Oct. 14, 1999 Jul. 25, 2000	Oct. 1994	<b>Class 39:</b> renting and leasing self-storage facilities
	75158918 2333475	Sep. 03, 1996 Mar. 21, 2000	Oct. 1994	<b>Class 35:</b> retail store services featuring metal locks, storage boxes, wardrobe



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 <p>The mark consists of three stripes which are applied in the colors and the proportions shown to the exterior of buildings used for providing the services. The mark is lined for the colors orange, yellow, and purple.</p> 				<p>boxes, television and microwave boxes, mirror boxes, lamp boxes, file boxes, dish barrel boxes, paper cushioning for packing, newsprint, paper padding for moving furniture, plastic stretch wrap, plastic cellular cushioning packaging material for packing, markers and pens, paper tape, polystyrene foam sheets for packing, foam picture corner protectors, plastic packing tape, plastic strapping tape, padded foam pouches for packing dishes and glass items, foam peanuts for packing, plastic sacks for protecting furniture during transportation, plastic chair and sofa covers for protecting furniture during transportation, padded fabric covers for protecting furniture during transportation, commercial tape dispensers, rope and twine made of natural or synthetic fibers</p>

Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
<p data-bbox="211 212 235 661">1 2 3 4 5 6 7 8 9 10</p>  <p data-bbox="259 577 625 661">The mark is lined for the colors orange and purple</p> 	<p data-bbox="657 346 795 430">75978578 2286764</p>	<p data-bbox="852 346 974 514">Sep. 03, 1996 Oct. 12, 1999</p>	<p data-bbox="1031 346 1177 388">Sep. 1998</p>	<p data-bbox="1209 346 1534 472"><b>Class 16:</b> writing implements, namely, markers and pens</p>
<p data-bbox="211 840 235 1144">11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27</p>  <p data-bbox="259 1071 625 1144">The mark is lined for the colors orange ad purple</p> 	<p data-bbox="657 840 795 913">75158920 2487759</p>	<p data-bbox="852 840 974 997">Sep. 03, 1996 Sep. 11, 2001</p>	<p data-bbox="1031 840 1177 882">Sep. 1998</p>	<p data-bbox="1209 840 1534 997"><b>Class 16:</b> packing and moving materials, namely, paper padding for moving furniture</p> <p data-bbox="1209 1071 1534 1858"><b>Class 17:</b> packing and moving materials, namely, polystyrene foam sheets for packing, plastic strapping tape, padded foam pouches for packing dishes and glass items, foam peanuts for packing, plastic sacks for protecting furniture during transportation, plastic chair and sofa covers for protecting furniture during transportation, and padded fabric covers for protecting furniture during transportation</p>



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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
 <p>The mark is lined for the colors orange and purple</p> 	75978568 2363325	Sep. 03, 1996 Jun. 27, 2000	Sep. 1998	<p><b>Class 6:</b> metal locks</p> <p><b>Class 16:</b> packing and moving materials, namely, storage boxes, wardrobe boxes, television and microwave boxes, mirror boxes, lamp boxes, file boxes, dish barrel boxes, plastic cellular cushioning packing material for packing; and paper tape</p> <p><b>Class 17:</b> packing and moving materials, namely, plastic packing tape, and commercial tape dispensers</p> <p><b>Class 35:</b> retail store services featuring metal locks, storage boxes, wardrobe boxes, television and microwave boxes, mirror boxes, lamp boxes, file boxes, dish barrel boxes, paper cushioning for packing, newsprint, paper padding for moving furniture, plastic stretch wrap, cellular cushioning</p>

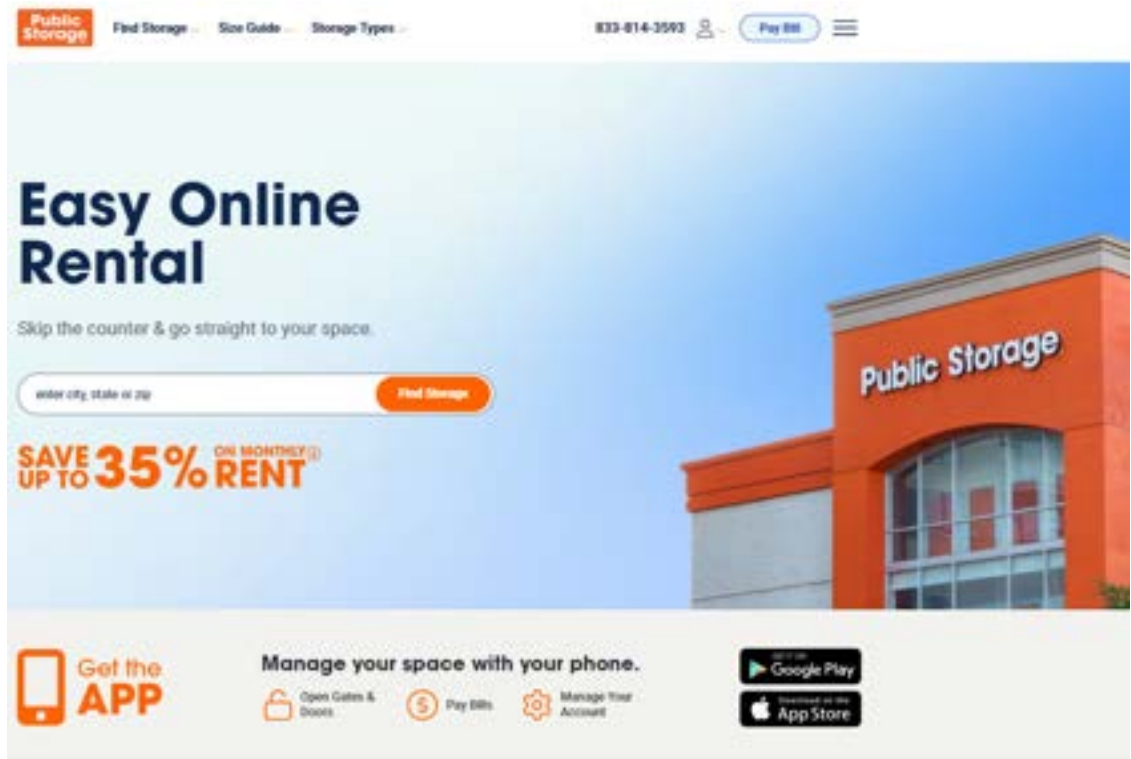
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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				packaging material for packing, markers and pens, paper tape, polystyrene foam sheets for packing, foam picture corner protectors, plastic packing tape, plastic strapping tape, padded foam pouches for packing dishes and glass items, foam peanuts for packing, plastic sacks for protecting furniture during transportation, plastic chair and sofa covers for protecting furniture during transportation, padded fabric covers for protecting furniture during transportation, commercial tape dispensers, rope and twine made of natural or synthetic fibers

**Defendant’s Shift to Using Only the Color Orange and Improper Attempts to Claim Exclusive Rights**

42. Despite many years of featuring the color purple in combination with the color orange in the promotion of its self-storage services and on its self-storage facilities, and having knowledge of U-Haul’s prominent use of the color orange in connection with its Self-Moving and Storage Services, Defendant made a distinct shift in its marketing efforts by limiting and then apparently abandoning all use of the color purple to switch to solely featuring the color orange on its self-storage facilities and its marketing materials. Examples of Defendant’s

1 recent use of the color orange (without the color purple) in connection with its self-storage  
2 services and its marketing for those services are pictured below and in **Exhibit E** attached  
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43. Defendant's shift to solely featuring the color orange to promote its services is further demonstrated by the fact that it modified the appearance of many of its self-storage facilities to eliminate the use of the colors purple and/or yellow and only display the color orange. Examples of the modifications are pictured below and in **Exhibit F** attached hereto:

Prior Building Appearance	Current Building Appearance
	



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Prior Building Appearance	Current Building Appearance
	
	
	
	



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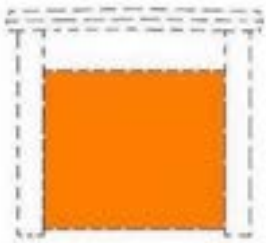
Prior Building Appearance	Current Building Appearance
	
	
	
	

25           44. In parallel to Defendant’s change in branding, Defendant has also sought to  
 26 wrongfully monopolize the use of the color orange through a scheme to serially register a wide  
 27 range of trademarks that include the use of the word ORANGE, the color orange on a wide  
 28 range of common building features and the color orange on a wide range of signs, countertops,

1 canopies, furnishings, displays, and storage doors, thereby attempting to foreclose any  
 2 competitors from using the color orange in connection with self-storage services or related  
 3 goods and services even though Defendant is fully aware of the industry wide use of the color  
 4 orange with self-storage services.

5 45. Such applications for trade dress and service marks that incorporate and solely  
 6 feature the color orange or feature the word “orange” for self-storage and related services  
 7 include the following:


Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
	88746009	Jan. 03, 2020	1972	<b>Class 39:</b> Providing self-storage facilities for others; Renting and leasing of private storage spaces; Renting and leasing of climate-controlled storage spaces; Storage of goods
	88746025	Jan. 03, 2020	1972	<b>Class 39:</b> Providing self-storage facilities for others; Renting and leasing of private storage spaces; Renting and leasing of climate-controlled storage spaces; Storage of goods
	88623045	Sep. 19, 2019	1972	<b>Class 39:</b> Providing self-storage facilities for others; Renting and leasing of private storage spaces; Renting and leasing of climate-controlled storage spaces; Storage of goods

Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
	88623068	Sep. 19, 2019	2011	<b>Class 39:</b> Providing self-storage facilities for others; Renting and leasing of private storage spaces with limited access; Renting and leasing of climate-controlled storage spaces with limited access; storage of goods
 <p data-bbox="261 999 657 1272">The mark consists of the color orange as used in connection with self-storage services as applied on buildings, signage, awnings, canopies, furnishings, displays, and countertops.</p>	88623084	Sep. 19, 2019	1972	<b>Class 39:</b> Providing self-storage facilities for others; renting and leasing of private storage spaces; renting and leasing of climate-controlled storage spaces; storage of goods
 <p data-bbox="261 1518 657 1633">The mark consists of the color orange as applied to business signage</p>	88623145	Sep. 19, 2019	Sep. 1998	<b>Class 39:</b> Providing self-storage facilities for others; Renting and leasing of private storage spaces; Renting and leasing of climate-controlled storage spaces; Storage of goods
	88623262	Sep. 19, 2019	Aug. 1972	<b>Class 39:</b> Providing self-storage facilities for others; Renting and leasing of storage spaces; Storage of goods

1	Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
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3	<b>BEHIND THE ORANGE DOORS</b>	88623214 6598358	Sep. 19, 2019 Dec. 21, 2021	May 03, 2021	<b>Class 39:</b> Providing self-storage facilities for others; providing self-storage facilities, namely, renting and leasing of private storage spaces for others; providing self-storage facilities, namely, renting and leasing of climate-controlled storage spaces for others; storage of goods
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12	<b>ORANGE DOOR STORAGE INSURANCE PROGRAM</b>	87195235 5697798	Oct. 06, 2016 Mar. 12, 2019	Oct. 01, 2016	<b>Class 35:</b> Tenant storage insurance program, namely, insurance claims management services for insurance program offering insurance coverage to tenants for their contents stored at self-storage facilities  <b>Class 36:</b> Tenant storage insurance program, namely, insurance underwriting and administration services for insurance program offering insurance coverage to tenants for their contents stored at self-storage facilities
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26	<b>ORANGE DOORS</b>	98637899	Jul. 08, 2024		<b>Class 39:</b> Providing self-storage facilities for others; renting and leasing of storage
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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				spaces; storage of goods
PS ORANGE	98637892	Jul. 08, 2024		<b>Class 39:</b> Providing self-storage facilities for others; renting and leasing of storage spaces; storage of goods
	87503565 6428493	Jun. 23, 2017 Jul. 20, 2021	Sep. 1998	<p><b>Class 6:</b> Metal Locks; Metal locks for use in securing storage facilities</p> <p><b>Class 7:</b> Packing and storing materials, namely, commercial adhesive tape dispensers machines for commercial use</p> <p><b>Class 16:</b> Packing paper; Plastic bags for packing; Plastic bubble packs for wrapping or packaging; Plastic film for wrapping or packaging; Cardboard; Cardboard boxes; Cardboard tubes; Cardboard packaging; Cardboard containers; Packing and moving materials made of cardboard, namely, storage boxes, wardrobe boxes, television and microwave boxes, mirror boxes, lamp boxes, file boxes, dish barrel boxes, paper</p>




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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				<p>padding for moving furniture; Paper tape; Moving kits, namely, kits comprising supplies for packaging and moving purposes, namely, cardboard boxes in a variety of sizes, packing paper, stretch plastic wrap, adhesive tape and dispenser used for moving and packing for household and commercial use, fitted plastic covers for transporting furniture, plastic bubble-cushioning pouches for wrapping and packaging, packing foam cushioning in sheet and roll form, quilted pads, moving blankets; Plastic film for wrapping; Plastic packing tape for personal household use</p> <p><b>Class 17:</b> Packing and storing materials, namely, masking tape, adhesive plastic packing tape for commercial use; Low-density polyurethane packaging foam in the form of foam peanuts, foam pouches for dishes, plates, glasses and bowls; Plastic</p>

1 2	Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28					foam used for storage and packing; Low-density polyurethane packaging foam in the form of foam picture corner protectors; Polystyrene foam sheets for packing; Plastic cellular cushioning packing material for packing; Plastic film for packing; Moving blankets in the nature of thermal insulating blankets not of rubber, plastic or paper for use as padding materials for the storage and transportation of goods; Insulation covers for storage and transportation of goods, namely, padded insulating blanket pads not of rubber, plastic or paper  <b>Class 22:</b> Ropes; Ropes and synthetic ropes; Packing rope; Packing string; Twine; Moving blankets, in the nature of tarpaulins, not of rubber, plastic or paper for use as padding materials  <b>Class 24:</b> Unfitted padded fabric covers


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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				<p>for protecting furniture during packing and moving; Plastic mattress covers used to protect mattress during packing and moving; padding materials, namely, moving blankets not of rubber, plastic, or paper used for moving and packing</p> <p><b>Class 35:</b> Retail store services featuring packing, moving and storage goods; Retail store services featuring plastic and paper products for use in packing and moving; Retail store services featuring paper and foam packaging, metal locks, storage boxes, wardrobe boxes, television and microwave boxes, mirror boxes, lamp boxes, file boxes, dish barrel boxes, paper cushioning for packing, newsprint, paper padding for moving furniture, plastic stretch wrap, cellular cushioning packaging material for packing, markers and pens, paper tape,</p>

Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				polystyrene foam sheets for packing, foam picture corner protectors, plastic packing tape, plastic strapping tape, padded foam pouches for packing dishes and glass items, foam peanuts for packing, plastic sacks for protecting furniture, plastic chair and sofa covers for protecting furniture, padded fabric covers, rope and twine, blanket pads and moving blankets
	88061941 5860260	Aug. 01, 2018 Sep. 17, 2019	Jun. 25, 2018	<b>Class 36:</b> Commercial real estate management services; real estate services, namely, management of self-storage facilities
	88623195 6176927	Sep. 19, 2019 Oct. 13, 2020	Dec. 28, 2018	<b>Class 39:</b> Providing self-storage facilities for others; renting and leasing of private storage spaces; renting and leasing of climate-controlled storage spaces; storage of goods
	98637904	Jul. 08, 2024		<b>Class 35:</b> Insurance claims auditing services; Insurance claims auditing services in the fields of renters insurance, tenant insurance, and storage insurance




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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				<p><b>Class 36:</b> Insurance claims processing; Insurance claims management services; Insurance information and consultancy; Insurance underwriting and administration; Insurance underwriting, issuing, and administration services; Insurance claims processing in the fields of renters insurance, tenant insurance, and storage insurance; Insurance claims management services in the fields of renters insurance, tenant insurance, and storage insurance; Insurance underwriting and administration in the fields of renters insurance, tenant insurance, and storage insurance; Insurance underwriting, issuing, and administration services in the fields of renters insurance, tenant insurance, and storage insurance</p>
	98637909	Jul. 08, 2024		<p><b>Class 35:</b> Insurance claims auditing services; Insurance claims auditing services in the fields</p>

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Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
				of renters insurance, tenant insurance, and storage insurance  <b>Class 36:</b> Insurance claims processing; Insurance claims management services; Insurance information and consultancy; Insurance underwriting and administration; Insurance underwriting, issuing, and administration services; Insurance claims processing in the fields of renters insurance, tenant insurance, and storage insurance; Insurance claims management services in the fields of renters insurance, tenant insurance, and storage insurance; Insurance underwriting and administration in the fields of renters insurance, tenant insurance, and storage insurance; Insurance underwriting, issuing, and administration services in the fields of renters insurance, tenant insurance, and storage insurance
	87195245 5697799	Oct. 06, 2016	Oct. 01, 2016	<b>Class 35:</b> Tenant storage insurance

Mark	Ser. / Reg. No.	Filing / Reg. Date	First Use in Commerce	Goods and Services
		Mar. 12, 2019		<p>program, namely, insurance claims management services for insurance program offering insurance coverage to tenants for their contents stored at self-storage facilities</p> <p><b>Class 36:</b> Tenant storage insurance program, namely, insurance underwriting and administration services for insurance program offering insurance coverage to tenants for their contents stored at self-storage facilities</p>

46. Notably, Defendant’s attempts to register and registration of the various depictions of the color orange above is improper because filing the applications to register the trade dress above required that Defendant knowingly represent that it believed that it had substantially exclusive use of the applied-for orange trade dress and/or that the applied-for orange trade dress has acquired distinctiveness for Defendant’s services despite knowing that in addition to U-Haul’s longstanding and extensive use of the color orange, there are hundreds of independent third-party self-storage providers that use the color orange in connection with self-storage services. Many of those applications have been rejected by the USPTO.

47. Defendant is now improperly relying on its registrations for marks that include the term “orange,” including its’ fraudulently maintained registrations, as an additional basis for seeking to exclude U-Haul and others from using the color orange in connection with self-storage services.

1 48. As such, Defendant’s attempts to register the trade dress and service marks  
2 listed above are improper and are part of a wrongful attempt to monopolize the color orange  
3 and the term “orange” for its own use in connection with self-storage services.

4 49. In addition, Defendant’s scattershot efforts to register various orange building  
5 trade dress stand in stark contrast to a typical trade dress registration. A business seeking to  
6 protect its building design trade dress typically seeks to register a specific, distinctive, and  
7 unique feature of trade dress. In contrast, Defendant has filed multiple registrations covering  
8 various indistinct portions of buildings. For example, in application Ser. Nos. 88623068 and  
9 88623084, Defendant seeks to broadly register the color orange “as used in connection with  
10 self-storage services as applied on buildings, signage, awnings, canopies, furnishings,  
11 displays, and countertops” (Ser. No. 88623068) and “as applied to business signage” (Ser.  
12 No. 88623084) without claiming a specific distinctive design feature. These scattershot  
13 trademark applications appear designed to prevent others in the self-storage industry from  
14 using the color orange in *any* capacity on the exterior of a building. These broad claims to an  
15 exclusive right to use the color orange in connection with self-storage services are also  
16 improper given the longstanding and widespread use of the color by hundreds of third party  
17 self-storage providers.

18 **Defendant’s Deceptive and Fraudulent Maintenance of its Registration for the**  
19 **ORANGE STORAGE Mark (Reg. No. 5083797) Asserted Against U-Haul**

20 50. On information and belief, on February 26, 2016, a third party that is  
21 completely unrelated to Defendant, IEP Group, LLC (“IEP”), filed an application to register  
22 the ORANGE STORAGE mark (Ser. No. 86920897) for “Providing self-storage facilities for  
23 others” in Class 39 based on an intent to use the mark in connection with those services. A  
24 true and correct copy of this application is attached hereto as **Exhibit G**.

25 51. Based upon U-Haul’s investigation and on information and belief, this  
26 ORANGE STORAGE mark was adopted by IEP as part of a larger business concept that was  
27 intended to offer commercial storage solutions of varying sizes and types (covered, enclosed,  
28 outdoor, etc.,) to companies working in the oil exploration industry in Midland, Texas. This

1 was a business venture that was completely separate and distinct from Public Storage and the  
2 self-storage solutions offered by Public Storage.

3 52. On September 20, 2016, IEP filed a Statement of Use in connection with the  
4 ORANGE STORAGE application alleging first use of the mark on March 1, 2016 and  
5 submitting a specimen of use showing use of the ORANGE STORAGE mark in connection  
6 with its new business concept branded as “Orange Storage” and with the services recited in  
7 the application. A true and correct copy of the Statement of Use is attached hereto as **Exhibit**  
8 **H**.

9 53. The USPTO accepted IEP’s Statement of Use, and on November 15, 2016  
10 issued a registration for the ORANGE STORAGE mark to IEP (Reg. No. 5083797) for  
11 “Providing self-storage facilities for others” in in Class 39 (the “ORANGE STORAGE  
12 Registration”). A true and correct copy of the registration certificate for the ORANGE  
13 STORAGE mark is attached hereto as **Exhibit I**.

14 54. On November 19, 2018, IEP assigned the ORANGE STORAGE Registration  
15 to Defendant. A true and correct copy of the assignment is attached hereto as **Exhibit J**.

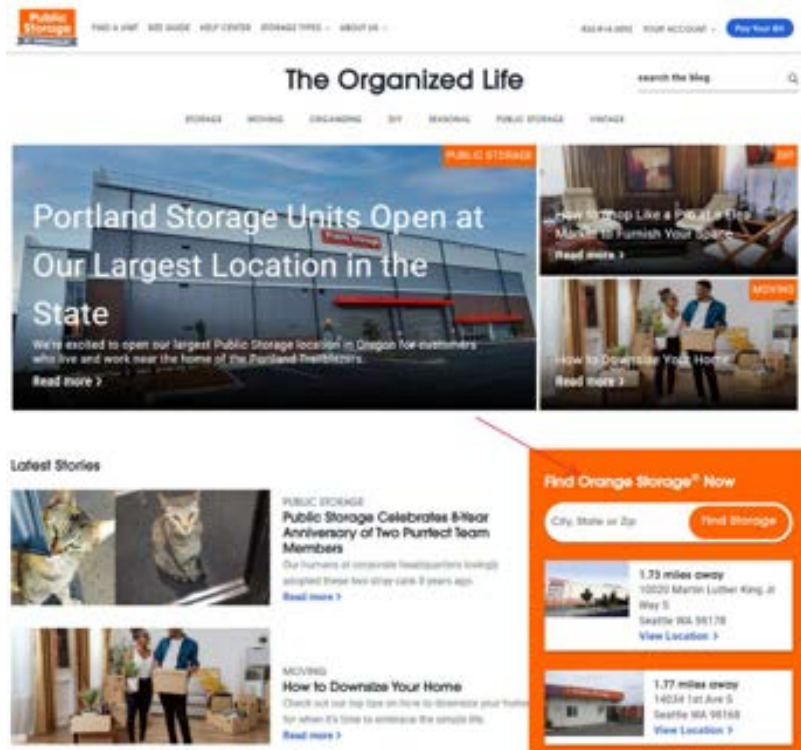
16 55. Based on U-Haul’s investigation and on information and belief, Defendant  
17 did not use the ORANGE STORAGE mark after obtaining the mark from IEP in 2018. Facing  
18 a November 15, 2022 deadline for filing a Declaration of Use under 15 U.S.C. §1058 (a  
19 “Section 8 Declaration”) required to maintain the ORANGE STORAGE Registration,  
20 Defendant added the ORANGE STORAGE mark to a pre-existing blog titled “The Organized  
21 Life” accessible on Defendant’s website solely to create a specimen of use to submit to the  
22 USPTO with its Section 8 Declaration.

23 56. Notably, Defendant did not file a Declaration of Incontestability under  
24 Section 15 (a “Section 15 Declaration”) with the Section 8 Declaration it filed in connection  
25 with the ORANGE STORAGE Registration. Registrants typically file a Section 15  
26 Declaration with a Section 8 Declaration if the registered mark had been in continuous use in  
27 United States commerce for five consecutive years after the date of registration. Defendant’s  
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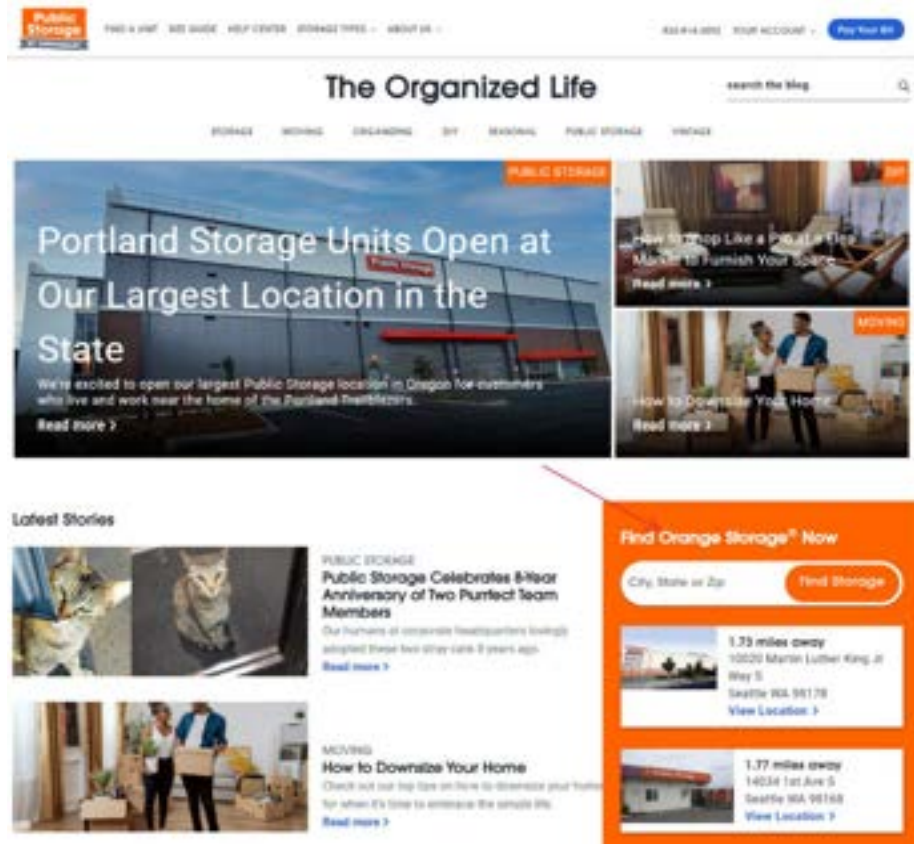
1 failure to file a Section 15 Declaration indicates Defendant had not used the ORANGE  
2 STORAGE mark since obtaining the mark from IEP in 2018.

3 57. As shown below and in **Exhibit K**, as late as March 9, 2022, Defendant's The  
4 Organized Life blog did not display the ORANGE STORAGE mark:



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17 58. However, based on U-Haul's investigation and on information and belief,  
18 shortly before Defendant filed is Section 8 Declaration in connection with the ORANGE  
19 STORAGE Registration on June 6, 2022, Defendant added the ORANGE STORAGE mark  
20 to its The Organized Life blog. Defendant then submitted a printout of the blog captured on  
21 May 12, 2022, as the specimen of use with its Section 8 Declaration in which Defendant  
22 declared under penalty of perjury pursuant to 18 U.S.C. §1001 that the ORANGE STORAGE  
23 mark was in use in United States commerce in connection with the services recited in the  
24 Registration ("providing self-storage facilities for others.") A true and correct copy of  
25 Defendant's Section 8 Declaration attached hereto as **Exhibit L** and an image of the purported  
26 use of the ORANGE STORAGE mark submitted with the Declaration is included below:  
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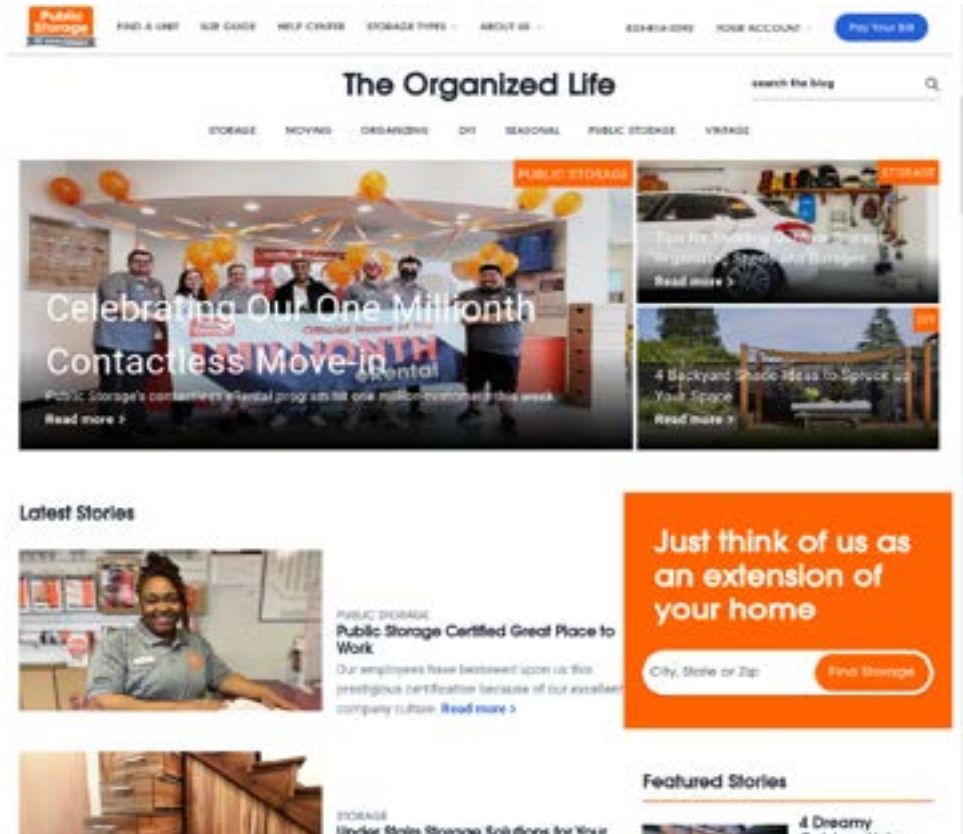
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59. In connection Defendant’s Section 8 Declaration, Defendant submitted the Declaration of Steven C. Babinski, Defendant’s Associate General Counsel, Corporate & Securities, declaring that that the ORANGE STORAGE mark was in *bona fide* use in United States commerce in connection with “providing self-storage facilities for others.” (*see Exhibit L.*)

60. As shown below and in **Exhibit M** attached hereto, less than a month after filing its Section 8 Declaration, Defendant removed the ORANGE STORAGE mark from its The Organized Life blog:

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61. Based on U-Haul’s investigation and on information and belief, Defendant, through Mr. Babinski, knowingly and with intent to deceive the USPTO, falsely represented in Defendant’s Section 8 Declaration that the ORANGE STORAGE mark was in *bona fide* use in United States commerce in connection with the services recited in the Registration, when it was not.

62. As a result of Defendant’s submission of the foregoing fraudulent Section 8 Declaration, on November 23, 2022, the USPTO relied upon Defendant’s deceptive and fraudulent representations in accepting Defendant’s Section 8 Declaration and maintained the ORANGE STORAGE Registration. A true and correct copy of the acceptance is attached hereto as **Exhibit N**.

63. Furthermore, Defendant has ceased use of the ORANGE STORAGE mark in commerce and, on information and belief, has no intent to resume such use. Therefore, Defendant has abandoned the ORANGE STORAGE mark.

1           **Defendant’s Deceptive and Fraudulent Maintenance of its Registration for the**  
2           **ORANGE IS THE NEW SIZE Mark (Reg. No. 5197479) Asserted Against U-Haul**

3           64.     On August 29, 2016, IEP also filed an application to register the ORANGE  
4 IS THE NEW SIZE mark (Ser. No. 87154001) for “Providing self-storage facilities for  
5 others” in Class 39 based on an intent to use the mark in connection with those services. A  
6 true and correct copy of this application is attached hereto as **Exhibit O**.

7           65.     Based upon U-Haul’s investigation and on information and belief, the  
8 ORANGE IS THE NEW SIZE mark was adopted and presented by IEP as the slogan  
9 promoting IEP’s new concept of flexible storage solutions to its commercial clients working  
10 in the oil exploration sector.

11           66.     On March 15, 2017, IEP filed a Statement of Use in connection with the  
12 application alleging first use of the mark on March 1, 2016 and submitting a specimen of use  
13 showing use of the ORANGE IS THE NEW SIZE mark. A true and correct copy of the  
14 Statement of Use is attached hereto as **Exhibit P**.

15           67.     The USPTO accepted IEP’s Statement of Use, and on May 2, 2017 issued a  
16 registration for the ORANGE IS THE NEW SIZE mark to IEP (Reg. No. 5197479) for  
17 “Providing self-storage facilities for others” in in Class 39 (the “ORANGE IS THE NEW  
18 SIZE Registration”). A true and correct copy of the registration certificate for the ORANGE  
19 IS THE NEW SIZE mark is attached hereto as **Exhibit Q**.

20           68.     On November 19, 2018, IEP assigned the ORANGE IS THE NEW SIZE to  
21 Defendant. *See* **Exhibit J**.

22           69.     Based on U-Haul’s investigation and on information and belief, Defendant  
23 did not use the ORANGE IS THE NEW SIZE mark after obtaining the mark from IEP in  
24 2018. Facing a May 2, 2023 deadline for filing a Section 8 Declaration required to maintain  
25 the ORANGE IS THE NEW SIZE Registration, Defendant added the ORANGE IS THE  
26 NEW SIZE mark as a section heading to a pre-existing article entitled “Fall Cleaning Tips:  
27 What to Declutter and Store this Season” posted to Defendant’s The Organized Life blog (the  
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1 “Fall Cleaning Article”) on Defendant’s website solely to create a specimen of use to submit  
2 with its Section 8 Declaration.

3 70. Notably, Defendant did not file a Section 15 Declaration with the Section 8  
4 Declaration it filed in connection with the ORANGE IS THE NEW SIZE Registration.  
5 Defendant’s failure to file a Section 15 Declaration indicates Defendant had not used the  
6 ORANGE IS THE NEW SIZE mark since obtaining the mark from IEP in 2018.

7 71. As shown below and in **Exhibit R**, prior to adding the ORANGE IS THE  
8 NEW SIZE mark as a section heading in the Fall Cleaning Article, the section heading was  
9 titled as “A Storage Unit Could Help”:

The screenshot shows a Public Storage website page. At the top, there is a navigation bar with links for 'FIND A UNIT', 'SEE GADE', 'HELP CENTER', 'STORAGE TYPES', and 'ABOUT US'. Below this is a search bar and a 'Log Your In' button. The main heading is 'The Organized Life'. Below the heading are navigation links for 'STORAGE', 'MOVING', 'ORGANIZING', 'DIY', 'SEASONAL', 'PUBLIC STORAGE', and 'VINAGE'. The main content area features a large image of a man and a woman in a storage unit. To the right of the image is a call-to-action: 'Just think of us as an extension of your home' with a search bar for 'City, State or Zip' and a 'Find Storage' button. Below the image is the article title 'Fall Cleaning Tips: What to Declutter and Store this Season' by Alyssa Duranty, dated July 16, 2021. The article text includes the sub-heading 'A Storage Unit Could Help' and discusses saving garage space by using offsite storage units. A sidebar on the right lists 'Featured Stories' including 'Public Storage Confesses Move-Ins Popular with Customers', 'How to Make Multigenerational Homes Work', and 'Indoor Plants for'.



1           72. However, based on U-Haul’s investigation and on information and belief,  
2 shortly before Defendant filed its Section 8 Declaration in connection with the ORANGE IS  
3 THE NEW SIZE Registration on April 7, 2023, Defendant replaced the “A Storage Unit  
4 Could Help” heading in the Fall Cleaning Article with the ORANGE IS THE NEW SIZE  
5 mark. Defendant then submitted a printout of the Fall Cleaning Article captured on April 6,  
6 2023 as the specimen of use with its Section 8 Declaration in which Defendant declared under  
7 penalty of perjury pursuant to 18 U.S.C. §1001 that the ORANGE IS THE NEW SIZE mark  
8 was in use in United States commerce in connection with the services recited in the  
9 Registration (“providing self-storage facilities for others.”) A true and correct copy of  
10 Defendant’s Section 8 Declaration is attached hereto as **Exhibit S** and an image of the  
11 purported use of the ORANGE IS THE NEW SIZE mark submitted with the Declaration is  
12 included below:



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Orange is the New Size®



You could also consider saving garage space by dropping off your seasonal gear at an offsite storage unit. If you have a storage space, this is the time of year to grab your favorite fall décor during the same trip!

"As you pull out Halloween or Thanksgiving decorations, replace them with summertime things," said Kay. "Those things could be beach canopies, folding chairs, summer sports equipment, Boogie boards, 4th of July decorations, flags and summer home décor."

No storage unit? We can solve that problem, no matter the season! We're always opening new locations, so head to the [Public Storage website](#) to see which storage units near you have enough space for your summer stuff!

73. Based on U-Haul's investigation and on information and belief, Defendant had not used the ORANGE IS THE NEW SIZE mark in any way other than as a section header in the Fall Cleaning Article, which does not constitute *bona fide* trademark use of the mark in connection with the services recited in the ORANGE IS THE NEW SIZE registration.

74. Notably, the fraudulent specimen dated April 7, 2023, also shows use of the ORANGE STORAGE mark even though that mark was removed from Public Storage's blog on July 5, 2022, according to U-Haul's investigation. Upon information and belief, Defendant inserted the ORANGE STORAGE mark in the blog article submitted to the USPTO to further deceive the USPTO and conceal the fraud being perpetrated by Defendant.

75. In connection with Defendant's Section 8 Declaration, Defendant submitted the Declaration of Steven C. Babinski, Defendant's Associate General Counsel, Corporate & Securities, declaring t penalty of perjury pursuant to 18 U.S.C. § 1001 that the ORANGE IS THE NEW SIZE mark was in *bona fide* use in United States commerce in connection with "providing self-storage facilities for others." (*see Exhibit S.*)

76. Based on U-Haul's investigation and on information and belief, Defendant, through Mr. Babinski, knowingly and with intent to deceive the USPTO, falsely represented in Defendant's Section 8 Declaration that the ORANGE IS THE NEW SIZE mark was in *bona fide* use in United States commerce in connection with the services recited in the Registration, when it was not.

77. As a result of Defendant's submission of the foregoing fraudulent Section 8 Declaration, on September 5, 2023, the USPTO relied upon Defendant's deceptive and

1 fraudulent representations in accepting Defendant's Section 8 Declaration and maintained the  
2 ORANGE IS THE NEW SIZE Registration. A true and correct copy of the acceptance is  
3 attached hereto as **Exhibit T**.

4 78. In addition, based on U-Haul's investigation and on information and belief,  
5 prior to April 6, 2023, which is the day on which Defendant captured the Fall Cleaning Article  
6 for use as the specimen of use for the Section 8 Declaration for the ORANGE IS THE NEW  
7 SIZE Registration, the ORANGE STORAGE mark did not appear in the Fall Cleaning  
8 Article. However, upon investigation and on information and belief, Defendant added the  
9 ORANGE STORAGE mark to the Fall Cleaning Article for the version captured for the  
10 specimen of use, and then removed the mark from the Fall Cleaning Article shortly thereafter  
11 as shown below and in **Exhibits S, U, and V**.



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The screenshot shows the top portion of the Public Storage website. At the top left is the Public Storage logo. Navigation links include 'FIND A UNIT', 'SIZ GUIDE', 'HELP CENTER', 'STORAGE TYPES', and 'ABOUT US'. On the right, there are links for '888-414-8892', 'YOUR ACCOUNT', and a 'Pay Your Bill' button. Below this is a search bar with the text 'The Organized Life' and a search icon. A secondary navigation bar lists 'STORAGE', 'MOVING', 'ORGANIZING', 'DIY', 'SEASONAL', 'PUBLIC STORAGE', and 'VINAGE'. The main content area features a large image of a man and a woman in a storage unit. To the right is a 'Find Orange Storage Now' sidebar with a search input and three location cards: '0.82 miles away' (1290 S Dearborn St, Seattle WA 98144), '1.17 miles away' (1334 Alaskan Way, Seattle WA 98101), and '1.78 miles away' (1515 13th Ave, Seattle WA 98122). Below the image is the article title 'Fall Cleaning Tips: What to Declutter and Store this Season' by Alyssa Duranty, dated April 06, 2023. A short paragraph of the article is visible, along with a 'Featured Stories' section showing '5 Built-In Storage Cabinets for Any'.

This screenshot shows a navigation bar for the 'The Organized Life' section. It includes the Public Storage logo, 'Find Storage', 'Size Guide', and 'Storage Types'. On the right, there is a phone number '800-488-8057', a 'Pay Bill' button, and a menu icon. Below the navigation is a search bar with 'search articles' and a 'Search Articles' button. A secondary navigation bar lists 'Moving', 'Storage Tips', 'Organizing', 'DIY', 'Seasonal', and 'Public Storage', with 'Organizing' highlighted.

This screenshot shows the full article page. At the top is the breadcrumb trail: 'Home / Blog / Organizing / Fall Cleaning Tips: What To Declutter And Store This Season'. Below is a large image of the man and woman in the storage unit. The article title is 'Fall Cleaning Tips: What to Declutter and Store this Season' by Alyssa Duranty, dated Mar 01, 2023. The article text begins with: 'Now that the warmest months are behind her, Jennifer Raphael is packing up her summer décor and checking off tasks on her fall cleaning to-do list before bringing out her pumpkins and other seasonal treasures.' A quote follows: '"I love the time of year for decluttering", said Raphael of Less-Clutter Organizing Solutions. "The beginning of fall is a great time to clean, because it gives you a chance to reset your home before you bring out new things."' The article concludes with: 'If you're ready to freshen up your space for a new season, keep reading to learn how Raphael and'.



1 79. Upon information and belief, Defendant added the ORANGE STORAGE  
2 mark to the version of the Fall Cleaning Article used for the specimen of use for the Section  
3 8 Declaration for the ORANGE IS THE NEW SIZE mark in an attempt to conceal its  
4 fraudulent and improper addition and then removal of the mark from Defendant's The  
5 Organized Life blog described above.

6 80. Furthermore, Defendant has ceased use of the ORANGE IS THE NEW SIZE  
7 mark in commerce and, on information and belief, has no intent to resume such use.  
8 Therefore, Defendant has abandoned the ORANGE IS THE NEW SIZE mark.

9 **Defendant's Abandonment of the ORANGE DOOR STORAGE INSURANCE**  
10 **PROGRAM and Design Mark (Reg. No. 5697799)**

11 81. On October 6, 2016, Defendant filed an application, a copy of which is  
12 attached hereto as **Exhibit W** with the USPTO to register the ORANGE DOOR STORAGE  
13 INSURANCE PROGRAM and Design mark pictured below (the "Orange and Purple  
14 Insurance Mark") for "Tenant storage insurance program, namely, insurance underwriting,  
15 administration and claims management services for insurance program offering insurance  
16 coverage to tenants for their contents stored at self-storage facilities" in Class 35 and "and  
17 "Tenant storage insurance program, namely, insurance underwriting and administration  
18 services for insurance program offering insurance coverage to tenants for their contents stored  
19 at self-storage facilities" in Class 36 based on an intent to use the mark in connection with  
20 those services:



26 82. On December 12, 2018, Defendant filed a Statement of Use, a copy of which  
27 is attached hereto as **Exhibit X** in connection with the application with a specimen of use  
28

1 showing the following use of the Orange and Purple Insurance Mark and alleging the mark  
2 was first used in United States commerce in connection with the services recited in the  
3 application on October 1, 2016:





13 83. The USPTO accepted Defendant’s Statement of Use, and, on March 12, 2019,  
14 issued a registration for the Orange and Purple Insurance Mark (Reg. No. 5697799) for  
15 “Tenant storage insurance program, namely, insurance claims management services for  
16 insurance program offering insurance coverage to tenants for their contents stored at self-  
17 storage facilities” in Class 35 and “Tenant storage insurance program, namely, insurance  
18 underwriting and administration services for insurance program offering insurance coverage  
19 to tenants for their contents stored at self-storage facilities” in Class 36. A true and correct  
20 copy of the registration certificate is attached hereto as **Exhibit Y**.

21 84. Subsequently, in July 2024, Defendant filed the following two applications to  
22 register new versions of the ORANGE DOOR STORAGE INSURANCE PROGRAM mark  
23 (collectively, the “New Orange and Blue Insurance Marks”) with a new design element and  
24 claiming the colors orange and blue rather than the colors orange and purple:

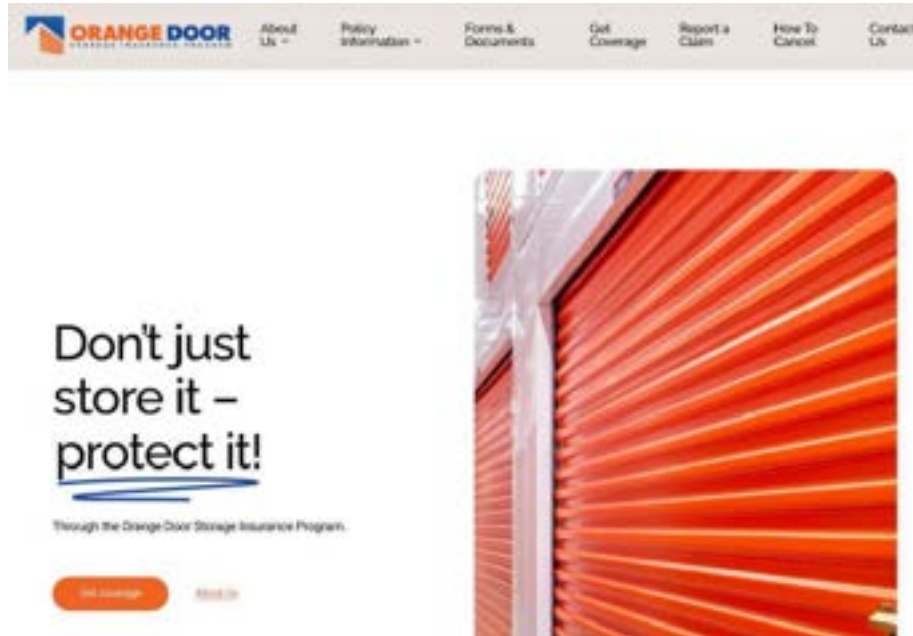


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Mark	Ser. No.	Filing Date	Goods and Services
	98637909	Jul. 08, 2024	<p><b>Class 35:</b> Insurance claims auditing services; Insurance claims auditing services in the fields of renters insurance, tenant insurance, and storage insurance</p> <p><b>Class 36:</b> Insurance claims processing; Insurance claims management services; Insurance information and consultancy; Insurance underwriting and administration; Insurance underwriting, issuing, and administration services; Insurance claims processing in the fields of renters insurance, tenant insurance, and storage insurance; Insurance claims management services in the fields of renters insurance, tenant insurance, and storage insurance; Insurance underwriting and administration in the fields of renters insurance, tenant insurance, and storage insurance; Insurance underwriting, issuing, and administration services in the fields of renters insurance, tenant insurance, and storage insurance</p>
	98637904	Jul. 08, 2024	<p><b>Class 35:</b> Insurance claims auditing services; Insurance claims auditing services in the fields of renters insurance, tenant insurance, and storage insurance</p> <p><b>Class 36:</b> Insurance claims processing; Insurance claims management services; Insurance information and consultancy; Insurance underwriting and administration; Insurance underwriting, issuing, and administration services; Insurance</p>

Mark	Ser. No.	Filing Date	Goods and Services
			claims processing in the fields of renters insurance, tenant insurance, and storage insurance; Insurance claims management services in the fields of renters insurance, tenant insurance, and storage insurance; Insurance underwriting and administration in the fields of renters insurance, tenant insurance, and storage insurance; Insurance underwriting, issuing, and administration services in the fields of renters insurance, tenant insurance, and storage insurance

85. Based on U-Haul’s investigation and on information and belief, Defendant has ceased its use of the Orange and Purple Insurance Mark and is now using one or both of the New Orange and Blue Insurance Marks as shown below and in **Exhibit Z** attached hereto:



86. Defendant itself has admitted that it ceased use of the Orange and Purple Insurance Mark as of 2023 and replaced it with the New Orange and Blue Insurance Marks

1 with a prominent announcement of such transition on its “Our History” page of its website,  
2 [www.orangedoorstorageinsurance.com](http://www.orangedoorstorageinsurance.com), as shown below and in **Exhibit AA** attached hereto:



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16 87. This change in the appearance of the ORANGE DOOR STORAGE  
17 INSURANCE PROGRAM mark is consistent with Defendant’s overall shift away from the  
18 use of marks displaying the colors purple and orange detailed above.

19 88. Based on U-Haul’s investigation and on information and belief, Defendant  
20 has abandoned the Orange and Purple ORANGE DOOR STORAGE Mark with no intent to  
21 resume such use of the Mark.

22  
23 **Extensive and Nationwide Third-Party Use of the Color Orange in Connection with**  
24 **Self-Storage Services Undercuts Defendant’s Claim to Exclusive Rights to the Color**  
25 **Orange**

26 89. Any claim by Defendant that it has any kind of exclusive right to use the color  
27 orange in connection with self-storage services, that the color has acquired distinctiveness for  
28 Defendant’s self-storage services, and/or that other self-storage service providers’ use of the

1 color orange violates any alleged right of Defendant is severely undercut by the fact that there  
2 are hundreds of third-party self-storage providers that use the color orange in connection with  
3 their self-storage services.

4 90. These third-party self-storage providers utilize the color orange in a wide  
5 array of formats on their self-storage facilities, signage, and other marketing materials,  
6 examples of which are pictured below and in **Exhibit CC** attached hereto.

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8 Palmdale, California



Killeen, Texas



Lawton, Oklahoma



17 Indianapolis, Indiana



Middletown, Texas



Ellisville, Missouri



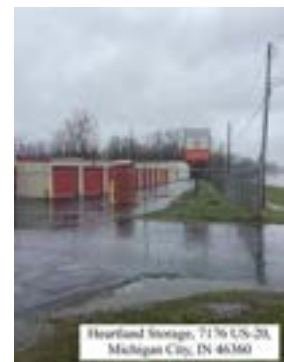
21 Hamden, Connecticut



Summerfield, Florida




Michigan City, Indiana


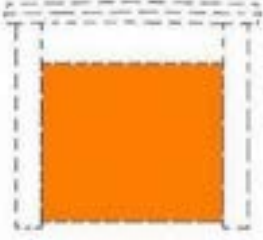




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2           91. This extensive, widespread nationwide use of the color orange in connection  
3 with self-storage services, including U-Haul's longstanding and nationwide use of the color  
4 orange in connection with its Self-Moving and Storage Services, demonstrates that the color  
5 when used in connection with such services does not and cannot function as a source identifier  
6 for any one particular self-storage service provider. While consumers may, and likely do,  
7 associate the color orange with self-storage services, they do not associate the color with a  
8 single provider of those services. As such, Defendant cannot plausibly claim the color, or any  
9 particular application of the color, has acquired distinctiveness as an indicator of Defendant's  
10 services. As such, Defendant's claims that the color orange has acquired distinctiveness for its  
11 services are improper and false. Defendant is attempting to pull a fast one on the USPTO,  
12 bootstrapping an unsustainable claim of ownership of the color orange, and bullying other long-  
13 time users of orange trade dress.



14           92. Given the extensive third-party use of the color orange in connection with self-  
15 storage services, in April 2024, U-Haul filed Letters of Protest, copies of which are attached  
16 as **Exhibit BB** attached hereto, with the USPTO against Defendant's application Ser. Nos.  
17 88623084, 88623068, 88623262, 88746009, 88623145, 88623045, and 88746025 to register  
18 the following orange trade dress below. The Letters of Protest informed the USPTO of the  
19 extensive use of the color orange in connection with self-storage services and facilities to  
20 provide the USPTO with facts necessary for it to determine whether Defendant's purported  
21 trademarks for orange building features, signage and displays failed to function as a source  
22 identifier for Defendant's services recited in the subject applications:  
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Mark	Ser. No.	Goods and Services
	88623084	Class 39: Providing self-storage facilities for others; renting and leasing of private storage spaces; renting and leasing of climate-controlled storage spaces; storage of goods

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Mark	Ser. No.	Goods and Services
<p>The mark consists of the color orange as used in connection with self-storage services as applied on buildings, signage, awnings, canopies, furnishings, displays, and countertops.</p>		
	88623068	Class 39: Providing self-storage facilities for others; Renting and leasing of private storage spaces with limited access; Renting and leasing of climate-controlled storage spaces with limited access; storage of goods
	88623262	Class 39: Providing self-storage facilities for others; Renting and leasing of storage spaces; Storage of goods
	88746009	Class 39: Providing self-storage facilities for others; Renting and leasing of private storage spaces; Renting and leasing of climate-controlled storage spaces; Storage of goods
 <p>The mark consists of the color orange as applied to business signage</p>	88623145	Class 39: Providing self-storage facilities for others; Renting and leasing of private storage spaces; Renting and leasing of climate-controlled storage spaces; Storage of goods



Mark	Ser. No.	Goods and Services
	88623045	Class 39: Providing self-storage facilities for others; Renting and leasing of private storage spaces; Renting and leasing of climate-controlled storage spaces; Storage of goods
	88746025	Class 39: Providing self-storage facilities for others; Renting and leasing of private storage spaces; Renting and leasing of climate-controlled storage spaces; Storage of goods

93. In support of the letters of protest, U-Haul submitted printouts from the website <https://everyoneusesorangestoragedoors.com/>, the domain for which U-Haul registered and which U-Haul created and operates. The contents of those website printouts demonstrated that the color orange is used by hundreds of independent locations owned by third parties that provide self-storage facilities around the country, and that such evidence is relevant to the issues of whether Defendant's applied for trade dress functions as a source identifier and whether Defendant has substantially exclusive use of the applied for trade dress. *See Exhibits BB and CC.*

94. Specifically, the evidence submitted with the letters of protest identifies, by way of example only, the following:

- More than 800 independent locations using orange on their buildings (including on the storage doors on the outside of the building) in connection with storage services; and
- More than 200 independent locations using orange signage, awnings, canopies, displays and the like in connection with storage services.

*See Exhibit BB.*

95. The USPTO issued Letter of Protest Memorandums in connection with Defendant's application Ser. Nos. 88623084 and 88623068 stating that the evidence submitted with U-Haul's Letters of Protest is relevant to the Examining Attorney's refusal to register the applied-for trade dress on the ground that the trade dress is a non-distinctive color mark that

1 does not function as a service mark. Copies of the USPTO’s Letter of Protest Memorandums  
2 are attached hereto as **Exhibit DD**.

3 **DEFENDANT’S ALLEGATIONS OF INFRINGEMENT, DILUTION, AND**  
4 **DEMANDS THAT U-HAUL CEASE ITS USE OF THE COLOR ORANGE IN**  
5 **CONNECTION WITH SELF-STORAGE SERVICES**

6 96. In addition to seeking to register, obtaining registrations, and fraudulently  
7 maintain registrations for various trade dress and service marks that incorporate the color  
8 orange and word marks containing the word ORANGE for self-storage and related services  
9 based on improper claims the color has acquired distinctiveness for such marks for Defendant’s  
10 services, Defendant has taken additional steps to improperly seek to exclude others from using  
11 the color orange in connection with the same or similar services.

12 97. On May 26, 2020, Defendant filed a Petition for Cancellation with the USPTO  
13 Trademark Trial and Appeal Board (Cancellation Proceeding No. 92074328, the “Cancellation  
14 Proceeding”) seeking the cancellation of U-Haul’s Registration No. 2286782 (“U-Haul’s  
15 Orange Door Registration”) for the trade dress below that depicts ten windows arranged along  
16 two perpendicular edges of a building with orange storage doors visible through the windows  
17 (“U-Haul’s Orange Door Trade Dress”), reciting “retail store services featuring packaging and  
18 moving supplies” in Class 35 and “self-storage services; rental of moving vans and trucks” in  
19 Class 39:



24 A copy of Defendant’s Petition for Cancellation is attached hereto as **Exhibit EE**.

25 98. In its Petition, Defendant alleged that it possessed prior rights in the “Orange  
26 Door Trade Dress” and “Orange Window Design Trade Dress” pictured below and that the  
27 continued registration of U-Haul’s Orange Door Trade Dress is likely to cause confusion with  
28 Defendant’s alleged prior rights:

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**Defendant’s Alleged Orange  
Door Trade Dress**



**Defendant’s Alleged Orange Window  
Design Trade Dress**



99. The parties engaged in several years of settlement negotiations, including the exchange of multiple drafts of a settlement agreement. During that time, Public Storage revealed its scheme to U-Haul.

100. Among other things, Public Storage represented to U-Haul that it was originally trying to cancel U-Haul’s registration so it could get its own orange registrations to go after the “mom-and-pop” small proprietor storage facilities that use the color orange to exclude the third-party proprietors from being able to use the color orange in connection with such self-storage services. Public Storage wanted U-Haul to join this improper scheme.

101. Among other things, during the negotiations, Public Storage tried to entice U-Haul into entering into a licensing arrangement that furthered Public Storage’s scheme to go after these mom-and-pop storage facilities. However, U-Haul refused to be a party to this scheme and the parties settlement negotiations broke down.

102. Three days prior to the deadline for U-Haul to respond to Defendant’s Petition for Cancellation, on March 15, 2024, Defendant unilaterally withdrew its Petition without prejudice. A copy of Defendant’s withdrawal is attached hereto as **Exhibit FF**.

103. Upon information and belief, Defendant’s improper efforts to exclude others from using the color orange is also evidenced by Defendant’s efforts to send cease and desist letters to other third-party self-storage providers demanding that they discontinue using the color orange. Defendant’s trademark enforcement efforts are so robust and sophisticated that it has outsourced such activities to a third-party consultant that specializes in such enforcement efforts.

1           104. Defendant’s improper efforts to exclude others from using the color orange is  
2 further demonstrated by the fact that on May 16, 2023, Defendant sent U-Haul’s sister  
3 company, Repwest Insurance Company (“Repwest”), which offers insurance for self-storage  
4 units, an email alleging that Repwest was using the mark ORANGE DOOR STORAGE  
5 INSURANCE PROGRAM on its website <https://www.ponderosainsurance.com/> and that such  
6 use creates and is likely to continue to cause consumer confusion as to the source of Repwest’s  
7 insurance services. A copy of Defendant’s email is attached hereto as **Exhibit GG**. However,  
8 Repwest was not and is not using the mark ORANGE DOOR STORAGE INSURANCE  
9 PROGRAM.

10           105. Upon information and belief, Repwest’s use of the PONDEROSA and Orange  
11 Door design mark pictured below, for which Repwest owns a registration (Reg. No. 5296154),  
12 prompted Defendant’s letter:



16           106. In response to Defendant’s email, Repwest sought clarification from  
17 Defendant concerning whether Defendant objected to Repwest’s use of the PONDEROSA and  
18 Orange Door design mark pictured above and also noted the given Repwest’s relation to U-  
19 Haul, its promotional material relating to self-storage insurance services will include orange-  
20 colored doors. *See Exhibit GG*. Repwest did not receive a reply from Defendant.

21           107. On July 24, 2024, Defendant sent U-Haul an email, a copy of which is attached  
22 hereto as **Exhibit HH** (the “July 24 Email”), concerning the website  
23 <https://everyoneusesorangestoragedoors.com/> website claiming that U-Haul is “using  
24 ORANGE in connection with self-storage goods or services at the Domain Name and Website  
25 without authorization.”

26           108. The July 24 Email further made the following allegations:  
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- U-Haul’s “unauthorized use of the ORANGE Marks or a confusingly similar variation thereof for self-storage goods or services constitutes at least trademark infringement and dilution in violation of federal and state trademark laws, and is likely to cause confusion, mistake and deception as to the potential existence of an affiliation, connection or association between you and Public Storage where none exists.”
  - U-Haul’s “use of the ORANGE Marks in the Domain Name also violates the ICANN Uniform Domain Name Dispute Resolution Policy to which the Domain Name is subject, since you have no trademark rights or interest in the ORANGE Marks or any confusingly similar version thereof, and are using such marks for commercial gain.”
  - U-Haul’s “actions also violate the Anticybersquatting Consumer Protection Act (15 U.S.C. §1125(d)) - a federal statute which provides a cause of action with respect to those who, with a bad faith intent to profit, register or traffic in or use domain names that are identical or confusingly similar to the trademarks of others.

12 *See Exhibit HH.*

- 13 109. In the July 24 Email, Defendant also demanded that U-Haul do the following:
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- Cease and desist from any and all use of the ORANGE Marks and orange color, including any misspellings or similarly confusing versions thereof, in the Domain Name and on the Website.
  - Remove any and all references to the word ORANGE and any misspellings or confusingly similar versions thereof from any meta tags, HTML code, keyword files, SEO tags, domain names, social media content or handles, and text or other advertising materials associated with you or your business.

19 *See Exhibit HH.*

20 110. In the July 24 Email, Defendant provides the following description of its  
21 alleged orange marks (collectively, “Defendant’s Alleged Orange Marks”) as the basis for its  
22 allegations and demands in the July 24 Email:

23 Public Storage is the owner of numerous trademarks, including but not  
24 limited to, the ORANGE STORAGE®, ORANGE DOOR STORAGE  
25 INSURANCE PROGRAM®, BEHIND THE ORANGE DOORS®, and  
26 ORANGE IS THE NEW SIZE® trademarks (“ORANGE Marks”). Public  
27 Storage owns exclusive trademark rights to the ORANGE Marks as a result  
28 of numerous trademark registrations, as well as its related common law  
rights, including U.S. Reg. Nos. 5,083,797, 5,197,479, 5,697,798, 5,697,799,  
and 6,598,358. The ORANGE Marks are well known among consumers and  
embody substantial and valuable goodwill. As such, the ORANGE Marks

1 are a valuable asset, and their protection is very important to Public Storage.  
2 Public Storage also has an obligation to consumers and those in the industry  
3 to police against the unauthorized registration and use of its marks, or marks  
4 similar thereto, and prevent consumer confusion.

5 111. Notably, in the July 24 Email, Defendant asserts its registrations for the  
6 ORANGE STORAGE, ORANGE IS THE NEW SIZE, and ORANGE DOOR STORAGE  
7 INSURANCE PROGRAM and Design marks (Reg. Nos. 5083797, 5197479, and 5697799),  
8 which Defendant has fraudulently maintained (ORANGE STORAGE and ORANGE IS THE  
9 NEW SIZE) or abandoned (ORANGE DOOR STORAGE INSURANCE PROGRAM and  
10 Design) as set forth above. This is further evidence of Defendant's improper and overreaching  
11 efforts to exclude others from using the color orange and/or trademarks containing the term  
12 ORANGE.

13 112. U-Haul denies that its registration and use of the  
14 <everyoneusesorangestoragedoors.com> domain, operation of the  
15 <https://everyoneusesorangestoragedoors.com/> website, and/or use of the color orange and/or  
16 the word "orange" in connection with U-Haul Businesses' self-storage services violate any  
17 federal, state, or common law rights that Defendant claims to possess.

18 113. First, as described above, given the extensive use of the color orange in the  
19 promotion of and on self-storage facilities by hundreds of self-storage providers, including U-  
20 Haul's longstanding and nationwide use, it is clear that the color when used in connection with  
21 such storage services does not and cannot function as a source identifier for any one particular  
22 self-storage service provider, including Defendant. Therefore, Defendant's claims that the  
23 color orange has acquired distinctiveness for its services and/or that it has an exclusive right  
24 to use the color in connection with self-storage services are improper.

25 114. Moreover, U-Haul's use of the color orange and references to the color in  
26 connection with its self-storage services is not new or a recent development. As detailed above,  
27 U-Haul has extensively used the color orange in connection with the sale and promotion of its  
28



1 self-storage services on a nationwide basis for decades without any evidence of such use  
2 causing confusion as to the source of those services.

3 115. Furthermore, Defendant’s alleged Orange Marks are not famous within the  
4 meaning of dilution law, and did not become famous prior to U-Haul’s first use of the color  
5 orange in connection with its self-storage services, and therefore do not qualify for dilution  
6 protection. Further, even assuming that Defendant could somehow establish that its Alleged  
7 Orange Marks are famous for purposes of dilution, U-Haul’s use of the color orange and the  
8 word “orange” is not likely to cause dilution of Defendants’ alleged Orange Marks, either  
9 through dilution by blurring or dilution by tarnishment.

10 116. In addition, even if Defendant possessed any kind of protectable right in the  
11 color orange and/or the term “orange” relating to self-storage services, any use of or reference  
12 to the color orange and/or term “orange” within the < everyoneusesorangestoragedoors.com>  
13 domain and the content of the <https://everyoneusesorangestoragedoors.com/> website clearly  
14 constitutes a fair use in that the website describes the hundreds of third-party self-storage  
15 providers that use the color orange in connection with their services and also serves as criticism  
16 of Defendant’s improper attempt to claim exclusive rights to the color orange in connection  
17 with self-storage services and/or that the color has acquired distinctiveness for Defendant’s  
18 self-storage services. *See Exhibit CC.*

19 117. The July 24 Email makes clear that Defendant believes U-Haul’s use of the  
20 color orange and/or term “orange” infringes and dilutes Defendant’s alleged Orange Marks.  
21 However, Defendant’s demands for U-Haul to cease such use are improper given Defendant’s  
22 lack of any exclusive right to use the color orange and/or the term “orange” in connection with  
23 self-storage services. Defendant’s demands and its threat to take legal action against U-Haul  
24 if U-Haul does not comply with Defendant’s demands clearly creates an immediate and  
25 substantial controversy between the parties, and any such legal action would be unjustified and  
26 wrongly interfere with U-Haul’s rightful ability to continue its normal business actions.

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**COUNT I**

**Non-Violation of the Lanham Act Section 32, 15 U.S.C. § 1114**

118. U-Haul incorporates its prior allegations as though fully set forth herein.

119. As the first ground for relief U-Haul seeks a declaration of non-violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114, as to federal trademark infringement.

120. U-Haul’s use of the color orange and the term “orange” in connection with the <https://everyoneusesorangestoragedoors.com/> website and U-Haul’s business, including in connection with its self-storage services, and including on its signage, on its buildings, on its website uhaul.com and on its application, is not likely to cause confusion, mistake or deception as to the source or sponsorship of U-Haul’s services, and does not violate Section 32 of the Lanham Act, 15 U.S.C. § 1114, with respect to any of Defendant’s alleged rights.

121. Defendant’s assertion of its alleged Orange Marks and demand for U-Haul to cease its use of the color orange and the term “orange” creates a clear substantial and immediate controversy between the parties that is ripe for adjudication.

**COUNT II**

**Non-Violation of the Lanham Act Section 43(a), 15 U.S.C. § 1125(a)**

122. U-Haul incorporates its prior allegations as though fully set forth herein .

123. As the second ground for relief U-Haul seeks a declaration of non-violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), as to false designation of origin and federal unfair competition.

124. U-Haul’s use of the color orange and the word “orange” in connection with the <https://everyoneusesorangestoragedoors.com/> website and U-Haul’s business, including in connection with self-storage services, and including on its signage, on its buildings, on its website uhaul.com and on its application, does not constitute a false designation of origin or federal unfair competition, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of U-Haul with Defendant, or as to the origin, sponsorship, or approval of U-Haul’s services, and does not violate Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).



1 134. U-Haul’s <everyoneusesorangestoragedoors.com> domain is not confusingly  
2 similar to Defendant’s alleged Orange Marks.

3 135. U-Haul did not register the <everyoneusesorangestoragedoors.com> domain  
4 with a bad faith intent to profit from it.

5 136. U-Haul’s registration and use of the <everyoneusesorangestoragedoors.com>  
6 domain does not violate the Anticybersquatting Consumer Protection Act, 15 U.S.C. §  
7 1125(d).

8 137. Defendant’s assertion of its alleged Orange Marks and demand for U-Haul to  
9 cease its use of the color orange and the term “orange” in connection with  
10 <https://everyoneusesorangestoragedoors.com/> website creates a clear substantial and  
11 immediate controversy between the parties that is ripe for adjudication.

12 **COUNT V**

13 **Non-Violation of Arizona Common Law**

14 138. U-Haul incorporates its prior allegations as though fully set forth herein .

15 139. As the fifth ground for relief U-Haul seeks a declaration that it is not  
16 committing trademark infringement and/or engaging in unfair competition under Arizona  
17 common law.

18 140. U-Haul’s use of the color orange and the term “orange” in connection with the  
19 <https://everyoneusesorangestoragedoors.com/> website and U-Haul’s business, including in  
20 connection with its self-storage services, and including on its signage, on its buildings, on its  
21 website uhaul.com and on its application, does not cause a likelihood of confusion, mistake or  
22 deception as to the source or origin of U-Haul’s services, and does not constitute trademark  
23 infringement and/or unfair competition.

24 141. Therefore, U-Haul’s actions do not violate Arizona common law.

25 142. Defendant’s assertion of its alleged Orange Marks and demand for U-Haul to  
26 cease its use of the color orange and the term “orange” creates a clear substantial and  
27 immediate controversy between the parties that is ripe for adjudication.

28 **COUNT VI**

1 **Cancellation of the ORANGE STORAGE Registration (Reg. No. 5083797), 15 U.S.C. §**

2 **1119**

3 143. U-Haul incorporates its prior allegations as though fully set forth herein .

4 144. This is a claim for cancellation of United States Registration No. 5083797 (the  
5 ORANGE STORAGE Registration”) under 15 U.S.C. § 1119.

6 145. Based on U-Haul’s investigation and on information and belief, Defendant  
7 knowingly and with intent to deceive the USPTO, falsely represented in Defendant’s Section  
8 8 Declaration that it filed in connection with the ORANGE STORAGE Registration that the  
9 ORANGE STORAGE mark was in *bona fide* use in United States commerce in connection  
10 with the services recited in the Registration, when it was not.

11 146. As a result of Defendant’s submission of the foregoing fraudulent Section 8  
12 Declaration, the USPTO relied on Defendant’s false statements, accepted Defendant’s Section  
13 8 Declaration, and maintained the ORANGE STORAGE Registration.

14 147. Defendant’s material misrepresentations to the USPTO in connection with the  
15 Section 8 Declaration, were designed to maintain the ORANGE STORAGE Registration when  
16 the registered mark was not in use in United States commerce, and constituted fraud on the  
17 USPTO that justifies cancellation of the ORANGE STORAGE Registration pursuant to 15  
18 U.S.C. § 1119.

19 148. In addition, Defendant has ceased use of the ORANGE STORAGE mark in  
20 commerce and, on information and belief, has no intent to resume such use. Therefore,  
21 Defendant has abandoned the ORANGE STORAGE mark. Accordingly, the ORANGE  
22 STORAGE Registration should be cancelled in its entirety due to Defendant’s abandonment  
23 of the mark pursuant to 15 U.S.C. § 1119.

24 149. U-Haul has been, and will continue to be, harmed by the continued registration  
25 of the ORANGE STORAGE Registration as Defendant relies in part on this Registration as  
26 the basis for its infringement and dilution allegations against U-Haul in its July 24 Email.

27 150. In view of the foregoing, the ORANGE STORAGE Registration should be  
28 cancelled in its entirety pursuant to 15 U.S.C. § 1119.





1 158. In view of the foregoing, the ORANGE IS THE NEW SIZE Registration  
2 should be cancelled in its entirety pursuant to 15 U.S.C. § 1119.

3 **COUNT IX**

4 **Cancellation of the Registration for the ORANGE DOOR STORAGE INSURANCE**  
5 **PROGRAM and Design Mark (Reg. No. 5697799), 15 U.S.C. § 1119**

6 159. U-Haul incorporates its prior allegations as though fully set forth herein.

7 160. On information and belief, Defendant has abandoned the ORANGE DOOR  
8 STORAGE INSURANCE PROGRAM and Design mark that is the subject of Reg. No.  
9 5697799 by discontinuing use of the mark with no intent to resume such use.

10 161. U-Haul has been, and will continue to be, harmed by the continued registration  
11 of the ORANGE DOOR STORAGE INSURANCE PROGRAM and Design mark that is the  
12 subject of Reg. No. 5697799 as Defendant relies in part on this Registration as the basis for its  
13 infringement and dilution allegations against U-Haul in its July 24 Email.

14 162. In view of the foregoing, Defendant's Registration No. 5697799 for the  
15 ORANGE DOOR STORAGE INSURANCE PROGRAM and Design mark should be  
16 cancelled in its entirety pursuant to 15 U.S.C. § 1119.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, U-Haul respectfully requests that the Court enter judgment in U-  
19 Haul's favor on each count of this Complaint as follows:

20 A. That the Court declare that U-Haul's use of the color orange and/or the word  
21 "orange" in connection with the <https://everyoneusesorangestoragedoors.com/> website and U-  
22 Haul Businesses' services, including in connection with its self-storage services, and including  
23 on signage, on buildings, on the website uhaul.com, on mobile applications, and other  
24 marketing materials, does not constitute federal trademark infringement in violation of Section  
25 32 of the Lanham Act, 15 U.S.C. § 1114, with respect to any alleged rights owned by  
26 Defendant.

27 B. That the Court declare that U-Haul's use of the color orange and/or the word  
28 "orange" in connection with the <https://everyoneusesorangestoragedoors.com/> website and U-

1 Haul Businesses’ services, including in connection with its self-storage services, and including  
2 on signage, on buildings, on the website uhaul.com, on mobile applications, and other  
3 marketing materials, does not constitute federal unfair competition in violation of Section 43(a)  
4 of the Lanham Act, 15 U.S.C. § 1125(a), with respect to any alleged rights owned by  
5 Defendant.

6 C. That the Court declare that U-Haul’s use of the color orange and/or the word  
7 “orange” in connection with the <https://everyoneusesorangestoragedoors.com/> website and U-  
8 Haul Businesses’ services, including in connection with its self-storage services and including  
9 on signage, on buildings, on the website uhaul.com, on mobile applications, and other  
10 marketing materials, does not constitute federal dilution under Section 43(c) of the Lanham  
11 Act, 15 U.S.C. § 1125(c), with respect to any alleged rights owned by Defendant.

12 D. That the Court declare U-Haul’s registration of the  
13 <everyoneusesorangestoragedoors.com> domain does not constitute a violation of the  
14 Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), with respect to any alleged  
15 rights owned by Defendant.

16 E. That the Court declare that U-Haul’s use of the color orange and/or the word  
17 “orange” in connection with the <https://everyoneusesorangestoragedoors.com/> website and U-  
18 Haul Businesses’ services, including in connection with self-storage services, and including  
19 on signage, on buildings, on the website uhaul.com, on mobile application, and other  
20 marketing materials, does not constitute trademark infringement and/or unfair competition  
21 under Arizona common law with respect to any alleged rights owned by Defendants.

22 F. That the Court issue an order directing the USPTO to cancel Defendant’s  
23 United States Registration No. 5083797 for the ORANGE STORAGE mark.

24 G. That the Court issue an order directing the USPTO to cancel Defendant’s  
25 United States Registration No. 5197479 for the ORANGE IS THE NEW SIZE mark.

26 H. That the Court issue an order directing the USPTO to cancel Defendant’s  
27 United States Registration No. 5697799 for the ORANGE DOOR STORAGE INSURANCE  
28 PROGRAM and Design mark.

1 I. That, because of the exceptional nature of this case, the Court award U-Haul  
2 its reasonable attorneys' fees and costs relating to this action, pursuant to 15 U.S.C. § 1117.

3 J. That the Court award such other and further relief as this Court deems  
4 appropriate.

5 DATED this 12<sup>th</sup> day of November, 2024.

6  
7 **BARNES & THORNBURG, LLP**

8  
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