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April 18, 2006

Via E-mail and U.S. Mail

John C. Rawls
Fulbright & Jaworski L.L.P.
555 South Flower Street, 41st Floor
Los Angeles, California 90071

Re: DoubleShot Coffee Company

Dear Mr. Rawls:

This firm represents DoubleShot Coffee Company, LLC, d/b/a DoubleShot Coffee Company ("DoubleShot Coffee Company"), and this letter is in response to your letter dated March 20, 2006 to Mr. Brian Franklin in which you requested that DoubleShot Coffee Company cease using the name "Double Shot" (or any similar names thereof). Please be advised that for the reasons enumerated below, DoubleShot Coffee Company does not intend to stop rightfully using the word "DoubleShot" in connection with its business.

First, there is absolutely no likelihood that consumers will incorrectly believe that DoubleShot Coffee Company's business or products originate from or are otherwise affiliated with Starbucks Corporation, its affiliates or its licensee, North America Coffee Partnership (collectively, "Starbucks"). Most importantly, the Starbucks' trademark at issue is "Starbucks Doubleshot®"¹ and is used to brand a canned, caramel-colored, caffeinated beverage. DoubleShot Coffee Company neither serves nor sells such a beverage. Furthermore, DoubleShot Coffee Company, of course, has never used the term "Starbucks" in connection with its business. In fact, as a result of careful and considered planning, DoubleShot Coffee Company and its products could not be more different than Starbucks and its products. A few of the more notable differences are described in the table on the next page.

¹ This fact became apparent only after examining the trademark as filed with the United States Patent and Trademark Office ("USPTO"). Your letter was very cryptic as to the actual trademark at issue. In fact, your possessive use of "Starbucks" before "Doubleshot" in paragraph five of your letter, among other things, initially caused me to believe that your client had somehow obtained a trademark on the descriptive term "doubleshot."

DoubleShot Coffee Company	Starbucks
Single member limited liability company	Huge corporate conglomerate
Does business through a single coffee shop in Tulsa, Oklahoma	Does business through over 10,000 stores worldwide
Owned and operated by a young purist who loves coffee	Owned by approximately 13,900 shareholders of record
Roasts beans in small batches on Tuesdays using a vintage 1953 Italian drum roaster	Mass produces roasted beans daily for worldwide distribution
Primarily serves espresso-based, traditional Italian coffee drinks and other small batch coffees along with stone-cold looks to those who dilute his confections with dairy products - no espressos to go	Sells Frappuccinos® and other caffeinated beverages, many of which are diluted with syrups, whipped cream, chocolate and/or caramel

Second, the word "Doubleshot" is not as you contend a "distinctive... element of the Starbucks trademark," but rather a descriptive term that: (i) describes the main ingredient in the espresso-based Starbucks® Doubleshot product, and (ii) is broadly used within the coffee industry. Anyone who has entered a coffeehouse knows that an espresso coffee drink is ordered and served in "shots" of espresso with a common order being "a double shot of espresso." Indeed, as the current Chairman of the Board of Starbucks, Howard Schultz, noted on page 316 of his book, *Pour Your Heart Into It*, Starbucks' smallest retail outlets are "[d]oppios, named for a double shot of espresso." For an explanation of how a "double shot of espresso" likely became a common order in coffeehouses, please see **Appendix A** attached hereto, which is a picture of a Starbucks® "2003 Doubleshot First Taiwan Card" for sale on ebay® that illustrates how two shot glasses are often used in the process of brewing espresso. In fact, many, if not most, espresso machines sold today can be adjusted to brew a double shot of espresso. Again, for illustrative purposes, attached as **Appendix B** hereto are several pages from the owner's manual for a Starbucks Barista® Espresso Machine, which explain how the machine can be used to brew a "double shot" of espresso. Furthermore, a simple Internet search substantiates the general descriptive use of "double shot" and "doubleshot" in the coffee industry. Some of the more notable Internet group search results are described below.

- **Appendix C** – Contains over thirty menus from different coffeehouses and other establishments, all of which serve one or more drinks made with a "doubleshot" or "double shot" of espresso.
- **Appendix D** – Contains examples of five different companies that manufacture two different products (espresso pods or filter baskets) designed specifically to make or to accommodate the making of "double shots" of espresso.

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- **Appendix E** – Contains fifteen different dictionaries, glossaries or similar resources that all use the term "double shot" or "doubleshot." One of my favorite uses is an example of how to properly employ the term of "ninja barista." In connection with the same, the Urban Dictionary provides, "Before I even put down my two dollars, that ninja barista has a killer doubleshot of espresso in front of me." More to the point, however, is the coffee glossary of Roast and Post Coffee Company®, which defines a "Double Dry Short" as a "double shot of espresso in a short cup with no foam" and the espresso and coffee glossary and dictionary of Espresso Planet Inc., which defines a "Double" as an "espresso made from a double shot, approximately 1 ½ - 2 ounces."

As you can see, there is overwhelming evidence that "doubleshot" is a descriptive term. As such, we contend that Starbucks® is not entitled to the exclusive right to use the term "doubleshot" apart from the term "Starbucks®."²

For the reasons set forth above, DoubleShot Coffee Company will not cease using the term "DoubleShot" in connection with its business and DoubleShot Coffee Company demands that Starbucks® allow it and its sole proprietor to peacefully go about its business of making small batch coffees for its infinitesimal (when compared to the Starbucks® customer base), but loyal, group of customers. However, if your letter was, as we suspect, a ruse in an attempt to gain leverage over DoubleShot Coffee Company so that Starbucks® could cheaply purchase or demand an assignment of its Website, please be advised that DoubleShot Coffee Company will entertain an offer to purchase the www.doubleshotcoffee.com domain name, but any such offer should be for a purchase price of not less than \$1,000,000.

Do not hesitate to contact me should you want to discuss any of the matters set forth in this letter.

Best regards,

J. Ryan Saura

Attachments

cc: Brian Franklin
DoubleShot Coffee Company

² We recognize that the USPTO did not require Starbucks® to make a descriptive term disclaimer during its registration process. However, Starbucks® obviously determined to seek a registration of "Doubleshot" coupled with "Starbucks®" for a reason. We suspect the decision was driven by the fact that Starbucks® was aware "Doubleshot" was a descriptive term at the time it filed the registration application. Regardless of whether or not that suspicion is true, we feel that there is now sufficient evidence to support a petition to cancel the registration of the Starbucks Doubleshot® trademark.