

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 09-21893-CIV-HOEVELER**

**MICHAEL CHOW known as "MR. CHOW",  
MR. CHOW ENTERPRISE, LTD., a California Limited Partnership,  
MC MIAMI ENTERPRISES, LLC, a Florida Limited Liability Company,  
MC TRIBECA, LLC, a New York Limited Liability Company, and  
TC VENTURES, INC., a New York Corporation,**

Plaintiffs,

v.

**CHAK YAM CHAU,  
STRAITS MORFOGEN,  
PHILIPPE MIAMI LLC, a Florida Limited Liability Company,  
PHILIPPE NORTH AMERICA RESTAURANTS, LLC, a New York Limited Liability  
Company,  
PHILIPPE RESTAURANT CORP., a New York Corporation,**

Defendants.

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**ORDER GRANTING, IN PART, MOTION TO DISMISS,  
AND DENYING MOTION TO STRIKE**

This Cause comes before the Court on the Defendants' Motion to Dismiss. The Court has reviewed the motion, response, and reply, and the Amended Complaint.

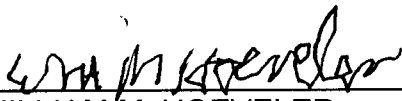
Based on that review, it is

ORDERED AND ADJUDGED that Defendants' motion to dismiss is GRANTED as to Counts X and XI, without prejudice to refile with sufficient allegations. The Motion is DENIED as to all other arguments. Defendants' arguments as to laches as to Counts I-VI, and Counts VIII and IX, are not persuasive, and as to Count VII the Court will not dismiss in light of the facts alleged. Defendants' arguments as to lack of confusion are more properly to be considered on motions for summary judgment. As to the issue of

whether intellectual property can be converted, the Court denies Defendants' request to dismiss. Defendants' arguments are unavailing as to a more definite statement regarding the specific state law in Counts V and VI – Florida law has been cited. Finally, while Plaintiffs might have been more specific as to each Defendants' alleged responsibility as to each Count, the Court denies the motion to dismiss, but reminds Plaintiffs that specific liability as to each Defendant and each Count will need to be established as this case proceeds. In addition,

Defendants' Motion to Strike is DENIED, as moot. The Court did not rely on the materials which are the subject of the motion to strike.

DONE AND ORDERED in Chambers in Miami this 18<sup>th</sup> day of November 2009.

  
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WILLIAM M. HOEVELER  
SENIOR UNITED STATES DISTRICT COURT JUDGE

Copies furnished:  
counsel of record