

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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TRUE RELIGION APPAREL, INC. and)	
GURU DENIM, INC.,)	
Plaintiffs,)	Civil Action No.
)	
v.)	COMPLAINT AND DEMAND
)	<u>FOR JURY TRIAL</u>
TRUE APPAREL COMPANY,)	
Defendant.)	
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The plaintiffs True Religion Apparel, Inc. (“True Religion”) and Guru Denim, Inc. (“Guru Denim”), for their complaint against the defendant, True Apparel Company (“True Apparel”), state that:

NATURE OF THE ACTION

1. In this action the plaintiffs True Religion and Guru Denim seek to recover damages and to obtain preliminary and permanent injunctions for the defendant’s trademark and service mark infringement under the Lanham Act and at common law; for the defendant’s infringement of the plaintiffs’ federally registered trademarks and service marks; for the defendant’s infringement of the plaintiffs’ trade names; for the defendant’s false designation of origin; for dilution under 15 U.S.C. §1125(c); for dilution under Mass. Gen. Laws ch. 110B, §12; and for the defendant’s unfair competition.

JURISDICTION AND VENUE

2. This court has jurisdiction of the subject matter of this action under 28 U.S.C. §§1331, 1367(a), and 1338, the Lanham Act, Title 15 of the United States Code, and principles of supplemental and ancillary jurisdiction.

3. Venue is proper in this Court pursuant to 28 U.S.C. §§1391(b) and 1391(c).

THE PARTIES

4. The plaintiff True Religion Apparel, Inc., a Delaware corporation with a place of business at 2263 East Vernon Avenue, Vernon, California 90058, was originally incorporated in Nevada on April 25, 2001 under the name of Gusana Explorations, Inc. On August 18, 2003, Gusana Explorations, Inc. officially changed its name to True Religion Apparel, Inc.

5. The plaintiff Guru Denim, Inc., a California corporation with a place of business at 2263 East Vernon Avenue, Vernon, California 90058, was incorporated on November 7, 2002 by Jeffrey Lubell. On June 24, 2003, True Religion Apparel, Inc. acquired all of the issued and outstanding shares of Guru Denim.

6. The defendant, True Apparel Company, is a Delaware corporation with a place of business at 800 West Cummings Park, Suite 6250, Woburn, Massachusetts 01801.

FACTUAL BACKGROUND

7. The plaintiffs design, develop, manufacture, market, distribute, and sell high end fashion jeans and other premium apparel.

8. True Religion Apparel, Inc. is publicly traded on NASDAQ with the letters TRLG.

9. As high end fashion jeans and premium apparel companies, the plaintiffs rely on the reputation the plaintiffs have developed for high-quality fabrics, gentle and natural aging, exceptional fit, hand finished detailing, and a recognizable “vintage look” to develop a competitive advantage.

10. The fashion and apparel industry is highly competitive. Because of this, it is critical for the plaintiffs to protect the trade names, trademarks, and service marks used and owned by the plaintiffs.

11. Jeffrey Lubell began using the trade names “True Religion Brand Jeans” and “True Religion” in 2001 as names for his business.

12. Once Mr. Lubell incorporated Guru Denim in 2002, the corporation continued the use of “True Religion Brand Jeans” and “True Religion” for the business commenced by Mr. Lubell and has continued to use “True Religion Brand Jeans” and “True Religion” as names for its business.

13. True Religion Apparel, Inc., since it acquired all of the issued and outstanding shares of Guru Denim, Inc. and changed its name to True Religion Apparel, Inc. in 2003, has used “True Religion Apparel, Inc.” as a name for its business. “True Religion” and “True Religion Brand Jeans” are also names used by True Religion Apparel, Inc. and by its subsidiary, Guru Denim, Inc., for their businesses.

14. On July 23, 2002, Jeffrey Lubell applied for registration of the trademark TRUE RELIGION BRAND JEANS stylized. A registration issued on September 9, 2003 for men’s and women’s denim jeans, shirts, jackets, t-shirts, skirts, sweats, tank tops, sweaters, with U.S. Registration No. 2,761,793. A true and accurate copy of the registration is attached hereto and made a part hereof as Exhibit “A”.

15. At least as early as August 1, 2002, Jeffrey Lubell used the mark TRUE RELIGION BRAND JEANS in commerce on men’s and women’s denim jeans, shirts, jackets, t-shirts, skirts, sweats, tank tops, and sweaters.

16. At least as early as August 1, 2002, Jeffrey Lubell used the mark TRUE RELIGION in commerce on clothing including pants, jeans, jackets, skirts, shorts, sweatpants, sweatshirts, and vests.

17. On September 26, 2002, Jeffrey Lubell applied for registration of the trademark TRUE RELIGION BRAND JEANS WORLD TOUR FASHION FOR THE SENSES SECTION ROW SEAT and Design. A registration issued on January 11, 2005 for clothing, namely men's, women's and children's pants, slacks, jeans, shorts, overalls, shirts, t-shirts, blouses, vests, skirts, jackets, coats, sweaters, sweatshirts, sweatpants, and hats, with U.S. Registration No. 2,917,187. A true and accurate copy of the registration is attached hereto and made a part hereof as Exhibit "B".

18. At least as early as October 1, 2002, Jeffrey Lubell first used the mark TRUE RELIGION BRAND JEANS WORLD TOUR FASHION FOR THE SENSES SECTION ROW SEAT and Design in commerce on clothing, including men's, women's and children's pants, slacks, jeans, shorts, overalls, shirts, t-shirts, blouses, vests, skirts, jackets, coats, sweaters, sweatshirts, sweatpants, and hats.

19. On May 6, 2004, Jeffrey Lubell assigned his entire interest in U.S. Registration Nos. 2,761,793 and 2,917,187 and any interest he had in the trademarks TRUE RELIGION, TRUE RELIGION BRAND JEANS, and TRUE RELIGION BRAND JEANS WORLD TOUR FASHION FOR THE SENSES SECTION ROW SEAT to Guru Denim.

20. Since at least as early as December 2002, Guru Denim has used TRUE RELIGION BRAND JEANS in a design arranged in a circle (hereinafter "TRUE RELIGION BRAND JEANS Circle logo") for pants, jeans, shorts, overalls, shirts, t-shirts, vests, shirts, jackets, sweatshirts, and sweatpants. The design is shown in the registration in Exhibit "C".

21. On August 3, 2005, Guru Denim applied for registration of the TRUE RELIGION BRAND JEANS Circle logo. A registration issued on August 21, 2007 for pants, jeans, shorts, overalls, shirts, t-shirts, vests, skirts, jackets, sweatshirts, and sweatpants, with U.S. Registration

No. 3,282,490. A true and accurate copy of the registration is attached hereto and made a part hereof as Exhibit “C”.

22. On December 8, 2005, Guru Denim applied for registration of the trademark TRUE RELIGION. A registration issued on October 24, 2006 for clothing, namely, pants, jeans, jackets, skirts, shorts, sweatpants, sweatshirts, and vests, with U.S. Registration No. 3,162,614. A true and accurate copy of the registration is attached hereto and made a part hereof as Exhibit “D”.

23. On December 8, 2005, Guru Denim applied for registration of the trademark TRUE RELIGION BRAND JEANS. A registration issued on July 25, 2006 for clothing, namely, pants, jeans, jackets, skirts, shorts, sweatpants, sweatshirts, and vests, with U.S. Registration No. 3,120,797. A true and accurate copy of the registration is attached hereto and made a part hereof as Exhibit “E”.

24. Since at least as early as April 26, 2005, Guru Denim used the service mark TRUE RELIGION BRAND JEANS continuously in interstate commerce for retail store and on-line retail store services featuring clothing.

25. On December 8, 2005, Guru Denim applied for registration of the service mark TRUE RELIGION BRAND JEANS. A registration issued on July 25, 2006 for on-line retail store services featuring clothing; retail store services featuring clothing, with U.S. Registration No. 3,120,798. A true and accurate copy of the registration is attached hereto and made a part hereof as Exhibit “F”.

26. Since at least as early as April 26, 2005, Guru Denim used the service mark TRUE RELIGION continuously and in interstate commerce for retail store and on-line retail store services featuring clothing.

27. On December 8, 2005, Guru Denim applied for registration of the service mark TRUE RELIGION. A registration issued on October 24, 2006 for on-line retail store services featuring clothing; retail store services featuring clothing, with U.S. Registration No. 3,162,615. A true and accurate copy of the registration is attached hereto and made a part hereof as Exhibit “G”.

28. As a result of use and registration, the plaintiffs have rights in the trade names TRUE RELIGION and TRUE RELIGION BRAND JEANS and the trademarks and service marks TRUE RELIGION, TRUE RELIGION BRAND JEANS, and TRUE RELIGION BRAND JEANS as part of logos with additional words (hereinafter “trade names, trademarks, and service marks”).

29. The TRUE RELIGION and TRUE RELIGION BRAND JEANS trademarks are the subject of numerous trademark registrations and applications worldwide.

30. The plaintiffs use four primary distribution channels: in the plaintiffs’ retail stores, to a network of wholesale accounts, through international distributors, and through the plaintiffs’ website.

31. The plaintiffs sell high end fashion jeans and other premium apparel in approximately 50 countries, including the United States, Canada, Germany, the United Kingdom, Japan, Korea, France, Spain, Sweden, Greece, Italy, Mexico, Australia, South Africa, and China, to upscale retailers and boutiques.

32. The plaintiffs’ high end fashion jeans and other premium apparel are sold in at least 650 high-end boutiques in the United States and by more than 900 retailers worldwide. The plaintiffs will begin 2008 with 15 of its own stores in operation, and plan to open an additional

18 stores during 2008. One of the stores to be opened in 2008 will be at 119 Newbury Street in the Back Bay, offering the entire True Religion collection for men, women, and kids.

33. The plaintiffs' high end fashion jeans and other premium apparel are sold on a website www.truereligionbrandjeans.com.

34. In addition to using the web address truereligionbrandjeans.com, the plaintiffs have secured domain names that include "truereligion," "truereligionjeans," "truereligionbrand," and "truereligionbrandjeans" followed by a variety of endings, all of which point to the same content that appears at www.truereligionbrandjeans.com.

35. The plaintiffs' trade names, trademarks, and service marks have become distinguished and widely known in the fashion and apparel industry, identifying the plaintiffs as leaders in the premium denim market.

36. The plaintiffs' trade names, trademarks, and service marks have become some of the most well known in premium denim, apparel and accessories.

37. The plaintiffs' trade names, trademarks, and service marks are valuable assets of the plaintiffs.

38. The strength of the plaintiffs' trade names, trademarks, and service marks is due to the plaintiffs' consistent emphasis on innovative and distinctive product designs and product quality.

39. The plaintiffs' trade names, trademarks, and service marks represent high end fashion jeans and other premium apparel of exceptional finish and product quality, fit, and detail.

40. The plaintiffs control the manner in which the plaintiffs' trade names, trademarks, and service marks are advertised, marketed, and promoted in the United States and internationally.

41. The plaintiffs' trade names, trademarks, and service marks and their goods have been showcased in major publications and broadcast media in the United States and internationally.

42. One of the plaintiffs' business strategies is to develop recognition of the plaintiffs' trade names, trademarks, and service marks.

43. As of December 31, 2006, the plaintiffs have approximately 250 trademarks registered or applications pending in approximately 170 countries around the world, including the United States.

44. In 2003, the plaintiffs had about \$2.4 million in sales.

45. The plaintiffs' revenues increased from about \$27 million in 2004 to about \$139 million in 2006, and the plaintiffs anticipate sales in 2007 of about \$165 million.

46. The plaintiffs' future success will depend upon several factors, one of which is the strength of the plaintiffs' trade names, trademarks, and service marks and their competitive strategy.

47. The plaintiffs would be damaged by any diminution in the strength of their trade names, trademarks, and service marks.

48. The defendant is an on-line retail apparel company that sells jeans to a customer based upon the customer's measurements and preferences.

49. Once the defendant obtains measurements from a consumer, it determines, from a list of brands sold by the defendant, the particular brand of jeans the consumer should purchase from the defendant.

50. The brands listed on the defendant's website as being available from the defendant includes more than twenty-five brands of jeans. A large number of the brands of jeans

available from the defendant are high end fashion jeans that compete directly with the plaintiffs' jeans. A listing of brands of jeans listed on the defendant's website is attached hereto and made a part hereof as Exhibit "H".

51. The defendant is using "True Apparel Company" and "True Jeans" as trade names for its business.

52. The defendant is using TRUE JEANS and TRUE APPAREL as trademarks and service marks for its products and services.

53. The defendant is using the web address www.truejeans.com.

54. The defendant is using the telephone number 877-FIT-TRUE and is advertising the telephone number on its website.

55. On June 28, 2005, the defendant filed an intent to use application to register TRUE JEANS for clothing, namely, jeans, shirts, dresses, pants, and swimwear; intimate apparel, namely, bras, underwear, socks, slips, bodysuits, crop tops, tank tops, panties, lingerie, sleepwear and robes; outerwear, namely, jackets, hats, gloves, coats, rainwear; belts; neckwear; footwear, namely shoes, sneakers, sandals and slippers. The application was assigned U.S. Application Serial No. 78/659,934.

56. On June 28, 2005, the defendant filed an intent to use application to register TRUE APPAREL for clothing, namely, jeans, shirts, dresses, pants, and swimwear; intimate apparel, namely, bras, underwear, socks, slips, bodysuits, crop tops, tank tops, panties, lingerie, sleepwear and robes; outerwear, namely, jackets, hats, gloves, coats, rainwear; belts; neckwear; footwear, namely, shoes, sneakers, sandals and slippers. The application was assigned U.S. Application Serial No. 78/659,923.

57. In January 2006, the plaintiffs' counsel sent a letter to inform the defendant that the defendant's use of the TRUE JEANS and TRUE APPAREL marks is likely to cause confusion with the plaintiffs' trade name and mark TRUE RELIGION BRAND JEANS. The letter advised that it was an ideal time for the defendant to change the brand and adopt one that is far removed from the plaintiffs' well known brand because the defendant had not commenced business using the marks.

58. On April 13, 2007, the defendant's application for the TRUE JEANS mark was abandoned for failure to respond to an Office Action.

59. On April 16, 2007, the defendant's application for the TRUE APPAREL mark was abandoned for failure to respond to an Office Action.

60. One of the few brands of high end fashion jeans sold in the United States that is missing from the list of jeans available from the defendant is TRUE RELIGION BRAND JEANS.

61. On information and belief, the defendant did not offer TRUE RELIGION BRAND JEANS on its website in order to delay the plaintiffs' discovery of the defendants' infringing activities.

62. Aside from the applications to register TRUE JEANS and TRUE APPAREL that were later abandoned and a website that did not contain content other than "Coming Spring 2006," the plaintiffs did not become aware of any of the defendant's activities until October 2007.

63. The defendant's actions infringe the rights of the plaintiffs.

64. The defendant's actions are likely to cause confusion, to cause mistake, or to deceive as to the origin, sponsorship, affiliation with or approval by the plaintiffs of the goods and services of the defendant.

65. By letter dated October 30, 2007, the plaintiffs gave notice to the defendant of the plaintiffs' rights and the defendant's infringement.

66. Despite further communication, the defendant has neglected or refused to cease its infringing and confusing actions.

COUNT I

(Infringement of Plaintiffs' Common Law Marks)

67. The plaintiffs repeat and reallege paragraphs 1 through 64 of this complaint as if they were fully set forth.

68. The defendant has infringed and is infringing the plaintiffs' common law rights in the following trademarks and service marks: TRUE RELIGION BRAND JEANS, TRUE RELIGION, TRUE RELIGION BRAND JEANS WORLD TOUR FASHION FOR THE SENSES SECTION ROW SEAT and Design, and TRUE RELIGION BRAND JEANS Circle logo.

69. The plaintiffs have been and are being damaged by the defendant's infringement of their common law rights.

70. The plaintiffs have suffered and will continue to suffer irreparable injury due to the above described activities of the defendant if the defendants are not preliminarily and permanently enjoined.

COUNT II

(Infringement of the Plaintiffs' Federally Registered Marks)

71. The plaintiffs repeat and reallege paragraphs 1 through 68 of this complaint as if they were fully set forth.

72. The defendant infringed and is infringing upon the following federally registered trademarks and service marks owned by the plaintiffs: TRUE RELIGION BRAND JEANS stylized (Reg. No. 2,761,793), TRUE RELIGION BRAND JEANS WORLD TOUR FASHION FOR THE SENSES SECTION ROW SEAT and Design (Reg. No. 2,917,187), TRUE RELIGION BRAND JEANS Circle logo (Reg. No. 3,282,490), TRUE RELIGION (Reg. No. 3,162,614 and 3,162,615), and TRUE RELIGION BRAND JEANS (Reg. Nos. 3,120,797 and 3,120,798).

73. The plaintiffs have been and are being damaged by the defendant's infringement of their federally registered marks.

74. The plaintiffs have suffered and will continue to suffer irreparable injury due to the above described activities of the defendant if the defendant is not preliminarily and permanently enjoined.

COUNT III

(Trade Name Infringement)

75. The plaintiffs repeat and reallege paragraph 1 through 72 of this complaint as if they were fully set forth.

76. The defendant infringed and is infringing the plaintiffs' trade names True Religion Apparel, Inc., True Religion, and True Religion Brand Jeans.

77. The plaintiffs have been and are being damaged by the defendant's infringement of the plaintiffs' trade names.

78. The plaintiffs have suffered and will continue to suffer irreparable injury due to the above described activities of the defendant if the defendant is not preliminarily and permanently enjoined.

COUNT IV

(False Designation of Origin)

79. The plaintiffs repeat and reallege paragraph 1 through 76 of this complaint as if they were fully set forth.

80. The defendant's actions were and are in violation of 15 U.S.C. § 1125(a) (Lanham Act § 43(a)), which imposes liability for the use in commerce of any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of a person with another person or as to the origin, sponsorship, or approval of its goods, services, or commercial activities by another person.

81. The plaintiffs have been and are being damaged as a result of the defendant's violation of 15 U.S.C. § 1125(a).

82. The plaintiffs have suffered and will continue to suffer irreparable injury due to the above described activities of the defendant if the defendant is not preliminarily and permanently enjoined.

COUNT V

(Dilution under 15 U.S.C. §1125(c))

83. The plaintiffs repeat and reallege paragraphs 1 through 80 of this complaint as if they were fully set forth.

84. The plaintiffs' trademark and service mark TRUE RELIGION and TRUE RELIGION BRAND JEANS have become famous, as that term is used and defined in 15 U.S.C. § 1125(c).

85. The defendant's commercial use of the marks TRUE JEANS and TRUE APPAREL, the trade names True Apparel Company and True Jeans, the web address www.truejeans.com, the telephone number 877-FIT-TRUE, alone and in combination, in commerce has caused and will continue to cause dilution of the distinctive quality of the plaintiffs' marks in violation of 15 U.S.C. § 1125(c).

86. The plaintiffs have been damaged by the defendant's dilution of the distinctive quality of the plaintiffs' famous marks.

87. The plaintiffs have suffered and will continue to suffer irreparable injury due to the above described activities of the defendant if the defendant is not preliminarily and permanently enjoined.

COUNT VI

(Dilution under Mass. Gen. Laws ch. 110B, § 12)

88. The plaintiffs repeat and reallege paragraphs 1 through 85 of this complaint as if they were fully set forth.

89. The defendant's use in commerce of the marks TRUE JEANS and TRUE APPAREL, the trade names True Apparel Company and True Jeans, the web address

www.truejeans.com, the telephone number 877-FIT-TRUE, alone and in combination, is causing a likelihood of injury to the plaintiffs' business reputation and of dilution of the distinct quality of its TRUE RELIGION and TRUE RELIGION BRAND JEANS trademarks and service marks.

90. By reason of the foregoing, the plaintiffs are entitled to relief under Mass. Gen. Laws ch. 110B, § 12.

COUNT VII

(Unfair Competition)

91. The plaintiffs repeat and reallege paragraphs 1 through 88 of this complaint as if they were fully set forth.

92. The defendant, by its actions, has engaged and is engaging in unfair competition.

93. The plaintiffs have been and are being damaged by the defendant's engagement in unfair competition.

94. The plaintiffs have suffered and will continue to suffer irreparable injury due to the above described activities of the defendant if the defendant is not preliminarily and permanently enjoined.

WHEREFORE, the plaintiffs True Religion Apparel, Inc. and Guru Denim, Inc. demand judgment:

A. Preliminarily and permanently enjoining the defendant, True Apparel Company, from utilizing TRUE JEANS or TRUE APPAREL, or any confusingly similar term, to promote its goods or services;

B. Preliminarily and permanently enjoining the defendant, True Apparel Company, from using True Apparel Company or True Jeans, or any confusingly similar term, as a trade name for its company;

C. Preliminarily and permanently enjoining the defendant, True Apparel Company, from diluting the distinctive quality of the plaintiffs' TRUE RELIGION and TRUE RELIGION BRAND JEANS marks;

D. Preliminarily and permanently enjoining the defendant, True Apparel Company, from using the web address www.truejeans.com;

E. Preliminarily and permanently enjoining the defendant, True Apparel Company, from using the telephone number 877-FIT-TRUE;

F. Preliminarily and permanently enjoining the defendant from engaging in unfair methods of competition with the plaintiffs;

G. Determining and awarding the plaintiffs damages resulting from the defendant's infringement of the plaintiffs' common law trademark and service mark rights, as alleged in Count I of the complaint, plus interest, costs, and attorneys' fees;

H. Determining and awarding the plaintiffs damages resulting from the defendant's infringement of the plaintiffs' federally registered marks, as alleged in Count II of the complaint, plus interest, costs, and attorneys' fees;

I. Determining and awarding the plaintiffs damages resulting from the defendant's infringement of the plaintiffs' trade name, as alleged in Count III of the complaint, plus interest costs, and attorneys' fees;

J. Determining and awarding the plaintiffs damages resulting from the defendant's violation of 15 U.S.C. § 1125(a), as alleged in Count IV of the complaint, plus interest, costs, and attorneys' fees;

K. Determining and awarding the plaintiffs damages resulting from the defendant's dilution of the plaintiffs' famous marks in violation of 15 U.S.C. §1125(c), as alleged in Count V of the complaint, plus interest, costs, and attorneys' fees;

L. Determining and awarding the plaintiffs damages from the defendant's violation of Mass. Gen. Laws ch. 110B, §12, as alleged in Count VI of the complaint;

M. Determining and awarding the plaintiffs damages resulting from the defendant's unfair competition with the plaintiffs, as alleged in Count VII of the complaint, plus interest, costs, and attorneys' fees; and

N. Granting such other and further relief as this Court may deem just and proper.

THE PLAINTIFFS DEMAND A TRIAL BY JURY.

TRUE RELIGION APPAREL, INC. and
GURU DENIM, INC.

By their attorneys,

/s/ Susan G. L. Glovsky
Susan G. L. Glovsky BBO# 195880
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, Massachusetts 01742
978-341-0036

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