1 2 3	W. PATRICK McPHILAMY, III A PROFESSIONAL CORPORATION 225 S. Lake Avenue, Suite 300 Pasadena, CA 91101 mcphilamylaw@gmail.com SBN#: 111156 Tel. No.: (626) 432-5490 Fax. No.: (626) 432-5491				
5	Attorney for Plaintiff, UNICOLORS, INC.				
6					
7 8	UNITED STATES DISTRICT COURT				
9					
10	(WESTERN DIVISION-LOS ANGELES)				
11	UNICOLORS, INC., a California) carporation,) carporation,				
12	COMPLAINT FOR MMM(GM) Plaintiff, INFRINGEMENT OF				
13) COPYRIGHT, FOR vs. DAMAGES AND FOR				
14					
15					
16	inclusive, Defendants. Defendants. Defendants.				
17					
18	Plaintiff, UNICOLORS, INC., a California corporation,				
19	for its complaint against all Defendants named herein,				
20	alleges as follows:				
21	THE PARTIES				
22	1. Plaintiff, UNICOLORS, INC., (hereafter				
23	"UNICOLORS") was, and now is, a corporation duly organized				
24	and existing under the laws of the State of California,				
25	with its principal place of business located at Los				
26	Angeles, California.				
27	2. On information and belief, UNICOLORS alleges that				

COMPLAINT FOR INFRINGEMENT OF COPYRIGHT, FOR DAMAGES AND FOR INJUNCTIVE RELIEF

Defendant, SILHOUETTE CLOTHING, INC., (hereafter

"SILHOUETTE") was, and now is, a corporation duly organized

and existing under the laws of the State of California,

with its principal place of business located at Los

Angeles, California, and was at all times herein licensed

to due business in the State of California.

3. On information and belief, UNICOLORS alleges that Defendant, JANETTE FASHION, (hereafter "JANETTE") was, and now is, a business entity form unknown existing under the laws of the State of California, with its principal place of business located at Los Angeles, California, and was at all times herein licensed to due business in the State of California.

JURISDICTION AND VENUE

- 4. This action arises under the Act of October 19, 1976, Title I Section 101, 90 Stat. 2541; 17 U.S.C. Section 501; and this Court has jurisdiction under the Act of June 25, 1948, c. 646, 62 Stat. 931; 28 U.S.C. Section 1338, as hereinafter more fully appears.
- 5. This action arises under the Copyright Laws of the United States, 17 U.S.C. 101, et seq. and, particularly, under 17 U.S.C. 106, 501, and to redress the infringements of copyrights. This Court has jurisdiction over the subject matter of this claim pursuant to 28 U.S.C. 1331.
- 6. Venue properly lies in this Judicial District pursuant to 28 U.S.C. Section 1400(-) and 28 U.S.C. Section

l

- 7. Prior to October 20, 2006, UNICOLORS who then was and ever since has been a citizen of the United States, created and designed original works of art reproduced in printed fabric designs, one of which is the subject of this Action, designated by UNICOLORS by its design number 609236, (hereafter "the Design", or "Design").
- 8. The Design is wholly original with UNICOLORS and is capable of being copyrighted subject matter under the laws of the United States.
- 9. Between October 20, 2006 and the present date, UNICOLORS complied in all respects with the Act of October 19, 1976, Title I Section 101, 90 Stat. 2541; 17 U.S.C. Section 401-412 and all other laws governing copyright and secured the exclusive rights and privileges in and to the copyright of the Design.
- 10. The work of art comprising the Design was and is wholly original and is copyrightable subject matter under the laws of the United States. UNICOLORS has validly secured statutory copyright in the Design under the laws of the United States.
- 11. UNICOLORS has duly complied in all respects with the provisions of the Copyright Law of the United States, and has secured the exclusive rights and privileges in and to the Design, and UNICOLORS thereupon duly requested and received from the Register of Copyrights, Certificate of

9

7

10 11

12

13

14 15

16 17

18

19 20

21

22 23

24

25 26

28

27

Registration Number VA 1-388-723. (A true and correct copy of the Copyright Registration for the Design is attached hereto as Exhibit "1", and is incorporated herein by this reference.)

- All copies of the Design have been published by only UNICOLORS, and all copies have been printed, reproduced, and published in strict conformity with the provisions of the Copyright Law of the United States.
- 13. At all relevant times since creation of the Design, UNICOLORS has been, and is now, the sole proprietor of all right, title, and interest in the copyright and the right to exploit the copyright of the exclusive Design.
- Pursuant to UNICOLORS' sole and exclusive right in the Design, UNICOLORS commenced to print and convert fabric goods into printed textiles for use in the manufacture of apparel and other purposes bearing imprints of said copyrighted Design and UNICOLORS has sold such materials and textiles bearing the Design.
- SILHOUETTE, and DOES 1 through 3, upon information and belief, is retail distributor of apparel, and has sold in the United States and within this judicial district, apparel which infringes UNICOLORS' copyright in the Design as set forth hereinafter.
- 16. JANETTE, and DOES 4 through 10, and each of them, upon information and belief, is a manufacturer of, among other things, apparel, and has manufactured and sold in the United States and within this district apparel which

4 5

7 8

6

10 11

9

13 14

12

15

16 17

18

19

20

21 22

23

24

25 26

27 28 infringes UNICOLORS' copyright in the Design as set forth hereinafter.

- SILHOUETTE, JANETTE, and DOES 1 through 10, and 17. their agents and employees, upon information and belief, transact business within this district, derive substantial revenue from intrastate and interstate commerce and have committed tortious acts, including copyright infringement, within this district and also without this district having injurious consequences within this district, and all Defendants are otherwise within the jurisdiction of this Court.
- Upon information and belief, at some time presently unknown, after UNICOLORS first published its copyrighted design, Defendants, and each of them, willfully infringed UNICOLORS' copyright in the Design by causing infringing and unauthorized copies of the Design to be manufactured, offering for sale, and sold, without UNICOLORS' consent, apparel made with textiles imprinted with works of art which were copied from UNICOLORS' copyrighted Design.
- 19. Defendants' infringing design was clearly copied from UNICOLORS' Design, and said copying was done without UNICOLORS' authorization or consent.
- The layout, colors, details, pattern repeats and 20. all other design elements of Defendants' infringing textiles and garments made therefrom are all virtually the same as the Design, and infringes UNICOLORS' copyrighted

Design.

- 21. UNICOLORS has no adequate remedy at law to prevent further violation of the aforesaid copyright laws, and therefore seeks relief as hereinafter requested.
- 22. UNICOLORS has also sustained and seeks damages, including, but not limited to, reasonable attorney's fees and costs of litigation, against Defendants according to proof as hereinafter requested.
- 23. Defendants, in committing the wrongful acts alleged herein, are guilty of fraud, oppression, or malice, entitling Plaintiff to exemplary and punitive damages in an amount appropriate to punish Defendants and make an example of them to the community. Plaintiff, therefore prays that punitive damages be awarded against Defendants, and each of them, according to proof at time of trial.

SECOND CAUSE OF ACTION

(CONTRIBUTORY COPYRIGHT INFRINGEMENT)

 (AS AGAINST ALL DEFENDANTS)

24. Plaintiff realleges and incorporates by reference each and every allegation of Paragraphs 1 through 23 as though fully set forth herein.

25. Before or after the date of filing for registration of the subject copyright, and continuing to date, SILHOUETTE, JANETTE and DOES 1 through 10 have contributorily infringed UNICOLORS' Copyrighted Design by inducing, causing or materially contributing to the

- 26. On information and belief, said conduct by Defendants was and is willfully done with knowledge of UNICOLORS' Copyrighted Design, and/or was and is negligently done.
- 27. UNICOLORS has no adequate remedy at law to prevent further violation of the aforesaid copyright laws, and therefore seeks relief as hereinafter requested.
- 28. UNICOLORS has also sustained and seeks damages, including, but not limited to, statutory damages, and/or actual damages, profits derived by the infringers from their infringements of the Copyrighted Design, reasonable attorney's fees and costs of litigation, against Defendants according to proof as hereinafter requested.
- 29. Defendants, in committing the wrongful acts alleged herein, are guilty of fraud, oppression, or malice, entitling Plaintiff to exemplary and punitive damages in an amount appropriate to punish Defendants and make an example of them to the community. Plaintiff, therefore prays that punitive damages be awarded against Defendants, and each of them, according to proof at time of trial.

WHEREFORE, UNICOLORS demands judgment against Defendants, and each of them, as follows:

a. That Defendants, and each of them, their officers, agents, servants, employees, attorneys and all parties in active concert or participation with them be enjoined from infringing UNICOLORS' copyrighted Design,

- b. That Defendants, and each of them, be enjoined to deliver up for destruction, all infringing copies of UNICOLORS' copyrighted Design in their possession or under their control, whether in the form of fabric or apparel or other products incorporating the infringing Design, to withdraw all advertising or promotional materials, including, but not limited to catalogs, bearing a copy of such copyrighted Design, and print rollers, screens, matrices, and the like utilized in the manufacture of infringing textiles pursuant to 17 U.S.C. Section 503.
- c. That Defendants, and each of them, be required to pay UNICOLORS all damages UNICOLORS has sustained as a consequence of their infringement of UNICOLORS' copyrighted Design, including, but not limited to, statutory damages under the Copyright Act, and that Defendants be required to account to UNICOLORS for all gains, profits, and advantages derived by them from their infringement of the Design, including profits on all sales of fabrics, apparel, and other goods embodying any elements of UNICOLORS'

-				
1	copyrighted Design pursuant to 17 U.S.C. Section 504.			
2	d. That Defendants, and each of them, be required to			
3	pay to UNICOLORS their reasonable attorney's fees and costs			
4	of suit of this action pursuant to 17 U.S.C. Section 505.			
5	e. That Defendants, and each of them, be required to			
6	pay to UNICOLORS exemplary and punitive damages in an			
7	amount appropriate to punish Defendants and make an example			
8	of them to the community, according to proof at time of			
9	trial.			
10	DATED: January 28, 2008			
11	11			
12	UNICOLORS, INC.			
13	DEMAND FOR JURY TRIAL			
14	Plaintiff, UNICOLORS, INC. hereby demands a trial by			
15	jury on all issues triable by a jury in this matter.			
16	Jury on all issues triable by a jury in once masses.			
17	DATED: January 28, 2008 WAm			
18	W. PATRICK McPHILAMY, III Attorney for Plaintiff			
19	UNICOLORS, INC.			
20				
21				
22				
23				
24				
25				
26				
27	,			



Certificate of Registrati-MMM-CW

Document 1

Filed 01/29/2008 V Page 11 of 14 🐼

For a Work of the Visual Arts UNITED STATES COPYRIGHT OFFICE

VA 1-388-723



Register of Copyrights, United States of America

This Certificate issued under the seal of the Copyright Office in accordance with title 17. United States Code.

attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

do not white above this line. If you need more space, use a separate continuation sheet

THE OF SELD WUITE & See Horngroom

PREVIOUS OR ALTERNATI						
Publication as a Contribution contribution appeared Title of	this work was publis collective Work Y	yeq 32 4 coatupant a to 1 bec	nudecil serial or collect	lion give informatio	n about the collective	e work to which the
If published in a periodical or serial gr	n Volume ♥	Namber ▼	(Lacy)	Date ♥	On Pages ♥	
NAME OF AUTHOR ▼	TUDIO	סומט		: DATES OF BIRTH AND DEATH Year Born ♥ Year Didd ♥		
Was this contribution to the work a	Author s Na	tionality or Domicile	· · · · · · · · · · · · · · · · · · ·	Wes This Anti	or s Contribution	n to the Work
"work made for hire?	Name of Countr	y	•		3 Yes 5 No	If the snewer it either of these questions is
ODAVus □ No	OR CHIZEN	of VNITED STA	1150	Psycident mous	I, Yes - II No	
✓2 Dimensional 2 Reproduction o NAME OF AUTHOR ▼		□ Photograph Jewelty design	Text		RTH AND DEAT	
Wis this intribution it the orkin work mad for hire	tionality or Domicile			Was This Author's Contribution to the Work Assumption Tex Offices (1986)		
~ 4	Ψ.η	led in 🖭 🔔 🚐	·	Pacaciónsmous	214 24	Yes see detailed not up one
NATURE OF AUTHORSHIP	Che Lupp operation	vi i See instructions				
📑 3 Dimensional	=	— M որ	Technical drav	wing.		
✓ Dimensional	ግፈጽባላያ	Phili griph	r Text			
Reproduction	र्वा क्रिक्ट में स्था	leach dusign	Architectural :	work		
hear in Which Creation of 3 Bis Wo Completed ≪rear	rk Vrus The internation must be given in all asses	Date and Nation of Fire Complete this informatic ONLY if this work has been published		Parikular Wirk	• 6 ·	2006
COPERICHT CLAIMANTIS)	Nonca lie s	17 و المرا	antes land h	OCT 2	ATION RECEIVE	C
UNICO	LORS, INC			ONE CE	POS F BECEIVE	EC
2751 1	t.26th Stre		00000	- 15.8 IIIT '	20 20na	

the author of work made for files is generally the employer not the amployee (see natruc tions) For any part of this work hat was made for nire check Yes n the space provided give (gr other person for

Transfer it 5 1 miet reim ! EXECUTE WAS CORNER

TWO DEPOSITS RECEIVED FUNDS RECEIVED

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

FOR OFFICE USE ONLY: Case Number:

3-cv-00586-MMM-CW Document 1 Filed 01/29/2008 Page 13 of 14 UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA Case 2:08-cv-00586-MMM-CW

CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES:	Have any cases been previo	ously filed that are related to the present case? W No 🗆 Yes				
If yes, list case number(s):						
[[A. Arise from the same o B. Call for determination C. For other reasons wou	and the present case: or closely related transactions, happenings, or events; or on of the same or substantially related or similar questions of law and fact; or ald entail substantial duplication of labor if heard by different judges; or ent, trademark or copyright, and one of the factors identified above in a, b or c	o also is preser	nt.		
IX. VENUE: List the California Check here if the U.S. govern UNICOLORS, INC. Los	iment, its agencies or emply	than California, in which EACH named plaintiff resides (Use an additional sloyees is a named plaintiff.	heet if necess	ary)		
List the California County, or S Check here if the U.S. gove SILHOUETTE CLOTH JANETTE FASHION	rnment, its agencies or emp ING, INC. Los Angele	a, in which EACH named defendant resides. (Use an additional sheet if necest ployees is a named defendant. es County	ssary).			
List the California County, or Note: In land condemnation ca Los Angeles County	r State if other than Califor ses, use the location of the	mia, in which EACH claim arose. (Use an additional sheet if necessary) tract of land involved.				
	s: The CV-71 (JS-44) Civ	vil Cover Sheet and the information contained herein neither replace nor supple oved by the Judicial Conference of the United States in September 1974, is required to statistics, venue and initiating the civil docket sheet. (For more detailed				
Key to Statistical codes relatin		Substantive Statement of Cause of Action				
861	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))					
862	BL	BL All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)				
863	DIWC All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))					
863	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))					
864	864 SSID All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.					
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of th U.S.C. (g))	he Social Sec	urity Act, as amended. (42		

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Margaret M. Morrow and the assigned discovery Magistrate Judge is Carla Woehrle.

The case number on all documents filed with the Court should read as follows:

CV08- 586 MMM (CWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related

=		===	NOTICE TO COUNSEL	==	
	py of this notice must be served w a copy of this notice must be ser		e summons and complaint on all def n all plaintiffs).	endar	nts (if a removal action is
Subs	sequent documents must be filed	at the	following location:		
[X]	Western Division 312 N. Spring St., Rm. G-8 Los Angeles, CA 90012	L	Southern Division 411 West Fourth St., Rm. 1-053 Santa Ana, CA 92701-4516		Eastern Division 3470 Twelfth St., Rm. 134 Riverside, CA 92501
C-31	re to file at the proper location will resu	ilt in vo	our documents being returned to you.		