

FILED

LAW OFFICE OF HOOTAN TROY FARAHMAND

HOOTAN TROY FARAHMAND (SBN: 230345) 2008 FEB 15 AM 11:20

SAM TABIBIAN (SBN: 231422)

1057 Harvard Street

Santa Monica, CA 90403

Telephone: (310) 560-0606

Facsimile: (310) 829-0225

Email: htflaw@aol.com

Email: sam.tabibian@gmail.com

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

Attorneys for Plaintiff
STAR FABRICS, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STAR FABRICS, INC., a California
corporation,

Plaintiff,

vs.

UNO CLOTHING, INC., a
California corporation; US
TEXTILE PRINTING, INC., a
California corporation; ROSS
STORES, INC., a California
corporation; and DOES 1-100,
inclusive,

Defendants.

CV08-01058 GW (JWJx)
COMPLAINT FOR:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

[DEMAND FOR JURY TRIAL]

COMES NOW Plaintiff Star Fabric Inc. (hereinafter "Plaintiff" or "Star Fabric"), by and through its undersigned attorneys, hereby prays to this honorable Court for relief and remedy based on the following:

INTRODUCTION

Plaintiff is a Los Angeles-based company engaged in the apparel industry as a textile converter of imported and domestic fabrications. As part of its business practices, Plaintiff creates, or purchases the exclusive rights, to two-dimensional

1 works of art and files and receives copyright registrations for these works. Plaintiff
 2 has these designs imprinted on fabric and makes exclusive sale of this fabric to its
 3 customers. No other party is authorized to make sales of product bearing Plaintiff's
 4 Proprietary designs without express permission from Plaintiff. This action is
 5 brought to recover damages for direct, vicarious and contributory copyright
 6 infringement, arising out of the misappropriation of Plaintiff's exclusive designs by
 7 the Defendants, and each of them.

8 JURISDICTION AND VENUE

9 1. This action arises under the *Copyright* Act of 1976, Title 17 U.S.C. §
 10 101 *et seq.*

11 2. This Court has federal question jurisdiction under 28 U.S.C. § §
 12 1331("federal question jurisdiction") 1338 (a)&(b) ("patent, copyright, trademark
 13 and unfair competition jurisdiction") in that this action arises under the laws of the
 14 United States and, more specifically, Acts of Congress relating to patents,
 15 copyrights, trademarks, and unfair competition.

16 3. Defendants are subject to the personal jurisdiction of the Court
 17 because they reside, have agents, do or transact business in, or are otherwise found
 18 and have purposefully availed themselves of the privilege of doing business in,
 19 California and this District.

20 4. Venue in this judicial district is proper under 28 U.S.C. § 1391 and §
 21 1400(a) in that this is the judicial district in which a substantial part of the acts and
 22 omissions giving rise to the claims occurred.

23 PARTIES

24 5. Star Fabrics, Inc. ("Plaintiff") is a corporation organized and existing
 25 under the laws of the State of California with its principle place of business located
 26 at 1440 East Walnut, Los Angeles, California 90011. Plaintiff is an owner,
 27 designer, producer and distributor of fabrics and fabric patterns that it offers for sale
 28 and sells to the consuming public.

1 6. Plaintiff is informed and believes and thereon alleges that Defendant
2 UNO CLOTHING, INC. (hereinafter "UNO") is a corporation organized and
3 existing under the law of the state of California with its principle place of business
4 at 2000 E. 11th Street, Los Angeles, California 90001 and doing business in and
5 with the state of California. Plaintiff is informed and believes and on that basis
6 alleges that defendant UNO manufactures, advertises, distributes, offers for sale
7 and/or sells wearing apparel to the general public through retail stores throughout
8 the United States.

9 7. Plaintiff is informed and believes and thereon alleges that Defendant
10 US TEXTILE PRINTING, INC.. (hereinafter "US TEXTILE") is a corporation
11 organized and existing under the law of the state of California with its principle
12 place of business at 1819 South Soto Street, Los Angeles, California, 90023 and
13 doing business in and with the state of California. Plaintiff is informed and believes
14 and on that basis alleges that defendant US TEXTILE manufactures, advertises,
15 distributes, offers for sale and/or sells wearing apparel to the general public through
16 retail stores throughout the United States.

17 8. Plaintiff is informed and believes and thereon alleges that Defendant
18 ROSS STORES, INC. (hereinafter "ROSS") is a corporation organized and existing
19 under the law of the state of California with its principle place of business at 4440
20 Rosewood Drive, Building 4, Pleasanton, California, 94588 and doing business in
21 and with the state of California. Plaintiff is informed and believes and on that basis
22 alleges that defendant ROSS manufactures, advertises, distributes, offers for sale
23 and/or sells wearing apparel to the general public through retail stores throughout
24 the United States.

25 9. Plaintiff is informed and believes and thereon alleges that some of
26 Defendants DOES 1 through 50, inclusive, are manufactures and/or vendors of
27 garments to Defendant, which DOE Defendants have manufactured and/or supplied
28 and are manufacturing and/or supplying garments comprised of fabric printed with

1 Plaintiff's copyrighted design(s) (as hereinafter defined) without Plaintiff's
 2 knowledge or consent or have contributed to said infringement. The true names,
 3 whether corporate, individual or otherwise of Defendants DOES 1 through 50,
 4 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
 5 by such fictitious names and will seek leave to amend this complaint to show their
 6 true names and capacities when same have been ascertained.

7 10. Defendants DOES 60 through 100, inclusive, are other parties not yet
 8 identified who have infringed Plaintiff's copyrights, have contributed to the
 9 infringement of Plaintiff's copyrights, or have engaged in one or more of the
 10 wrongful practices alleged herein. The true names, whether corporate, individual or
 11 otherwise, of Defendants 60 through 100, inclusive, are presently unknown to
 12 Plaintiff, which therefore sues said Defendants by such fictitious names and will
 13 seek leave to amend this complaint to show their true names and capacities when
 14 same have been ascertained.

15 CLAIMS RELATED TO SUBJECT DESIGN

16 11. Prior to the conduct complained of herein, in or about April 2006,
 17 Plaintiff acquired unlimited and sole ownership of a design composed, and owned
 18 in exclusivity, which Plaintiff was assigned rights to for consideration, and through
 19 its designers and its staff transferred to fabric. ("Subject Design"). Plaintiff
 20 allocated the Subject Design the identification code "59205" and registered it. The
 21 United States Copyright Office granted Copyright Registration No. VA 1-418-127
 22 (**See Exhibit "A" attached hereto and incorporated herein by reference**) to the
 23 collection including the Subject Design on May 15, 2007.

24 12. Plaintiff formatted the Subject Design for use on textiles, sampled the
 25 Subject Design under the name "#59205" and negotiated sales of fabric bearing the
 26 Subject Design.

27 ///

28 ///

1 13. Plaintiff is informed and believes and thereon alleges that, without
2 Plaintiff's authorization, Defendants, and each of them, purchased, sold,
3 manufactured, caused to be manufactured, imported and/or distributed fabric and/or
4 garments comprised of fabric featuring a design which is identical, or substantially
5 similar to, the Subject Design. (hereinafter "Infringing Garments") **See Exhibit**
6 **"B" attached hereto and incorporated herein by reference).**

7 14. At various retail stores owned and controlled by Defendants, and each
8 of them, Plaintiff's investigation discovered that garments comprised of fabric
9 bearing the Subject Design or a pattern substantially and/or strikingly similar to
10 Plaintiff's Subject Design were being offered for sale, which garments were
11 manufactured and/or imported under the direction of the Defendants, and each of
12 them. Plaintiff is informed and believes that thereon alleges that one or more of the
13 named Defendants owns and/or otherwise controls these labels and also
14 manufactures garments under those labels.

15 15. Plaintiff issued letters demanding Defendants cease and desist in their
16 respective infringement of Plaintiff's intellectual property rights. Despite these
17 demands, Plaintiff is informed and believes and thereon alleges that Defendants
18 continued to sell Infringing Garments and product in violation of Plaintiff's rights
19 as the copyright proprietor and owner of the Subject Design.

20 16. Plaintiff has further demanded a full accounting of the fabrics and
21 apparel incorporating or consisting of the Infringing Garments that has been
22 manufactured, distributed, offered for sale, bought and/or sold by some or all of the
23 named defendants, and each of them. Plaintiff has further demanded from these
24 defendants an accounting of the revenues and profits derived from the distribution
25 and sale of the fabrics and apparel incorporating or consisting of the Infringing
26 Garments.

27 ///

28 ///

1 17. Plaintiff through its council sent a demand to Cease and Desist letter
2 dated November 5, 2007 to Defendant - UNO. Demand was made that UNO Cease
3 and Desist from all advertising, promotion, offering for sale and shipment of said
4 infringing garments with the Subject Design and recall all merchandise from all
5 parties to which it has been delivered and to confirm in writing within 5 days from
6 the receipt of the letter. UNO did not respond and continued to sell the infringing
7 garments with Plaintiff's Subject Design with knowledge that the defendants'
8 conduct constitutes copyright infringement to the public.

9 18. Plaintiff through its council sent a demand to Cease and Desist letter
10 dated November 4, 2007 to Defendant - US TEXTILE. Demand was made that US
11 TEXTILE Cease and Desist from all advertising, promotion, offering for sale and
12 shipment of said infringing garments with the Subject Design and recall all
13 merchandise from all parties to which it has been delivered and to confirm in
14 writing within 5 days from the receipt of the letter. US TEXTILE did not respond
15 and continued to sell the infringing garments with Plaintiff's Subject Design with
16 knowledge that the defendants' conduct constitutes copyright infringement to the
17 public.

18 19. Plaintiff through its council sent a demand to Cease and Desist letter
19 dated October 24, 2007 to Defendant - ROSS. Demand was made that ROSS Cease
20 and Desist from all advertising, promotion, offering for sale and shipment of said
21 infringing garments with the Subject Design and recall all merchandise from all
22 parties to which it has been delivered and to confirm in writing within ten days
23 from the receipt of the letter. Retailer did not respond and continued to sell the
24 infringing garments with Plaintiff's Subject Design with knowledge that the
25 defendants' conduct constitutes copyright infringement to the public.

26 ///

27 ///

28 ///

FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

20. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained in Paragraph 1 through 19, inclusive, of this Complaint.

21. The Subject Design is an original work of authorship and constitutes copyrightable subject matter under the laws of the United States. The Subject Design has been printed on paper, exists in digital medium in a number of locations, and has been applied to numerous articles of clothing and related items manufactured and sold in the United States and abroad by Plaintiff.

22. At all times since the creation of the Subject Design, Plaintiff has complied with all aspects of the Copyright Acts of 1909 and 1976 and all other laws governing copyright, and secured the exclusive rights and privileges in and to the Subject Design. Plaintiff has at all times been the sole proprietor of all rights, title, and interest in and to the copyright in the Subject Design, and received from the Register of Copyrights a Certificate of Registration. Attached hereto as **Exhibit "A"** is a true and correct copy of said registration.

23. Subsequent to Plaintiff's publication of the Subject Design, and on information and belief, with full knowledge of the rights of Plaintiff therein, Defendants infringed said copyright by copying said graphic and placing such image on Infringing Garments, and by selling such Infringing Garments in California, elsewhere in the United States, and abroad.

24. All of Defendants' acts were performed without the permission, license or consent of Plaintiff.

25. Defendants' conduct constitutes infringement of Plaintiff's rights in Plaintiff's Subject Design in violation of 17 U.S.C. §101 et seq.

26. Defendants' conduct has caused and continues to cause great and irreparable injury, loss and damage to Plaintiff and its ownership rights in

1 Plaintiff's Pattern, and, unless such acts are enjoined, they will continue to cause
2 such injury. Plaintiff has no adequate remedy at law.

3 27. Plaintiff is entitled to an injunction restraining defendants, their
4 officers, directors, agents, employees, representatives and all persons acting in
5 concert with them from engaging in further such acts of copyright infringement.

6 28. Due to Defendants' acts of infringement, Plaintiff has suffered
7 substantial damages to its business in an amount to be established at trial.

8 29. Due to Defendants' acts of infringement, Plaintiff has suffered general
9 and special damages in an amount to be established at trial.

10 30. Due to Defendants' acts of copyright infringement as alleged herein,
11 Defendants, and each of them, have obtained direct and indirect profits they would
12 not otherwise have realized but for their infringement of the Subject Design. As
13 such, Plaintiff is entitled to disgorgement of Defendant's profits directly and
14 indirectly attributable to defendant's infringement of the Subject Design in amounts
15 which are not yet ascertainable but which are estimated to be not less than the
16 jurisdictional minimum of this court.

17 31. Plaintiff is informed and believes and thereon alleges that Defendants,
18 and each of them, have continued to import, manufacture, cause to be manufactured
19 and/or sell Infringing Garments after Plaintiff demanded that they cease and desist
20 from engaging in same. Therefore, Defendants' acts of copyright infringement as
21 alleged above were, and continue to be, willful, intentional and malicious with
22 reckless disregard of the copyright holders rights, subjecting Defendants, and each
23 of them, to liability for statutory damages under Section 50(c)(2) of the Copyright
24 Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
25 infringement. Further, Defendants', and each of their, willful and intentional
26 misappropriation and/or infringement of Plaintiff's copyrighted Subject Design
27 renders Defendants, and each of them, liable for statutory damages as described
28

1 herein. Within the time permitted by law, Plaintiff will make its election between
2 actual damages and statutory damages.

3 **SECOND CLAIM FOR RELIEF**

4 (For Vicarious and/or Contributory Copyright Infringement – Against All
5 Defendants)

6 32. Plaintiff repeats, re-alleges and incorporates herein by reference as
7 though fully set forth the allegations contained in Paragraph 1 through 31,
8 inclusive, of this Complaint.

9 33. Plaintiff is informed and believes and thereon alleges that Defendants,
10 and each of them, knowingly induced, participated in, aided and abetted in and
11 resultantly profited from the illegal reproduction, importation, purchase,
12 distribution and/or sales of product featuring the Subject Design as alleged
13 hereinabove.

14 34. Plaintiff is informed and believes and thereon alleges that Defendants,
15 and each of them, are vicariously liable for the infringement alleged herein because
16 they had the right and ability to supervise the infringing conduct and because they
17 had a direct financial interest in the infringing conduct.

18 35. Defendants' conduct has caused and continues to cause great and
19 irreparable injury, loss and damage to Plaintiff and its ownership rights in
20 Plaintiff's Pattern, and, unless such acts are enjoined, they will continue to cause
21 such injury. Plaintiff has no adequate remedy at law.

22 36. Plaintiff is entitled to an injunction restraining defendants, their
23 officers, directors, agents, employees, representatives and all persons acting in
24 concert with them from engaging in further such acts of copyright infringement.

25 37. By reason of the Defendants', and each of their acts of contributory
26 and/or vicarious infringement as alleged above, Plaintiff has suffered and will
27 continue to suffer substantial damages to its business in amounts which are not yet
28 ascertainable but which are estimated to be not less than the jurisdictional minimum

1 of this court, as well as additional general and special damages in an amount to be
2 established at trial.

3 38. Due to Defendants' acts of contributory and/or vicarious copyright
4 infringement as alleged herein, Defendants, and each of them, have obtained direct
5 and indirect profits they would not otherwise have realized but for their
6 infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of
7 Defendants' profits directly indirectly attributable to Defendants' infringement of
8 the Subject Design, in an amount to be established at trial.

9 39. Plaintiff is informed and believes and thereon alleges that Defendants,
10 and each of them, have continued to manufacture and/or sell Infringing Garments
11 after Plaintiff demanded that they cease and desist from engaging in the same.
12 Therefore, Defendants' acts of copyright infringement as alleged above were, and
13 continue to be, willful, intentional and malicious with reckless disregard of the
14 copyright holders rights, subjecting Defendants, and each of them, to liability
15 therefore, including statutory damages under Section 504(c)(2) of the Copyright
16 Act in the sum of one hundred fifty thousand dollars (\$150,000) per infringement.
17 Further Defendants' and each of their, willful and intentional misappropriation
18 and/or infringement of Plaintiff's copyrighted Subject Design renders Defendant,
19 and each of them, liable for statutory damages as described herein. Within the time
20 permitted by law, Plaintiff will make is election between actual damages and
21 statutory damages.

22 **PRAYER FOR RELIEF**

23 Wherefore, Plaintiff prays for judgment as follows:

24 **Against All Defendants**

25 1. **With Respect to Each Claim for Relief**

26 a. That Defendants, their agents and servants to be enjoined from
27 infringing Plaintiff's copyright in any manner;
28

1 b. That Plaintiff be awarded all profits of Defendants plus all losses of
2 Plaintiff, the exact sum to be proven at the time of trial, or, if elected before final
3 judgment, statutory damages as available under the Copyright Act, 17 U.S.C. §
4 101 et seq.;

5 c. The plaintiff be awarded its attorneys' fees as available under the
6 Copyright Act, U.S.C. § 101 et seq.;

7 d. The defendant, and each of them, account to Plaintiff for their profits
8 and any damages sustained by Plaintiff arising from the foregoing acts of
9 infringement;

10 e. That Plaintiff be awarded pre-judgment interest as allowed by law;

11 f. That Plaintiff be awarded its attorneys' fees and the costs of this
12 action;

13 g. That Plaintiff be awarded such further legal and equitable relief as the
14 Court deems proper.

15 DATED: February 12, 2008

LAW OFFICES OF
HOOTAN TROY FARAHMAND

17
18 By: 

SAM TABIBIAN
Attorneys for Plaintiff
STAR FABRICS, INC.