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9 CHANEL, INC.

10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF** 2:08-cv-00569-PMP-PAL

12 CHANEL, INC.,
13 a New York Corporation,

14 Plaintiff,

15 vs.

16
17 BEAUTY AND AH BEE, INC., a Nevada
corporation, d/b/a BEAUTY AND AH BEE d/b/a
18 BEAUTY & AH BEE, INC. d/b/a BEAUTY & AH
BEE d/b/a BEAUTYNB.COM and SZE WAI
19 CHOW a/k/a SZE WAI CHOW a/k/a DESMOND
CHOW, an individual, d/b/a BEAUTY AND AH
20 BEE d/b/a BEAUTY & AH BEE, INC. d/b/a
BEAUTY & AH BEE d/b/a BEAUTYNB.COM
21 and DOES I-X,

22 Defendants.

) **VERIFIED COMPLAINT FOR**
) **DAMAGES AND INJUNCTIVE**
) **RELIEF**

) **(FILED UNDER SEAL)**

23
24 Plaintiff, CHANEL, INC., a New York corporation ("Chanel") hereby sues Defendants,
25 BEAUTY AND AH BEE, INC., a Nevada corporation, d/b/a BEAUTY AND AH BEE d/b/a
26 BEAUTY & AH BEE, INC. d/b/a BEAUTY & AH BEE d/b/a BEAUTYNB.COM ("Beauty Ah
27 Bee"), and SZE WAI CHOW a/k/a SZE WAI CHOW a/k/a DESMOND CHOW, an individual,
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d/b/a BEAUTY AND AH BEE d/b/a BEAUTY & AH BEE, INC. d/b/a BEAUTY & AH BEE d/b/a BEAUTYNB.COM ("Chow") and DOES 1 – 10 (collectively "Defendants") and alleges as follows:

JURISDICTION AND VENUE

1. This is an action pursuant to (i) 15 U.S.C. §§ 1114, 1116, 1121 and 1125(a). Accordingly, this Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338. Venue is proper in this Court pursuant 28 U.S.C. § 1391 since the named Defendants conduct business in this Judicial District.

THE PARTIES

2. Chanel is a corporation duly organized under the laws of the State of New York with its principal place of business in the United States located at Nine West 57th Street, New York, New York 10019. Chanel is, in part, engaged in the business of manufacturing and distributing throughout the world, including within this Judicial District, high quality jewelry products, namely bracelets, earrings, necklaces, pendants, and rings, and hair accessories and belts under Federally registered trademarks, including but not limited to CC MONOGRAM, and CHANEL (collectively the "Chanel Marks").

3. Chow is an individual who, upon information and belief conducts business at 3111 South Valley View Boulevard, Unit L120, Las Vegas, Nevada 89102, and Beauty Ah Bee is a corporation organized under the laws of the State of Nevada, with a principal place of business located at 3111 South Valley View Boulevard, Unit L120, Las Vegas, Nevada 89102. Each named Defendant conducts business within this jurisdiction. Chow and Beauty Ah Bee are the moving and conscious forces behind the operation of "Beauty And Ah Bee," "Beauty& Ah Bee, Inc.," "Beauty & Ah Bee," and "Beautynb.com."

4. Upon information and belief, Chow and Beauty Ah Bee are directly engaging in the sale of counterfeit and infringing products within this District as alleged herein.

5. Defendant Does 1-5 are, upon information and belief, individuals who reside and/or conduct substantial business within this Judicial District. Further, Does 1-5 are directly and personally contributing, inducing and engaging in the sale of counterfeit products as alleged herein

as partners or suppliers to the named Defendants. Chanel is presently unaware of the true names of Does 1-5. Chanel will amend this Complaint upon discovery of the identities of such fictitious Defendants.

6. Defendants Does 6-10 are business entities which, upon information and belief, reside and/or conduct business within this Judicial District. Moreover, Does 6-10 are, upon information and belief, directly engaging in the sale of counterfeit products as alleged herein as partners or suppliers to the named Defendants. Chanel is presently unaware of the true names of Does 6-10. Chanel will amend this Complaint upon discovery of the identities of such fictitious Defendants.

COMMON FACTUAL ALLEGATIONS

7. Chanel is the owner of the following United States Federal Trademark Registrations:

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
CHANEL	0,612,169	September 13, 1955
CHANEL	0,902,190	November 10, 1970
CC MONOGRAM	1,501,898	August 30, 1988
CHANEL	3,133,139	August 22, 2006
CC MONOGRAM	3,025,936	December 13, 2005

which are registered in International Classes 14, 25 and 26 and are used in connection with the manufacture and distribution of, among other things, high quality jewelry products, including, bracelets, earrings, necklaces, pendants, rings, and hair accessories and belts.

8. The Chanel Marks have been used in interstate commerce to identify and distinguish Chanel's high quality jewelry products, including, bracelets, earrings, necklaces, pendants, rings, and hair accessories and belts, and other goods for an extended period of time.

1 9. The Chanel Marks have never been assigned or licensed to any of the Defendants in
2 this matter.

3 10. The Chanel Marks are symbols of Chanel's quality, reputation and goodwill and have
4 never been abandoned.

5 11. Further, Chanel has expended substantial time, money and other resources
6 developing, advertising and otherwise promoting the Chanel Marks. The Chanel Marks qualify as
7 famous marks as that term is used in 15 U.S.C. §1125(c)(1).
8

9 12. Chanel has extensively used, advertised and promoted the Chanel Marks in the
10 United States in association with the sale of high quality jewelry products, including, bracelets,
11 earrings, necklaces, pendants, rings, and hair accessories and belts, and other goods and has carefully
12 monitored and policed the use of the Chanel Marks.
13

14 13. As a result of Chanel's efforts, members of the consuming public readily identify
15 merchandise bearing the Chanel Marks, as being high quality merchandise sponsored and approved
16 by Chanel.

17 14. Accordingly, the Chanel Marks have achieved secondary meaning as identifiers of
18 high quality jewelry products, including, bracelets, earrings, necklaces, pendants, rings, and hair
19 accessories and belts and other goods.
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21 15. Upon information and belief, at all times relevant hereto, the Defendants in this action
22 had full knowledge of Chanel's ownership of the Chanel Marks, including its exclusive right to use
23 and license such intellectual property and the goodwill associated therewith.

24 16. Chanel has discovered the Defendants are promoting and otherwise advertising,
25 distributing, selling and/or offering for sale counterfeit products, including at least jewelry products,
26 including, bracelets, earrings, necklaces, pendants, rings, and hair accessories and belts bearing
27 trademarks which are exact copies of the Chanel Marks (the "Counterfeit Goods"). Specifically,
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1 upon information and belief, the Defendants are using the Chanel Marks in the same stylized
2 fashion, for different quality goods.

3 17. Upon information and belief, the Defendants' Counterfeit Goods are of a quality
4 substantially different than that of Chanel's genuine goods. Despite the nature of their Counterfeit
5 Goods and the knowledge they are without authority to do so, the Defendants, upon information and
6 belief, are actively using, promoting and otherwise advertising, distributing, selling and/or offering
7 for sale substantial quantities of their Counterfeit Goods with the knowledge that such goods will be
8 mistaken for the genuine high quality products offered for sale by Chanel. The net effect of the
9 Defendants' actions will be to result in the confusion of consumers who will believe the Defendants'
10 Counterfeit Goods are genuine goods originating from and approved by Chanel.
11

12 18. The Defendants advertise their Counterfeit Goods for sale to the consuming public.
13 In so advertising these products, the Defendants use the Chanel Marks. Indeed, the Defendants
14 herein misappropriated Chanel's advertising ideas and entire style of doing business with regard to
15 the advertisement and sale of Chanel's genuine products. Upon information and belief, the
16 misappropriation of Chanel's advertising ideas in the form of the Chanel Marks has occurred, in
17 part, in the course of Defendants' advertising activities and has been the proximate cause of damage
18 to Chanel.
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20 19. Upon information and belief, the Defendants are conducting their counterfeiting and
21 infringing activities at least within this Judicial District and elsewhere throughout the United States.
22 As a result, the Defendants are defrauding Chanel and the consuming public for the Defendants' own
23 benefit. Defendants' infringement and disparagement of Chanel does not simply amount to the
24 wrong description of their goods or the failure of the goods to conform to the advertised quality or
25 performance.
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1 20. The Defendants' use of the Chanel Marks, including the promotion and advertising,
2 reproduction, distribution, sale and offering for sale of their Counterfeit Goods, is without Chanel's
3 consent or authorization.

4 21. Further, the Defendants are engaging in the above-described illegal counterfeiting and
5 infringing activities knowing and intentionally or with reckless disregard or willful blindness to
6 Chanel's rights for the purpose of trading on the goodwill and reputation of Chanel. If the
7 Defendants' intentional counterfeiting and infringing activities are not preliminarily and permanently
8 enjoined by this Court, Chanel and the consuming public will continue to be damaged.

9 22. The Defendants' above identified infringing activities are likely to cause confusion,
10 deception and mistake in the minds of consumers, the public and the trade. Moreover, the
11 Defendants' wrongful conduct is likely to create a false impression and deceive customers, the
12 public and the trade into believing there is a connection or association between Chanel's genuine
13 goods and the Defendants' Counterfeit Goods.

14 23. Chanel has no adequate remedy at law.

15 24. Chanel is suffering irreparable injury and has suffered substantial damages as a result
16 of the Defendants' counterfeiting and infringing activities.

17 25. The injuries and damages sustained by Chanel have been directly and proximately
18 caused by the Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell,
19 and sale of their Counterfeit Goods.

20 26. Chanel has retained the undersigned counsel to represent them in this matter and is
21 obligated to pay said counsel a reasonable fee for such representation.

22 **COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT**

23 27. Chanel hereby readopts and re-alleges the allegations set forth in Paragraphs 1
24 through 26 above.

1 28. This is an action for trademark counterfeiting and infringement against the
2 Defendants based on their promotion, advertisement, distribution, sale and/or offering for sale of the
3 Counterfeit Goods bearing the Chanel Marks.

4 29. Specifically, are promoting and otherwise advertising, selling, offering for sale and
5 distributing counterfeit and infringing jewelry products, including, bracelets, earrings, necklaces,
6 pendants, rings, and hair accessories and belts bearing the Chanel Marks. The Defendants are
7 continuously infringing and inducing others to infringe the Chanel Marks by using them to advertise,
8 promote and sell counterfeit jewelry products, including, bracelets, earrings, necklaces, pendants,
9 rings, and hair accessories and belts.

10 30. Defendants' counterfeiting and infringing activities are likely to cause and actually
11 are causing confusion, mistake and deception among members of the trade and the general
12 consuming public as to the origin and quality of Defendants' Counterfeit Goods bearing the Chanel
13 Marks.

14 31. The Defendants' unlawful actions have caused and are continuing to cause
15 unquantifiable damages to Chanel.

16 32. Defendants' above-described illegal actions constitute counterfeiting and
17 infringement of the Chanel Marks in violation of Chanel's rights under § 32 of the Lanham Act, 15
18 U.S.C. § 1114.

19 33. Chanel has suffered and will continue to suffer irreparable injury due to the above
20 described activities of the Defendants if the Defendants are not preliminarily and permanently
21 enjoined.

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**COUNT II - FALSE DESIGNATION OF ORIGIN
PURSUANT TO § 43(a) OF THE LANHAM ACT**

34. Chanel hereby readopts and re-alleges the allegations set forth in Paragraphs 1 through 26 above.

35. The Defendants' Counterfeit Goods bearing and sold under the Chanel Marks have been widely advertised and distributed throughout the United States.

36. The Defendants' Counterfeit Goods bearing and sold under the Chanel Marks are virtually identical in appearance to each of Chanel's respective genuine goods. However, the Counterfeit Goods are different and likely inferior in quality. Accordingly, the Defendants' activities are likely to cause confusion in the trade and among the general public as to at least the origin or sponsorship of the Counterfeit Goods.

37. The Defendants, upon information and belief, have used in connection with their sale of Counterfeit Goods, false designations of origins and false descriptions and representations, including words or other symbols and trade dress which tend to falsely describe or represent such goods and have caused such goods to enter into commerce with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to the detriment of Chanel.

38. Specifically, the Defendants have authorized an infringing use of the Chanel Marks, in the Defendants' advertisement and promotion of their counterfeit and infringing jewelry products, including, bracelets, earrings, necklaces, pendants, rings, and hair accessories and belts. The Defendants, have misrepresented to members of the consuming public that the Counterfeit Goods being advertised and sold by them are genuine, non-infringing products.

39. The Defendants' above-described actions are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

6 41. WHEREFORE, Chanel demands judgment jointly and severally against the
7 Defendants as follows:

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b. The Defendants be required to account to and pay Chanel for all profits and damages resulting from Defendants' trademark infringing and counterfeiting activities and that the award to Chanel be trebled, as provided for under 15 U.S.C. §1117, or, at Chanel's election with respect to Count I, that Chanel be awarded statutory damages from each Defendants in the amount of one million dollars (\$1,000,000.00) per each counterfeit Chanel Mark used and product sold, as provided by 15 U.S.C. §1117(c)(2) of the Lanham Act.

c. Chanel be awarded punitive damages.

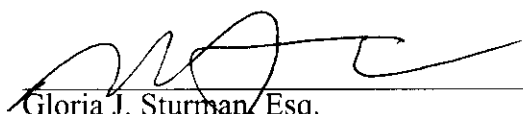
d. Chanel be awarded pre-judgment interest on its respective judgment.

e. Chanel be awarded its costs and reasonable attorneys' fees and investigators' fees associated with bringing this action.

f. Chanel be awarded such other and further relief as the Court may deem just and proper.

DATED this 6 day of May, 2008.

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DICKER LLP**


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