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2008 JUL 16 PM 1:56

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

BY

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DONIGER LAW FIRM

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7 Telephone (310) 590-1820

8 Facsimile (310) 417-3538

9 Attorneys for Plaintiff

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

12 **CV 08-04641 AHM (RCx)**

Case No.:

13 **EKB TEXTILES, INC., a California**
14 **Corporation**

15 **Plaintiff,**

16 **vs.**

17 **MACY'S DEPARTMENT STORES,**
18 **INC., an Ohio Corporation; MACY'S**
19 **WEST, L.L.C., an Ohio Corporation; G**
20 **SQUARED FASHION, INC., a California**
21 **Corporation; NINEYARD CO., a**
22 **California Corporation; and DOES 1-10**

23 **Defendants.**

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS/CONTRIBUTORY COPYRIGHT INFRINGEMENT

Jury Trial Demanded

24
25 **EKB Textiles, Inc. ("Plaintiff"), by and through its undersigned attorneys,**
26 **hereby prays to this honorable Court for relief based on the following:**
27
28

INTRODUCTION

Plaintiff creates unique designs and silk-screens, prints and manufactures rotary printed textiles, primarily for use in the garment industry. This action is brought to recover damages for direct, vicarious and contributory copyright infringement arising out of the misappropriation of Plaintiff's intellectual property by the Defendants, and each of them.

JURISDICTION AND VENUE

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

2. This Court has federal question jurisdiction under 28 U.S.C. § 1331m 1338 (a) and (b).

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

PARTIES

4. Plaintiff EKB Textiles, Inc. is a corporation organized and existing under the laws of the State of California with its principal place of business located at 777 E. Washington Blvd., Los Angeles, CA 90021.

5. Plaintiff is informed and believes and thereon alleges that Defendant MACY'S DEPARTMENT STORES, INC. ("MACY'S") is a corporation organized and existing under the law of the State of Ohio with its principle place of business located at 7 West Seventh Street, Cincinnati, OH 45202.

6. Plaintiff is informed and believes and thereon alleges that Defendant MACY'S WEST, LLC., is a corporation organized and existing under the law of the State of Ohio with its principle place of business located at 7 West Seventh Street, Cincinnati, OH 45202.

1 7. Plaintiff is informed and believes and thereon alleges that Defendant G
2 SQUARED FASHIONS, INC. ("G SQUARED") is a corporation organized and
3 existing under the law of the State of California with its principle place of business
4 located at 1710 Hooper Avenue, Los Angeles, CA 90021.

5 8. Plaintiff is informed and believes and thereon alleges that Defendant
6 NINEYARD CO. is a corporation organized and existing under the law of the State
7 of California with its principle place of business located at 725 S. Ceres Avenue, Los
8 Angeles, CA 90021.

9 9. Plaintiff is informed and believes and thereon alleges that some of
10 Defendants DOES 1 through 3, inclusive, are manufacturers and/or vendors of
11 garments to Defendant, which DOE Defendants have manufactured and/or supplied
12 and are manufacturing and/or supplying garments comprised of fabrics printed with
13 Plaintiff's copyrighted Designs No. 3362 and 3297 (as hereinafter defined) without
14 Plaintiff's knowledge or consent or have contributed to said infringement. The true
15 names, whether corporate, individual or otherwise of Defendants DOES 1-3,
16 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
17 by such fictitious names and will seek leave to amend this complaint to show their
18 true names and capacities when same have been ascertained.

19 10. Defendants DOES 4 through 10, inclusive, are other parties not yet
20 identified who have infringed Plaintiff's copyrights, have contributed to the
21 infringement of Plaintiff's copyrights, or have engaged in one or more of the
22 wrongful practices alleged herein. The true names, whether corporate, individual or
23 otherwise, of Defendants 4 through 10, inclusive, are presently unknown to Plaintiff,
24 which therefore sues said Defendants by such fictitious names, and will seek leave to
25 amend this Complaint to show their true names and capacities when same have been
26 ascertained.

11. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and adopted, or both, each and all of the acts or conduct alleged, with full knowledge of all the facts and circumstances, including, but not limited to, full knowledge of each and every violation of Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

CLAIMS RELATED TO DESIGN NO. 3362 AND 3297

12. Prior to the conduct complained of herein, Plaintiff composed a design assigned Plaintiff's Internal Design Number 3362 ("Subject Design"). A true and correct copy of the Subject Design is attached hereto as Exhibit A.

13. Prior to the conduct complained of herein, Plaintiff composed a design assigned Plaintiff's Internal Design Number 3297 ("Subject Design"). A true and correct copy of the Subject Design is attached hereto as Exhibit B.

14. Plaintiff applied for and received copyright registration for Subject Design No. 3362 on June 18, 2007, with the Subject Design being granted the assignment of Registration No. VA 1-420-495.

15. Plaintiff applied for and received copyright registration for Subject Design No. 3297 on January 22, 2007, with the Subject Design being granted the assignment of Registration No. VA 1-396-031.

16. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's authorization, Defendants, and each of them, purchased, sold, manufactured, caused to be manufactured, imported and/or distributed fabric and/or garment comprised of fabric featuring two designs which are identical to, or substantially similar to, the Subject Designs. (hereinafter "Infringing Garments").

1 17. At various Defendant retail stores, and each of them, across the United
2 States, one or more of Plaintiff's employees found and purchased garments
3 comprised of fabrics bearing the Subject Designs, which garments were
4 manufactured under the direction of the Defendants, and each of them. Plaintiff is
5 informed and believes and thereon alleges that one or more of the named Defendants
6 owns and/or otherwise controls these labels and caused garments under those labels
7 to be manufactured.

8 **FIRST CLAIM FOR RELIEF**

9 (For Copyright Infringement - Against All Defendants)

10 18. Plaintiff repeats, realleges and incorporates herein by reference as though
11 fully set forth the allegations contained in Paragraphs 1 through 18, inclusive, of this
12 Complaint.

13 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
14 each of them, had access to the Subject Designs, including, without limitation,
15 through (a) access to Plaintiff's showroom and/or design library; (b) access to
16 illegally distributed copies of the Subject Designs by third-party vendors and/or
17 DOE Defendants, including without limitation international and/or overseas
18 converters and printing mills; and (c) access to Plaintiff's strike-offs and samples.

19 20. Plaintiff is informed and believes and thereon alleges that one or more of
20 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
21 further informed and believes and thereon alleges that said Defendant(s) has an
22 ongoing business relationship with Defendant retailer, and each of them, and
23 supplied garments to said retailer, which garments infringed the Subject Designs in
24 that said garment was composed of fabrics which featured two unauthorized print
25 designs that were identical or substantially similar to the two Subject Designs.

26 21. Plaintiff is informed and believes and thereon alleges that Defendants, and
27 each of them, infringed Plaintiff's copyrights by creating, making and/or developing
28

1 directly infringing and/or derivative works from the Subject Designs and by
2 producing, distributing and/or selling Infringing Garments through a nationwide
3 network of retail stores and through on-line websites.

4 22. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
5 damages to its business in an amount to be established at trial.

6 23. Due to Defendants' acts of infringement, Plaintiff has suffered general and
7 special damages in an amount to be established at trial.

8 24. Due to Defendants' acts of copyright infringement as alleged herein,
9 Defendants, and each of them, have obtained direct and indirect profits they would
10 not otherwise have realized but for their infringement of the Subject Designs. As
11 such, Plaintiff is entitled to disgorgement of Defendant's profits directly and
12 indirectly attributable to Defendant's infringement of the Subject Designs in an
13 amount to be established at trial.

14 **SECOND CLAIM FOR RELIEF**

15 (For Vicarious and/or Contributory Copyright Infringement - Against All
16 Defendants)

17 25. Plaintiff repeats, realleges and incorporates herein by reference as though
18 fully set forth the allegations contained in Paragraphs 1 through 26, inclusive, of this
19 Complaint.

20 26. Plaintiff is informed and believes and thereon alleges that Defendants
21 knowingly induced, participated in, aided and abetted in and profited from the illegal
22 reproduction and/or subsequent sales of garments featuring the Subject Designs as
23 alleged hereinabove.

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

28. By reason of the Defendants', and each of their, acts of contributory infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

29. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Designs. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Designs, in an amount to be established at trial.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

Against All Defendants

1. With Respect to Each Claim for Relief

- a. That Defendants, their agents and servants be enjoined from infringing Plaintiff's copyrights in any manner;
- b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts of infringement;
- e. That Plaintiff be awarded pre-judgment interest as allowed by law;

- 1 f. That Plaintiff be awarded the costs of this action; and
2 g. That Plaintiff be awarded such further legal and equitable relief as the
3 Court deems proper.
4

5 Dated: July 14, 2008

DONIGER LAW FIRM, APC

7 By: 

8 Stephen M. Doniger, Esq.
9 Attorneys for Plaintiff
10 L.A. PRINTEX INDUSTRIES, INC.
11

12 **DEMAND FOR TRIAL BY JURY**
13

14 Plaintiff hereby demands a trial by jury in this action pursuant to F.R.C.P. 38
15 and the Seventh Amendment of the Constitution.
16

17 Dated: July 14, 2008

DONIGER LAW FIRM, APC

19 By: 

20 Stephen M. Doniger, Esq.
21 Attorneys for Plaintiff
22 EKB TEXTILES, INC.
23
24
25
26
27
28

Exhibit A



Certificate of Registration



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.

Marybeth Peters

Register of Copyrights, United States of America

FORM VA

For a Work of the Visual Arts

VA 1-420-495



EFFECTIVE DATE OF REGISTRATION

6-18-07
Month Day Year

STATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

NATURE OF THIS WORK ▼ See instructions

* **EKB DESIGN** 3360, 3361, 3362, 3363, **Fabric Print Design**
PREVIOUS OR ALTERNATIVE TITLES ▼ 3364, 3502, 3623, 3348

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. **Title of Collective Work** ▼

If published in a periodical or serial give: **Volume** ▼ **Number** ▼ **Issue Date** ▼ **On Pages** ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ **Year Died** ▼

Was this contribution to the work a "work made for hire"? ☒ Yes ☐ No

Author's Nationality or Domicile
Name of Country

OR ☒ Citizen of ☐ Domiciled in **USA**

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

- ☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☒ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ **Year Died** ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

Author's Nationality or Domicile
Name of Country

OR ☐ Citizen of ☐ Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

- ☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

Year in Which Creation of This Work Was Completed 2006

This information must be given in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month 12 Day 11 Year 2006

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Caribbean Blues, Inc. d/b/a/ EKB Textiles
777 E. Washington Blv.
Los Angeles Ca. 90021

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

By Assignment

APPLICATION RECEIVED

JUN 18 2007

ONE DEPOSIT RECEIVED

JUN 18 2007

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

See instructions before completing this space.

DO NOT WRITE NAME OFFICE USE ONLY

EXAMINED BY

FORM VA

CHECKED BY

☐ CORRESPONDENCE

Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

*Collection indexed under first title

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▾

- a. ☐ This is the first published edition of a work previously registered in unpublished form.
- b. ☐ This is the first application submitted by this author as copyright claimant.
- c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▾

Year of Registration ▾

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▾

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▾

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▾

Account Number ▾

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▾

Caribbean Blues, Inc.

d/b/a EKB Textiles

777 E. Washington Blvd.

Los Angeles Ca 90021

Area code and daytime telephone number ▶ 213) 749-3666

Fax number ▶ (213) 749-6034

Email ▶

CERTIFICATION* I, the undersigned, hereby certify that I am the

check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive right(s) Caribbean Blues☒ authorized agent of d/b/a EKB Textiles

Name of author or other copyright claimant, or owner of exclusive right(s) A

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▾ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Kambiz Kashani

Date ▶

5/30/07

Handwritten signature (X) ▾

Certificate
will be
mailed in
window
envelope
to this
address:

Name ▾

Caribbean Blues, Inc.

d/b/a EKB Textiles

Number/Street/Apt ▾

777 E. Washington Blvd.

City/State/ZIP ▾

Los Angeles, Ca. 90021

YOU MUST

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL ELEMENTS
IN THE SAME PACKAGE

1. Application form
2. Nonrefundable filing fee in check or money
3. Deposit material

MAIL TO

Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20540-8000

Exhibit B



Certificate of Registration



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.

Marybeth Peters

Register of Copyrights, United States of America

FORM VA
For a Work of the Visual Arts
UNITED STATES COPYRIGHT OFFICE

REG# **VA 1-396-031**



EFFECTIVE DATE OF REGISTRATION

JAN 22 2007

Month Day Year

TITLE OF THIS WORK ▼

NATURE OF THIS WORK ▼ See instructions

EKB DESIGN#

3297

Fabric Print Design

PREVIOUS OR ALTERNATIVE TITLES ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial or collection, give information about the collective work in which the contribution appeared **Title of Collective Work ▼**

If published in a periodical or serial give **Volume ▼** **Number ▼** **Issue Date ▼** **On Page ▼**

NAME OF AUTHOR ▼

2 a Creations Robert Vernet

DATES OF BIRTH AND DEATH

Year Born ▼ **Year Died ▼**

Was this contribution to the work a "work made for hire"?

☒ Yes
☐ No

Author's Nationality or Domicile
Name of Country

OR **Citizen of ▼** **Domiciled in ▼** **USA**

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes" see detailed instructions

NATURE OF AUTHORSHIP Check appropriate box(es) **See instructions**

☐ 3 Dimensional sculpture

☐ Map

☐ Technical drawing

☒ 2 Dimensional artwork

☐ Photograph

☐ Text

☐ Reproduction of work of art

☐ Jewelry design

☐ Architectural work

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH

Year Born ▼ **Year Died ▼**

Was this contribution to the work a "work made for hire"?

☐ Yes
☐ No

Author's Nationality or Domicile
Name of Country

OR **Citizen of ▼** **Domiciled in ▼**

Was This Author's Contribution to the Work

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☐ 3-Dimensional sculpture

☐ Map

☐ Technical drawing

☐ 2 Dimensional artwork

☐ Photograph

☐ Text

☐ Reproduction of work of art

☐ Jewelry design

☐ Architectural work

Year in Which Creation of This Work Was Completed

2004

This information must be given in all cases

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published

Month **10** Day **10** Year **04**

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Caribbean Blues, Inc. d/b/a/ EKB Textiles
777 E. Washington Blv.
Los Angeles Ca. 90021

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2 give a brief statement of how the claimant(s) obtained ownership of the copyright ▼

By Assignment

Complete all applicable spaces (numbers 5-8) on the reverse side of this form

APPLICATION RECEIVED

JAN 22 2007

ONE DEPOSIT RECEIVED

JAN 22 2007

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

See instructions before completing this space

DO NOT WRITE HERE OFFICE USE ONLY

DO NOT WRITE HERE

EXAMINED BY *G.M.*

FORM VA

CHECKED BY

☐ CORRESPONDENCE

Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET

PREVIOUS REGISTRATION Has registration for this work or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes, why is another registration being sought?" (Check appropriate box) ▼a. ☐ This is the first published edition of a work previously registered in unpublished formb. ☐ This is the first application submitted by this author as copyright claimantc. ☐ This is a changed version of the work, as shown by space 6 on this application

If your answer is "Yes," give Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work, complete only 6b for a compilation

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

See instructions
before completing
this space

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account

Name ▼

Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent Name/Address/Apt/City/State/ZIP ▼

Caribbean Blues, Inc.
d/b/a EKB Textiles
777 E. Washington Blvd.
Los Angeles Ca 90021

Area code and daytime telephone number ▶ 213) 749-3666

Fax number ▶ (213) 749-6034

Email ▶

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive right(s) Caribbean Blues☒ authorized agent of d/b/a EKB Textiles

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

Typed or printed name and date ▼ If this application gives a date of publication in space 3 do not sign and submit it before that date

Kambiz Kashani

Date ▶

12/26/06

Handwritten signature (X) ▼

Certificate
will be
mailed in
window
envelope
to this
address

Name ▼	Caribbean Blues, Inc. d/b/a EKB Textiles
Number/Street/Apt ▼	777 E. Washington Blvd.
City/State/ZIP ▼	Los Angeles, Ca. 90021

YOU MUST

Complete all necessary spaces
Sign your application in space 8

SEND ALL FEES IN THE ENVELOPE

1 Application form
2 Nonrefundable filing fee in check or money
order payable to Register of Copyrights
3 Deposit material

MAIL TO
Library of Congress
Copyright Office
101 Independence Avenue S.E.
Washington D.C. 20559-6000

As of July 1, 1998,
the filing fee for
Form VA is \$30

**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 A. Howard Matz and the assigned discovery Magistrate Judge is Rosalyn M. Chapman.

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

CV08- 4641 AHM (RCx)

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 motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Stephen M. Doniger, Esq. (SBN 173514)
 Scott A. Burroughs, Esq. (SBN 235718)
 DONIGER LAW FIRM APC
 300 Corporate Pointe, Suite 355
 Culver City, California 90230
 Telephone: (310)590-1820

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

EKB TEXTILES, INC., a California Corporation,

PLAINTIFF(S)

v.

MACY'S DEPARTMENT STORES, INC., an Ohio
 Corporation; et al.,

[See Attached "Schedule A"]

DEFENDANT(S).

CASE NUMBER

CV 08-04641 AHM (RCx)

SUMMONS

TO: DEFENDANT(S): Macy's Department Stores, Inc.; et al.

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Stephen M. Doniger, Esq., whose address is DONIGER LAW FIRM APC, 300 Corporate Pointe, Suite 355, Culver City, CA 90230. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 16 2008

By: LA'REE HORN
 Deputy Clerk



[Use 60 days if the defendant is the United States or a United States agency, or is an officer, contractor, or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

1192

"Schedule A"

EKB TEXTILES, INC., a California Corporation

Plaintiff,

vs.

MACY'S DEPARTMENT STORES, INC., an Ohio Corporation; MACY'S WEST, L.L.C., an Ohio Corporation; G SQUARED FASHION, INC., a California Corporation; NINEYARD CO., a California Corporation; and DOES 1-10

Defendants.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETI (a) PLAINTIFFS (Check box if you are representing yourself ☐)
EKB TEXTILES, INC.

DEFENDANTS

MACY'S DEPARTMENT STORES, INC., an Ohio Corporation; et al.

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Stephen M. Doniger, Esq. (SBN 179314)
Doniger Law Firm APC, 300 Corporate Pte., Suite 355, Culver City, CA 90230
Telephone: (310) 590-1820

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No☐ MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL PROPERTY	PETITIONS	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 Habeas Corpus	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE / PENALTY	<input checked="" type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	REAL PROPERTY	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	IMMIGRATION	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number:

CV08-04641

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

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

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
EKB TEXTILES, INC.- Los Angeles County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
G-SQUARED FASHION, INC.- Los Angeles NINEYEARD CO.- Los Angeles	MACY'S DEPARTMENT STORES, INC.- Ohio MACY'S WEST, L.L.C.- Ohio

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ **Date** July 15, 2008

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	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	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	DIWW	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	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 the Social Security Act, as amended. (42 U.S.C. (g))