

ORIGINAL

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07 SEP 11 PM 1:08

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:

*POU*

DEPUTY

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10 Attorneys for Plaintiff  
11 CHANEL, INC., a New York Corporation

12 UNITED STATES DISTRICT COURT  
13 SOUTHERN DISTRICT OF CALIFORNIA

14 CHANEL, INC., a New York corporation,

15 Plaintiff,

16 v.

17 TING XU a/k/a ROBERT XU d/b/a  
18 REDTAGPARTY.COM d/b/a  
19 SURISBOUTIQUE.COM d/b/a  
20 WALLETFASHION.COM d/b/a  
21 SURIBOUTIQUE d/b/a TX02006 d/b/a  
22 YBAGS.COM, WEIXING LI d/b/a  
23 REDTAGPARTY.COM d/b/a  
24 SURISBOUTIQUE.COM d/b/a  
25 WALLETFASHION.COM d/b/a  
26 SURIBOUTIQUE d/b/a TX02006 d/b/a  
27 YBAGS.COM, and DOES 1-10,

28 Defendants.

Case No.

'07 CV 1783

JAH AJB

COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF

29 Plaintiff, CHANEL, INC., a New York corporation ("Chanel") hereby sues Defendant TING  
30 XU a/k/a ROBERT XU d/b/a RedTagParty.Com d/b/a SurisBoutique.Com d/b/a WalletFashion.Com  
31 d/b/a SurisBoutique d/b/a TX02006 d/b/a YBags.Com ("Xu"), and Defendant WEIXING LI d/b/a  
32 RedTagParty.Com d/b/a SurisBoutique.Com d/b/a WalletFashion.Com d/b/a SurisBoutique d/b/a  
33 TX02006 d/b/a YBags.Com ("Li"), and DOES 1-10 (collectively "Defendants") and alleges as  
34 follows:

*CR*

1 **JURISDICTION AND VENUE**

2 1. This is an action brought pursuant to 15 U.S.C. §§ 1114, 1116, 1121, and 1125.  
3 Furthermore, this is an action where diversity of citizenship exists and the amount in dispute exceeds  
4 \$75,000.00. Accordingly, this Court has jurisdiction under 28 U.S.C. §§ 1331, 1332, and 1338.  
5 Venue is proper in this Court pursuant 28 U.S.C. § 1391 since Defendants' principal place of doing  
6 business is within this District and Defendants conduct substantial business activities within this  
7 District. Furthermore, Defendants are subject to personal jurisdiction in this District since  
8 Defendants are conducting business within this District through various fully interactive Internet  
9 websites, including, but not limited to, "RedTagParty.com," "SurisBoutique.com,"  
10 "WalletFashion.com," and "YBags.com."

11 **THE PARTIES**

12 2. Plaintiff Chanel, Inc. (hereafter "Chanel") is a corporation duly organized under the  
13 laws of the State of New York with its principal place of business in the United States located at  
14 Nine West 57th Street, New York, New York 10019. Chanel is, in part, engaged in the business of  
15 manufacturing and distributing throughout the world, including within this District, high quality  
16 handbags, wallets, and watches under the federally registered trademarks CHANEL and CC  
17 MONOGRAM (collectively the "Chanel Marks").

18 3. Defendant Ting Xu a/k/a Robert Xu (hereafter "Xu") is an individual, who upon  
19 information and belief, resides and conducts business within this District at 5757 Lake Murray Blvd.  
20 #98, La Mesa, San Diego County, California 91942, and who, upon information and belief, also  
21 conducts business at 945 Desmet Dr., San Jose, California 95125, and within this District at 9037  
22 Campina Dr. #C, La Mesa, California 91942, and 1642 Drexel Drive, Lemon Grove, California  
23 91945 in San Diego County, California. Xu does business as and/or uses as aliases the names  
24 "RedTagParty.com," "SurisBoutique.com," "WalletFashion.com," "Suriboutique," "TX02006," and  
25 "YBags.com" to operate his business.

26 4. Upon information and belief, Xu is directly and personally engaging in the sale of  
27 counterfeit and infringing products within this District as alleged herein.

28



1	CHANEL	1,347,677	July 9, 1985
2	CHANEL	1,571,787	December 19, 1989
3	CHANEL	1,733,051	November 17, 1992
4	CC MONOGRAM	1,734,822	November 24, 1992
5	J12	2,559,772	April 9, 2002
6	CC MONOGRAM	3,022,708	December 6, 2005
7	CC MONOGRAM	3,025,934	December 13, 2005
8	CHANEL	1,133,139	August 22, 2006

10 The Chanel Marks are registered in International Classes 14 and 18 and are used in connection with  
 11 the manufacture and distribution of, among other things, handbags, wallets, and watches. The  
 12 Chanel Marks have been used in interstate commerce to identify and distinguish Chanel's high  
 13 quality handbags, wallets, watches and other products for an extended period of time.

14 10. The Chanel Marks have never been assigned or licensed to any of the Defendants in  
 15 this matter.

16 11. The Chanel Marks are symbols of Chanel's quality, reputation, and goodwill and have  
 17 never been abandoned.

18 12. Further, Chanel has expended substantial time, money, and other resources  
 19 developing, advertising and otherwise promoting the Chanel Marks. The Chanel Marks qualify as  
 20 "famous marks" as that term is used in 15 U.S.C. § 1125(c)(1).

21 13. Chanel has extensively used, advertised, and promoted the Chanel Marks in the  
 22 United States in association with the sale of high quality handbags, wallets, watches, and other goods  
 23 and has carefully monitored and policed the use of the Chanel Marks.

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

27 15. Accordingly, the Chanel Marks have achieved secondary meaning as identifiers of  
 28 high quality handbags, wallets, watches and other goods.

1           16. Upon information and belief, at all times relevant hereto, the Defendants in this action  
2 had full knowledge of Chanel's ownership of the Chanel Marks, including Chanel's exclusive right  
3 to use and license the Chanel Marks and the goodwill associated therewith.

4           17. Chanel has discovered the Defendants are promoting and otherwise advertising,  
5 distributing, selling and/or offering for sale counterfeit products, including but not limited to, high  
6 quality handbags, wallets, and watches bearing trademarks which are exact copies of the Chanel  
7 Marks (hereafter the "Counterfeit Goods"). Specifically, upon information and belief, Defendants  
8 are using the Chanel Marks in the same stylized fashion for different and inferior quality goods.

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

18           19. Upon information and belief, Defendants import and/or manufacture their Counterfeit  
19 Goods and advertise those goods for sale to the consuming public. In so advertising these products,  
20 Defendants use the Chanel Marks. Defendants herein, upon information and belief, misappropriated  
21 Chanel's advertising ideas and style of doing business with regard to the advertisement and sale of  
22 Chanel's genuine products. Upon information and belief, the misappropriation of Chanel's  
23 advertising ideas in the form of the Chanel Marks has occurred, in part, in the course of Defendants'  
24 advertising activities and has been a proximate cause of damage to Chanel.

25           20. Upon information and belief, Defendants are conducting their counterfeiting and  
26 infringing activities within this Judicial District and elsewhere throughout the United States.  
27 Defendants' infringement and disparagement of Chanel's trademark rights does not simply amount  
28 to a wrong description of Defendants' goods or the failure of the goods to conform to the advertised

1 quality or performance. As a result, Defendants are defrauding Chanel and the consuming public for  
2 Defendants' own benefit.

3 21. Defendants' use of the Chanel Marks, including the manufacture, importation,  
4 promotion, advertisement, distribution, sale and/or offering for sale of their Counterfeit Goods, is  
5 without Chanel's consent or authorization.

6 22. Further, Defendants, upon information and belief, are engaging in the above-  
7 described illegal counterfeiting and infringing activities knowingly or with reckless disregard or  
8 willful blindness to Chanel's rights, for the purpose of trading on the goodwill and reputation of  
9 Chanel. If Defendants' counterfeiting and infringing activities are not preliminarily and permanently  
10 enjoined by this Court, Chanel and the consuming public will continue to be damaged.

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

16 24. Chanel has no adequate remedy at law.

17 25. Chanel is suffering irreparable injury and has suffered substantial damages as a result  
18 of Defendants' counterfeiting and infringing activities.

19 26. The injuries and damages sustained by Plaintiff are directly and proximately caused  
20 by Defendants' wrongful acts of importation and/or manufacture, advertisement, promotion,  
21 distribution, sale and/or offering for sale of their Counterfeit Goods.

22 27. Chanel has retained the undersigned counsel to represent it in this matter and is  
23 obligated to pay said counsel a reasonable fee for such representation.

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

25 28. Plaintiff hereby readopts and re-alleges the allegations set forth in Paragraphs 1  
26 through 27 above.

27  
28

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

4           30. Specifically, Defendants, upon information and belief, are importing and/or  
5 manufacturing, promoting and otherwise advertising, selling, offering for sale and distributing  
6 counterfeit and infringing handbags, wallets, and/or watches bearing the Chanel Marks. Defendants  
7 are continuously infringing and inducing others to infringe the Chanel Marks by using them to  
8 advertise, promote, and/or sell counterfeit handbags, wallets, watches, and other goods.

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

12           32. Defendants' unlawful actions have caused and are continuing to cause damages to  
13 Chanel.

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

17           34. Chanel has suffered and will continue to suffer irreparable injury due to the above  
18 described activities of Defendants if Defendants are not preliminarily and permanently enjoined.

19   **COUNT II - FALSE DESIGNATION OF ORIGIN**

20   **PURSUANT TO § 43(a) OF THE LANHAM ACT**

21           35. Plaintiff hereby readopts and re-alleges the allegations set forth in Paragraphs 1  
22 through 27 above.

23           36. Defendants' Counterfeit Goods bearing the Chanel Marks have been widely  
24 advertised and distributed throughout the United States.

25           37. Defendants' Counterfeit Goods bearing the Chanel Marks are virtually identical in  
26 appearance to each of Chanel's respective genuine goods. However, the Counterfeit Goods are  
27 different and, likely inferior, in quality. Accordingly, Defendants' activities are causing and/or are  
28



1 likely to cause confusion in the trade and among the general public as to the origin and/or  
2 sponsorship of the Counterfeit Goods.

3 38. Defendants, upon information and belief, have used in connection with their sale of  
4 Counterfeit Goods, false designations of origin and false descriptions and representations, including  
5 words and/or other symbols which tend to falsely describe and/or represent such goods and have  
6 caused such goods to enter into commerce with knowledge of the falsity of such designations of  
7 origin and such descriptions and representations, all to the detriment of Plaintiff.

8 39. Specifically, Defendants, upon information and belief, have authorized an infringing  
9 use of the Chanel Marks, in Defendants' advertisement and promotion of their counterfeit and  
10 infringing handbags, wallets, watches, and other goods. Defendants, upon information and belief,  
11 have misrepresented to members of the consuming public that the Counterfeit Goods being  
12 advertised and sold by them are genuine, non-infringing products.

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

15 41. Chanel has sustained injury and damage caused by Defendants' conduct, and absent  
16 an entry of an injunction by this Court, Plaintiff will continue to suffer irreparable injury to its  
17 goodwill and business reputation as well as monetary damages.

18 **COUNT III - TRADEMARK DILUTION**

19 42. Plaintiff readopts and re-alleges the allegations set forth in Paragraphs 1 through 27  
20 above.

21 43. The Chanel Marks are "famous marks" within the meaning of 15 U.S.C. §1125(c).  
22 The Chanel Marks are advertised and used extensively throughout the United States and the  
23 remainder of the world and are highly recognizable by the trade and the consuming public. Further,  
24 Plaintiff actively polices the use of the Chanel Marks by third parties.

25 44. Defendants are engaged in a commercial use of the Chanel Marks in commerce.

26 45. Defendants' above-described counterfeiting activities are disparaging, damaging, and  
27 lessening the distinctiveness of the Chanel Marks through, among other things, blurring and  
28 tarnishment of said Marks. Indeed, Defendants are publishing materials in their advertising which



1 disparage Chanel's products by, but not limited to, creating an unfair comparison between Chanel's  
2 genuine goods and Defendants' Counterfeit Goods.

3 46. Upon information and belief, Defendants' actions described herein have been engaged  
4 in intentionally or with a reckless disregard for or willful blindness to Chanel's rights for the purpose  
5 of trading on Chanel's reputation and diluting the Chanel Marks.

6 47. As a result of the above-described diluting and disparaging activities of Defendants,  
7 Plaintiff has suffered, and will continue to suffer, irreparable injury and substantial damages, and  
8 Defendants have been wrongfully and unjustly enriched.

9 **PRAYER FOR RELIEF**

10 **WHEREFORE**, Plaintiff demands relief and judgment jointly and severally against  
11 Defendants as follows:

12 a. The Court enter a preliminary and permanent injunction enjoining Defendants,  
13 their agents, representatives, servants, employees, and all those acting in concert or participation  
14 therewith, from manufacturing and/or causing to be manufactured, importing or manufacturing,  
15 advertising or promoting, distributing, selling or offering to sell their Counterfeit Goods; from  
16 infringing, counterfeiting, or diluting the Chanel Marks; from using the Chanel Marks, or any mark  
17 similar thereto, in connection with the sale of any unauthorized goods; from using any logo, trade  
18 name, or trademark which may be calculated to falsely advertise the services or products of  
19 Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with  
20 Plaintiff; from falsely representing themselves as being connected with Plaintiff, through  
21 sponsorship or association, or engaging in any act which is likely to falsely cause members of the  
22 trade and/or of the purchasing public to believe any goods or services of the Defendants are in any  
23 way endorsed by, approved by, and/or associated with Plaintiff; from using any reproduction,  
24 counterfeit, copy, or colorable imitation of the Chanel Marks in connection with the publicity,  
25 promotion, sale, or advertising of any goods sold by Defendants, including, without limitation,  
26 handbags, wallets, watches, and/or any other goods; from affixing, applying, annexing or using in  
27 connection with the sale of any goods, a false description or representation, including words or other  
28 symbols tending to falsely describe or represent Defendants' goods as being those of Plaintiff, or in

1 any way endorsed by Plaintiff and from offering such goods in commerce; and from otherwise  
2 unfairly competing with Plaintiff.

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

9 c. That Plaintiff be awarded punitive damages.

10 d. That Plaintiff be awarded pre-judgment interest on its judgment.

11 e. That Plaintiff be awarded at least treble damages as well as its costs and  
12 reasonable attorneys' fees and investigators' fees associated with bringing this action.


13 f. That Plaintiff be awarded such other and further relief as the Court may deem  
14 just and proper.

15

16 Dated: September 6, 2007

**WILSON PETTY KOSMO & TURNER LLP**

17

18 By:   
19 **FREDERICK W. KOSMO, JR.**  
20 **THERESA OSTERMAN STEVENSON**  
21 **Attorneys for Plaintiff**  
22 **CHANEL, INC.**

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JS 44 (Rev. 07/88)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings for other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet: (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

ORIGINAL

FILED 07 SEP 11 PM 1:10

(a) PLAINTIFFS
Panel, Inc.
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)
NEW YORK CITY, NEW YORK

DEFENDANTS Ting Xu aka Robert Xu dba REDTAGPARTY.com dba SURISBOUTIQUE.com dba WALLETFASHION.com dba SURIBOUTIQUE.com dba TX02006.com dba YBAGS.com; Weixing Li dba REDTAGPARTY.com dba SURISBOUTIQUE.com dba WALLETFASHION.com dba SURIBOUTIQUE.com dba TX02006.com dba YBAGS.com
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT San Diego DEPUTY
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Wilson Petty Kosmo & Turner LLP
Theresa Osterman Stevenson (129272)
550 West C Street, Suite 1050
San Diego, CA 92101
619.236.9600

ATTORNEYS (IF KNOWN)
'07 CV 1783 JAH AJB

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
PT DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business in This State 4 4
Incorporated and Principal Place of Business in Another State 5 5
Foreign Nation 6 6

IV. 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.)
Lanham Act, 15 U.S.C. § 1125(a) Trademark infringement; section 43(c) of the

V. NATURE OF SUIT (PLACE AN 'X' IN ONE BOX ONLY)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various case categories like Insurance, Land Condemnation, Personal Injury, etc.

VI. ORIGIN (PLACE AN 'X' IN ONE BOX ONLY)
1-Original Proceeding
2 Removal from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ excess \$1 million CHECK YES only if demanded in complaint: JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE Docket Number

DATE 9-6-07 SIGNATURE OF ATTORNEY OF RECORD Theresa Osterman Stevenson

DMAPCDOCSWORDPERFECT22816\1 January 24, 2000 (3:10pm) # 142385 B350.

**UNITED STATES  
DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION**

**# 142385 - SR  
\* \* C O P Y \* \*  
September 11, 2007  
13:11:32**

**Civ Fil Non-Pris**

USAO #: 07CV1783 CIV. FIL.  
Judge.: JOHN A HOUSTON  
Amount.: \$350.00 CK  
Check#: BC#8405

**Total-> \$350.00**

**FROM: CHANEL V. XU ET AL  
CIVIL FILING**