

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

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 CARTIER, A Division Of :
 RICHEMONT NORTH AMERICA, INC.; :
 and CARTIER INTERNATIONAL, N.V., :
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 Plaintiffs, :
 :
 v. :
 :
 CARTER'S FINE JEWELERS, INC. and :
 MICHAEL S. CARTER, :
 :
 Defendants. :
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Civil Action No. 7:07cv 00453

COMPLAINT

Plaintiffs, complaining of the Defendants, through their undersigned counsel, hereby
allege as follows:

NATURE OF THE CASE, JURISDICTION AND VENUE



Stylized Cartier Trademark



Defendants' Infringing Mark

1. This case is brought by Cartier, the world famous jeweler, to rectify the use of a
confusing trademark and trade name by Defendants.

2. This Court has subject matter jurisdiction over the claims in this action arising under the Trademark Act of 1946, as amended, relating to trademark infringement, false designations of origin and dilution pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338.

3. This Court has supplemental jurisdiction over the claims in this action arising under state statutory law and the common law pursuant to 28 U.S.C. § 1367(a), because such claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts. The Court also has jurisdiction over all claims herein of unfair competition pursuant to 28 U.S.C. § 1338(b).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).

THE PARTIES

5. Plaintiff Cartier, a division of Richemont North America, Inc., is a Delaware corporation, having its executive offices and place of business at 653 Fifth Avenue, New York, New York 10022 (“Cartier NA”).

6. Plaintiff Cartier International, N.V., is a Netherlands Antilles corporation, having its principal office and place of business at Scharlooweg 33, Curaçao, the Netherlands Antilles (“Cartier International”). For purposes of this Complaint, except where specified, Cartier NA’s and Cartier International’s interests herein are as a practical matter identical, and they are referred to collectively and interchangeably as “Cartier.”

7. Defendant Carter’s Fine Jewelers, Inc. (“Carter”) is corporation organized and existing under the law of the State of Virginia, having an office and place of business at 400 Old

Franklin Turnpike, Suit 117, Rocky Mount, Virginia, 24151. Defendant Carter is transacting and doing business in this judicial district and is subject to the personal jurisdiction of this Court.

8. Defendant Michael S. Carter is an individual and an officer or other managing agent of Carter, having an office and place of business at Carter, 400 Old Franklin Turnpike, Suite 117, Rocky Mount, Virginia, 24151 (hereinafter "M. Carter"). Upon information and belief, defendant M. Carter is a conscious dominant and active force behind the wrongful acts of Carter, which wrongful acts he has engaged in for the benefit of such company and for his own individual gain and benefit. Upon further information and belief, defendant M. Carter is transacting and doing business within this judicial district and has committed the acts complained of herein within this judicial district. Defendant M. Carter is subject to the jurisdiction of this Court pursuant to the laws of this State and Rule 4 of the Federal Rules of Civil Procedure.

9. All of the above defendants are collectively referenced herein as Carter or "Defendants."

The CARTIER Brand and Businesses

10. Cartier is a world-famous jeweler and seller and manufacturer of luxury goods. Its origins date to over 150 years ago, when master jeweler Louis Francois Cartier established his jewelry concern in the heart of Paris, and established the CARTIER brand. The CARTIER name is known the world over as a source for fine luxury goods and as an operator of luxury boutiques and jewelry stores in the most expensive shopping areas around the world. Over the last century and a half, Cartier's leadership in the field of design of luxury items, including fine jewelry and

watches, has caused the Cartier brand to be regarded as the preeminent global symbol of cosmopolitan fashion and prosperity.

11. For decades, Cartier NA has operated an internationally famous retail store at Fifth Avenue and 52nd Street in New York City. Cartier NA also operates retail shops in many of America's major cities, including Mclean, Virginia and licenses distributors to sell world-acclaimed Cartier products throughout the United States in fine stores.

12. Cartier International is the owner of trademarks for all products sold by Cartier NA or under its auspices. Cartier NA is the exclusive United States licensee of Cartier International for all trademarks pertaining to Cartier products.

The CARTIER Word Trademark

13. Among the trademarks and trade dress used by Cartier to identify its products is the word mark CARTIER (the "CARTIER Trademark"). Cartier is the owner of many U.S. Trademark Registrations for the CARTIER Trademark for various luxury items and related services, including for jewelry, watches, precious-metal ware, leather goods, fine stationery items, glassware, eyewear, cosmetics and cosmetic containers, clothing, and porcelain dinnerware, and retail jewelry services, jewelry design and repair services and other jewelry-related services. In each of the respective markets for these goods and services, the CARTIER Trademark is well recognized as signifying high-quality luxury goods and excellence in the respective fields.

The Stylized Cartier Trademark

14. Cartier has used and is the owner of the word CARTIER in a stylized script, as shown on the first page of this Complaint (the “STYLIZED CARTIER TRADEMARK”).

15. Cartier has used the STYLIZED CARTIER TRADEMARK extensively for many years for various goods and services, including jewelry, watches, jewelry store services and other luxury goods and services.

16. Cartier is the owner of the U.S. Trademark Registration No. 1,226,301 of February 1, 1983 for the STYLIZED CARTIER TRADEMARK for Retail Consumer Goods Mail Order Services. Such registration is valid and subsisting and has become incontestable.

17. The above marks are collectively referenced as the “CARTIER MARKS.”

The Goodwill and Fame of the Cartier Products, Marks and Designs

18. Cartier has extensively advertised and promoted its products under the CARTIER MARKS.

19. As set forth above, Cartier has also been an important innovator in luxury goods design, especially watch and jewelry design.

20. Cartier takes particularly great care and applies the highest level of professional skill in the design and manufacture of its products and provision of its services.

21. Cartier has invested millions of dollars over the years in marketing, promoting and advertising the fine quality of its products and services, including under the CARTIER MARKS.

22. As a result of all the foregoing, Cartier has established a worldwide reputation for the uniform high quality of Cartier products and services sold under or in connection with the CARTIER MARKS as set forth above. These products and services have accordingly acquired outstanding renown and invaluable goodwill in the United States and around the world.

Defendant's Infringing and Unfair Competitive Activities

23. Carter has used a colorable imitation of the CARTIER MARKS, as shown on the first page of the Complaint, as both a trade name and a trademark for jewelry products and jewelry store services.

24. Such use of a trade name and service mark that so closely imitates the CARTIER MARKS creates confusion as to the source or sponsorship of Carter's goods and services among the consuming public.

25. Upon information and belief, Carter's complained of activities have been willful or with willful disregard of Cartier's rights and have continued despite Cartier's written protests.

26. Carter has not sought nor received a license or authorization from any of the Plaintiffs for any purpose whatsoever, including for the acts described herein.

COUNT I

**REGISTERED TRADEMARK INFRINGEMENT
15 U.S.C. § 1114(1)**

27. Plaintiffs repeat and reincorporate herein by reference each of the foregoing allegations.

28. Long after Plaintiffs' adoption of the CARTIER MARKS, and long after their federal registrations for same, Carter has commenced the sale, offering for sale and distribution

of goods and services, including jewelry products and store services, identified by a colorable imitation of the CARTIER MARKS, all in violation of 15 U.S.C. § 1114(1).

29. On information and belief, the activities of Carter complained of herein constitutes willful and intentional infringement of the above-identified registered trademarks, are in total disregard of Plaintiffs' rights and were commenced and have continued in spite of Carter's knowledge that the use of such trademarks or a copy or a colorable imitation thereof in the manner described herein was and is in direct contravention of Carter's rights.

30. The use by Carter of copies of such trademark in the manner described herein has been without the consent of Plaintiffs, is likely to cause confusion and mistake in the minds of the purchasing public and, in particular, tends to and does falsely create the impression that Carter's services has been done with the authorization, approval or sponsorship of Plaintiffs.

31. Plaintiffs have no adequate remedy at law, and are suffering irreparable harm and damage as a result of the acts of Carter as aforesaid in an amount thus far not determined, but believed to be in excess of Twenty-Five Thousand Dollars (\$25,000).

COUNT II

FALSE DESIGNATION OF ORIGIN 15 U.S.C. § 1125(a)

32. Plaintiffs repeat and reincorporate herein by reference each of the foregoing allegations.

33. Carter has affixed, applied, or used in connection with the sale of its goods or services, false descriptions and representations, which tend falsely to describe or represent that the goods and services offered by Carter are sponsored by, authorized by or connected with Plaintiffs.

34. Upon information and belief, the activities of Carter complained of herein constitutes willful and intentional uses, appropriations and infringements of the CARTIER MARKS; completely and deliberately disregard Plaintiffs' rights and were commenced and have continued in spite of Carter's knowledge that the use of a simulation or colorable imitation of these trademarks in the manner described herein was and is in direct contravention of Cartier's rights, all in violation of 15 U.S.C. § 1125(a).

35. Plaintiffs have no adequate remedy at law, and are suffering irreparable harm and damage as a result of the acts of Defendants as aforesaid in an amount thus far not determined, but believed to be in excess of Twenty-Five Thousand Dollars (\$25,000).

COUNT III

COMMON LAW TRADEMARK INFRINGEMENT

AND UNFAIR COMPETITION

36. Plaintiffs repeat and reincorporate herein by reference each of the foregoing allegations.

37. The actions of Carter described herein constitute common law trademark infringement and unfair competition.

38. Plaintiffs have no adequate remedy at law, and are suffering irreparable harm and damage as a result of the acts of Defendants as aforesaid in an amount thus far not determined, but believed to be in excess of Twenty-Five Thousand Dollars (\$25,000).

COUNT IV

VIRGINIA FALSE ADVERTISING STATUTE

Va. Code Ann. §§ 18.2-216 and 59.1-68.3

39. Plaintiffs repeat and reincorporate herein by reference each of the foregoing allegations.

40. The actions of Carter described herein constitutes false and misleading advertising in violation of the Va. Code Ann. § 18.2-216 and Plaintiffs have suffered and are continuing to suffer a loss as a result thereof.

41. Plaintiffs have no adequate remedy at law and are suffering irreparable harm and damage as a result of the acts of Defendants as aforesaid in an amount thus far not determined, but believed to be in excess of Twenty-Five Thousand Dollars (\$25,000).

WHEREFORE, Plaintiffs pray:

1. That Defendants, and their agents, servants, employees and attorneys, and those in active concert or participation with them or any of them, be permanently enjoined and restrained:

(a) From using in any manner the CARTIER MARKS or any colorable imitation thereof in connection with their jewelry business and Ordered to alter their trade name to a different name and font, not confusingly similar to Plaintiffs'

CARTIER MARKS;

(b) From representing, suggesting in any fashion to any third party, or performing any act which may give rise to the belief that Defendants, or any of their goods or services, are authorized or sponsored by Cartier;

- (c) From passing off, inducing or enabling others to sell or pass off any goods or services as products produced or purchased by Plaintiffs which are not in fact genuine Cartier goods or services, or not produced under the control and supervision of Plaintiffs and approved by Plaintiffs;
- (d) From further infringing the CARTIER MARKS; and
- (e) From otherwise competing unfairly with Plaintiffs in any manner.

2. That Defendants be required to deliver up to Plaintiffs for destruction, any and all goods and promotional materials in their possession or under their control that include the CARTIER MARKS.

3. That Defendants be ordered pursuant to 15 U.S.C. § 1116(a) to file with the Court and serve upon Plaintiffs, within thirty (30) days of the entry of the injunction prayed for herein, a written report under oath or affirmed under penalty of perjury setting forth in detail the form and manner in which it has complied with the permanent injunction.

4. That Defendants be required, pursuant to 15 U.S.C. § 1117 and Va. Code Ann. § 59.1-68.3 to account to Plaintiffs for any and all profits derived by them, and for all damages sustained by Plaintiffs by reason of Defendants' actions complained of herein, including an award of treble damages as provided for statute.

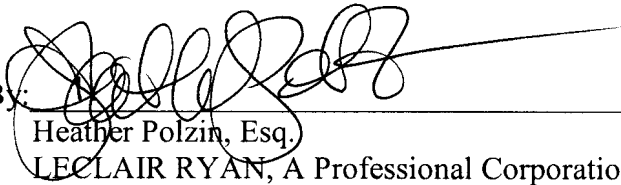
5. That Plaintiffs be awarded both pre-judgment and post-judgment interest on each and every damage award.

6. Plaintiffs have and recover from Defendants, Plaintiffs' reasonable attorneys' fees, costs and disbursements of this civil action.

7. That Plaintiffs have such other and further relief as the Court may deem just and proper.

CARTIER, A DIVISION OF RICHEMONT NORTH AMERICA, INC. AND CARTIER INTERNATIONAL, N.V.

Dated: September ____, 2007

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