

Brent T. Winder (USB #8765)
Brent A. Orozco (USB #9572)
JONES WALDO HOLBROOK & McDONOUGH PC
Attorneys for Maggie Sottero Designs, LLC
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101
Telephone: (801) 521-3200

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

MAGGIE SOTTERO DESIGNS, LLC, a	:	COMPLAINT
Utah limited liability company,	:	
	:	
Plaintiff(s),	:	
	:	Civil No. 2:07-cv-727
vs.	:	
	:	Judge Tena Campbell
VAL COLLECTIONS, a California	:	
company,	:	JURY DEMAND
	:	
Defendant(s).	:	

Plaintiff Maggie Sottero Designs, LLC, through undersigned counsel, brings this
Complaint against Defendant VAL Collections as follows:

PARTIES

1. Plaintiff Maggie Sottero Designs, LLC (“Maggie Sottero”) is a limited liability
company formed under the laws of the State of Utah with its principal place of business located
at 2300 South 1070 West, Salt Lake City, UT 84119.

2. Defendant VAL Collections (“Defendant”) is a company with its principal place
of business at 2127 Olympic Parkway, #1006-231, San Diego, CA 91915.

JURISDICTION AND VENUE

3. This Court has exclusive subject matter jurisdiction under 28 U.S.C. § 1338 over Plaintiff's claim of copyright infringement. This action also involves violations of the federal Lanham Act, 15 U.S.C. §§ 1051 *et seq.* Jurisdiction is conferred by 28 U.S.C. § 1331, since this action arises under federal law. This Court also has supplemental jurisdiction over Plaintiff's state-law claims pursuant to 28 U.S.C. § 1367.5.

4. This Court also has personal jurisdiction over Defendant, who does business in the State of Utah, including sales and advertising. In addition, Defendant has directed its conduct at Plaintiff by infringing its copyrights in Utah. Defendant has also caused injury within this state. As a result, Defendant has engaged in the transaction of business in Utah, subjecting it to jurisdiction under Utah's long arm statute, U.C.A. § 78-27-23 and § 78-27-24(1).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

GENERAL ALLEGATIONS

6. Maggie Sottero designs, sells, and distributes bridal wear and related goods throughout the United States, as well as in many foreign countries.

7. In order to exercise control over the quality of its products and protect its brand, Maggie Sottero sells its products only through authorized retailers. Thus, when a consumer purchases a gown from an authorized retailer, she can have the assurance that all the Maggie Sottero quality standards, as they pertain to that gown, are met.

8. Maggie Sottero is the owner of several trademark registrations and the applicant of several pending registrations for a variety of marks under which its goods are sold: U.S. Reg. No. 2415876 for the mark MAGGIE SOTTERO; U.S. Reg. No. 2817232 for the mark MAGGIE

SOTTERO MEMORIES; U.S. Reg. No. 2935526 for the mark MAGGIE SOTTERO LIMITED; U.S. Reg. No. 2877215 for the mark MAGGIE SOTTERO RUNWAY COLLECTION; App. Serial No. 78/832410 for the mark DESTINATIONS BY MAGGIE SOTTERO; App. Serial No. 78/717946 for the mark VICTORIA LEE BY MAGGIE SOTTERO; App. Serial No. 78/598658 for the mark FLIRT BY MAGGIE SOTTERO; App. Serial No. 77/218522 for the mark VICTORIA LEE ‘PRINCESS COLLECTION’ BY MAGGIE SOTTERO; and App. Serial No. 78905268 for the mark SOTTERO & MIDGLEY (collectively the “MAGGIE SOTTERO marks”).

9. Defendant is not an authorized distributor of Maggie Sottero.

10. Nevertheless, Defendant sells and offers for sale Maggie Sottero bridal wear through its websites www.valcollections.com, www.valcollections2.com, and www.valcollections3.com; and on information and belief, Defendant is selling and offering for sale Maggie Sottero bridal wear on other websites it owns and/or operates.

11. In order to sell Maggie Sottero bridal wear without authorization, Defendant uses various MAGGIE SOTTERO marks on its websites.

12. Defendant’s websites also display copyrighted images that are owned by Maggie Sottero, namely, various photographs of the Maggie Sottero gowns and/or provides unauthorized links to Maggie Sottero’s website.

13. Defendant’s use of the MAGGIE SOTTERO marks and Maggie Sottero’s copyrighted images suggests to purchasers that Defendant is an authorized retailer of Maggie Sottero when it is not. Therefore, such sales are “likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association” of Defendant with Maggie Sottero.

14. Defendant uses the MAGGIE SOTTERO marks and Maggie Sottero's copyrighted images to trade off Maggie Sottero's established goodwill with the consumer.

15. Upon information and belief, Defendant, by its actions, has taken business and revenue from Maggie Sottero due to its use of the MAGGIE SOTTERO marks and copyrighted images.

16. Maggie Sottero has notified Defendant in writing that it is violating Maggie Sottero's intellectual property rights and engaging in unfair competition, and has demanded that it cease doing so. Defendant has refused to take any action and has ignored Maggie Sottero's demands, thus necessitating the present action.

17. Defendant is knowingly and intentionally infringing Maggie Sottero's intellectual property for purposes of wrongfully trading on its good will and reputation.

FIRST CAUSE OF ACTION
(Trademark Infringement)

18. Plaintiff realleges and incorporates the preceding paragraphs as though fully set forth herein.

19. Defendant has infringed Maggie Sottero's trademarks and/or trade dress without consent by using them to advertise and promote its business in an attempt to confuse, mistake, or deceive Maggie Sottero's current and potential customers.

20. Defendant's actions violate the provisions of 15 U.S.C. §§ 1114 and 1125.

21. Defendant's actions have been knowing and intentional.

22. Maggie Sottero has suffered harm for which damages at law are not adequate and will suffer irreparable harm unless Defendant is restrained and enjoined from further infringement of Maggie Sottero's trademark and trade dress.

23. Defendant has been unjustly enriched through its infringement of Maggie Sottero's trademarks, in an amount to be determined at trial.

24. Maggie Sottero has incurred attorneys' fees and costs in bringing this action and otherwise attempting to stop Defendant's knowing and intentional infringement of Maggie Sottero's trademark.

WHEREFORE, Plaintiff is entitled to relief as requested in its Prayer for Relief.

SECOND CAUSE OF ACTION
(Copyright Infringement)

25. Plaintiff realleges and incorporates the preceding paragraphs as though fully set forth herein.

26. Maggie Sottero has valid copyrights in various photographs of its bridal wear, for which it has received registration certificates from the United States Copyright Office.

27. Defendant has obtained access to these copyrighted materials and is displaying them on its website.

28. Defendant's continued use, copying, and distribution of Maggie Sottero's images of its bridal wear infringe Maggie Sottero's copyrights.

29. Defendant's creation of derivative works from the images also violates Maggie Sottero's copyrights.

30. As a result of Defendant's infringement of its copyrights, Maggie Sottero is entitled to recover the actual damages suffered as a result of such infringement, as well as all of Defendant's profits attributable to the infringement.

31. Maggie Sottero is also entitled to both a temporary and permanent injunction preventing Defendant from using, copying, and/or distributing its images, as well as any derivative images generated from them.

WHEREFORE, Plaintiff is entitled to relief as requested in its Prayer for Relief.

THIRD CAUSE OF ACTION
(Unfair Competition)

32. Plaintiff realleges and incorporates the preceding paragraphs as though fully set forth herein.

33. By marketing and selling Maggie Sottero bridal wear without the consent and authorization of Maggie Sottero, Defendant has committed unfair competition.

34. Defendant's sales not only steal Maggie Sottero's customers, but also destroy its ability to ensure quality of its products and protect its brand, thus causing it injury and damages.

35. As a result of Defendant's unauthorized actions, Maggie Sottero is losing sales and Defendant is being unjustly enriched.

36. Maggie Sottero is entitled to injunctive relief against such continuing misconduct, as well as monetary damages.

WHEREFORE, Plaintiff requests relief as hereafter described in its Prayer for Relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

A. For an order temporarily restraining Defendant from violating Plaintiff's trademarks and copyrights and from selling Plaintiff's bridal wear; and

B. For an order preliminarily and permanently enjoining Defendant from violating Plaintiff's trademarks and copyrights and from selling Plaintiff's bridal wear; and

C. For an award of damages suffered by Plaintiff as a result of Defendant's intentional and knowing violation of Plaintiff's trademarks and copyrights; and

D. For an award of damages suffered by Plaintiff as a result of Defendant's unauthorized sale of Plaintiff's bridal wear; and

E. For an award of Plaintiff's attorneys' fees and costs; and

F. For an award of any prejudgment interest on any amounts of actual damages; and

G. For such other and further relief to which this court deems Plaintiff may be entitled in law and in equity.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all appropriate factual and legal issues.

Dated this 27th day of September, 2007.

JONES WALDO HOLBROOK & McDONOUGH PC

By: /Brent T. Winder
Brent T. Winder
Brent A. Orozco
Attorneys for Plaintiff